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House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, December 22, 2005, at 4 p.m.

Senate

TUESDAY, DECEMBER 20, 2005

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

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

PRAYER

Let us pray.

Almighty sovereign, You are the bright and morning star. Keep us from sleeping during Your movement in our midst. Forgive us when we fail to see You in the needs of the hungry, homeless, and hopeless. Open our eyes to Your presence among the sick and the incarcerated, and use us to bring healing and freedom to our world.

Continue to sustain the Members of this body. Let no trial blind them to Your assured presence. Inspire them to make a positive difference in a sometimes negative world. By their labors, help them to encourage those sorely tested by life's burdens.

Deliver each of us from permitting Earthly prizes to intrigue us and worldly concerns to possess us. We pray in Your Holy Name. Amen.

NOTICE

If the 109th Congress, 1st Session, adjourns sine die on or before December 22, 2005, a final issue of the Congressional Record for the 109th Congress, 1st Session, will be published on Friday, December 30, 2005, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 29. The final issue will be dated Friday, December 30, 2005, and will be delivered on Tuesday, January 3, 2006. Both offices will be closed Monday, December 26, 2005.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

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By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman.*

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

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PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 20, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ISAKSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume debate on the deficit reduction conference report. There is 8 hours remaining for debate under the 10-hour time limit. If Senators desire to speak on the package, they should contact the chairman or ranking member so we can schedule an orderly debate on the pending conference report. Both parties will have their policy luncheons today, and we will recess for those meetings if Senators are not prepared to speak during that time and if we can count that time against the debate limitation.

I remind everyone that I filed two cloture motions on two conference reports yesterday—first, Defense appropriations and, second, Defense authorization. Those votes will occur tomorrow morning, and Senators can expect votes early tomorrow morning on those.

I will be talking to the Democratic leader about the timing of the vote on the deficit reduction measure. We will need to confer with those managers to see how much of the 8 hours will be necessary so we can alert Members as to when they can anticipate the vote.

Senators should be around and ready to be here on time over the next day or two as we schedule these votes. We are attempting to finish these last few items to close out the session and, therefore, Senators should not stray far. I thank everybody for their continued patience as we wrap up.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

VOTE SCHEDULE

Mr. REID. Mr. President, we have, for example, Governor-elect CORZINE who is doing work in New Jersey, and we need some notice as to when the vote will take place to get him back here. He is, of course, coming. It appears very likely that the Vice President may need to vote on this himself. From the numbers we have, it is going to be extremely close. It would be important we have some notice as to when the leader would like to handle and have that vote. If all the hours are used and even if we charged the time for debate during our caucus lunches, it would be 4 o'clock or 5 o'clock. If all time remaining is used on this, when would the vote take place if we go straight through?

The ACTING PRESIDENT pro tempore. About 6 p.m.

Mr. REID. I know the Vice President has been in Pakistan. At least I have been told he is coming back. Does the leader know when?

Mr. FRIST. Mr. President, I do not, but we will be able to decide shortly after talking among everyone when that vote will be. For sure we will have these cloture votes tomorrow morning. We need to make sure all Members are back for the postcloture votes with regard to the deficit reduction bill. If we use all time, it would be 6 o'clock, but over the course of the morning we can decide when the most appropriate time for that vote would be.

Mr. REID. One of the things that could be done to make sure everyone is here, when we move to the Defense appropriations bill we could have that cloture and point of order. I am thinking at this time, even though the leader has filed cloture on the Defense authorization, I don't think we would have to have cloture on that. We could have final passage. One of the things the leader should think about is maybe doing them all at once. We could start fairly early in the morning and try to get them all done.

If that were the case, I assume we could speed through them fairly quickly tomorrow if things turned out the way we think.

Mr. FRIST. Mr. President, a couple of things. First, we do not want to delay any votes that will delay when we finally are able to depart. Within the next 48 hours we will have a number of votes. We will work on scheduling so we can let people know with certainty. I have told our people to be around and ready to vote when we decide. I don't want Members staying in New Jersey, New York, California, or Texas waiting for us to give a final time. We need to have people accessible and ready to get back.

Having said that, let's try to consolidate these votes at a time where people can come back, can be here, and we vote all at once or in a series.

Mr. REID. Mr. President, I think I have outlined the major votes I know of. There would be some housekeeping stuff to do. Who knows, we might get lucky and be able to do some other things.

Mr. FRIST. And with regard to that, we have a number of nominations, we have a number of judges, as well, we very much would like to be able to address. There are other issues with regard to the PATRIOT Act, Labor-HHS. We have a lot to do, all of which we need to address in the next day, 2 days.

We will maximize, from a scheduling standpoint, when everyone can be back.

Mr. REID. The other thing I mention is, in a meeting I had this morning, I think it is fairly clear it will not be necessary, even though we do not like the conference report on HHS, I don't think there will be a necessity for cloture on that. The leader should anticipate having a straight up-or-down vote on that at some time.

Mr. FRIST. Mr. President, I will speak on another issue and then we can come back and talk further.

Mr. BAUCUS. Will the leader yield for a question on the last subject of scheduling votes?

Mr. FRIST. I am happy to yield.

Mr. BAUCUS. I don't see any reason why we can't finish all our voting tomorrow. We all know what the issues are. We all know what the votes are. I don't see any reason to delay. We ought to vote.

There are so many families here, so many spouses, so many children, families want to get together. This is, after all, Christmas. I don't know why in the world we don't schedule all of our votes by tomorrow so at the very least by tomorrow we can start to head home with our loved ones. Can't the leader work that out?

Mr. FRIST. Mr. President, indeed, he is going to do his very best.

Votes tomorrow, where the other side of the aisle causes us to have rollcall votes on motions to proceed and then cause us to file cloture, make it difficult. I was ready to get out 2 days ago. If we could do the up-or-down votes instead of filing the cloture motions, I am all for it.

Mr. BAUCUS. All the cloture votes can occur tomorrow.

Mr. FRIST. Mr. President, my goal would be to be out, for sure, tomorrow. I think we can work on that. I appreciate the appeal from that side of aisle to be out tomorrow. We can't have obstruction. Getting the votes done and finishing everything tomorrow would be a good goal. I am all for it. It means we cannot have delay and obstruction.

Mrs. BOXER. Will the Senator yield?

Mr. FRIST. Let me make a statement now. I ask unanimous consent

my statement be made on our time on the reconciliation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMART GRANTS

Mr. FRIST. Mr. President, Thomas Friedman, in his book ''The World Is Flat,'' concludes that jobs in this country—and he says this with a backdrop of global competitiveness—ultimately depend on education of our young people. More specifically, jobs of the future are going to depend on a prepared workforce of youth well educated in math, science, engineering, the sorts of fields that prepare people for the jobs of the future. He very nicely said in his book—and I wholeheartedly agree—that those jobs are going to require that preparation.

If we prepare our youth in math, science, engineering, we will prepare them for jobs for the future which will improve our global competitiveness. That means this competition will be addressed between China and India for jobs, for people who are trained or study in Virginia, in truth, will be competing with students in China and India.

In the legislation we are considering over the next 2 days, Congress is very specifically addressing this link between global competitiveness, jobs of the future, and education in this country—specifically math, science, and engineering education.

I will spend a couple of minutes on a new student aid program I created called the SMART grant. SMART grants very simply will provide $4,000 per year to eligible low-income students who are majoring in math, in science, in engineering, in technology, in foreign languages, that are critical to our national security, during the third and fourth years of their higher education, those years of college. That is $4,000 a year to eligible low-income students.

That means a low-income college student will obtain up to $8,000 to pay for the cost of college if he or she chooses to major in one of those fields, those fields that are so necessary to preparing for jobs for the future and thus our global competitiveness. SMART grants mean low-income students save an average of 52 percent on the cost of college in this legislation we will pass over the next 48 hours.

These funds will encourage more students to major in these time-intensive studies. These funds will help America produce the workforce it needs to be able to compete in that global economy.

The bill also provides academic competitiveness grants to first and second-year college students; $750 will go to first-year students who complete a rigorous high school curriculum, and $1,300 to second-year students who complete a rigorous high school curriculum and maintain a 3.0 grade average in college. These are eligible low-income students. President Bush and Representative BOEHNER in the House deserve praise and credit for creating these grants.

These SMART grants and these academic competitiveness grants are authorized at $3.7 billion over 5 years. They are paid for with program savings included in the budget deficit reduction bill we are currently debating in Congress.

Right now, America must be more competitive. We are targeting precious resources in a responsible way to meet that challenge. Indeed, these grants will sustain America's global legacy as a land of innovation, imagination, and initiative.

I yield the floor.

RESERVATION OF LEADER TIME

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

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report.

The clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 1932, an act to provide for reconciliation pursuant to section 202(a) of the current resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am not sure of the exact order of procedure on the floor, whether the ranking member is yielding time on this bill at this point.

Mr. CONRAD. That is correct.

Mr. DURBIN. I would like to be yielded 5 minutes to speak.

Mr. BAUCUS. Mr. President, I ask the leader, the ranking member, that I be recognized after that.

Mr. CONRAD. Mr. President, I would be happy to yield 5 minutes to the Senator from Illinois. And then how much time would the Senator from Montana like?

Mr. BAUCUS. About 25 minutes.

Mr. CONRAD. I ask unanimous consent that after the Senator from Illinois, we go to the Senator from Montana for 25 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. Mr. President, those who followed the conversation on the floor of the Senate this morning are aware of the fact we are still in session, as the House has left at least for the time being. Of course, we are close to the holiday season, when most Members assumed they would be home with their families, where we want to be. But instead we are here. I think it is worth noting why we are here.

At the risk of hurting some muscle in my body here, I want to lift what we are now considering in the Senate in the closing hours: 4,000 pages—4,000 pages—that come to us at the close of the session; 989 pages on the appropriations for the Department of Defense, about 1,628 pages on the Defense authorization bill, and roughly 1,400 pages on the Deficit Reduction Act.

I can tell you, having been around Congress for a few years, that within these pages are things which will come to embarrass us. Some of them we know. Some of them we will learn after we leave. Of course, people who are following this debate say: Well, Senator, haven't you sat down to read all this? The honest answer is, it is physically impossible because good craftsmen of legislation realize that changing punctuation in the law can change the meaning of the law, and so what appears to be just a cosmetic change on a page here turns out to have dramatic consequences. So we try our best. My staff has been working straight through since many of these bills have been produced to try to come up with an understanding of what is included in these bills.

But there are several things we do know about these bills. We know, for one thing, that the Defense bills are the last bills in the session, which is a dramatic change from the past. Historically, the Defense bills are passed early in the session, for obvious reasons. The argument is, for goodness' sake, before you get embroiled in a political controversy, take care of the troops. So historically we would pass a Defense authorization bill and a Defense appropriations bill early in the session and be done with them. That did not happen this time.

The Defense authorization bill was taken off the calendar by the Republican leadership in July so they could make room for special interest legislation from the gun lobby on the question of liability. So that bill was intentionally delayed by the Republican leadership, the bill for our troops. Now, here, in the closing hours of the session, the bill comes back in the form of an authorization bill of some 1,600 pages, at the close of the session.

The Defense appropriations bill has historically been a bill we considered first. It is the bill in which we want to make sure we take care of the troops, take care of the Department of Defense, and meet our obligation. Why is it last? Why is this 1,000-page bill coming at us at the last moment? I will tell you why. Because Senators have come to understand this bill has to pass. So they put some of the most controversial provisions, some of the most outrageous provisions in the bill for our troops and for our national defense.

There is a provision in here which is well known now and well reported, put in by the Senators from Alaska, for drilling in the Arctic National Wildlife

Refuge. That is put in the Department of Defense appropriations bill. Why? Why in the world would you put that provision, that controversial provision, in a bill which has to pass for our troops? Well, it is high noon. It is a showdown. It is a question about who will flinch first. If you load up the bill that has to pass with these outrageous and controversial provisions, the Senators who put them in there are defying the membership of the Senate to stand up and say no. And they want to be prepared to say: Oh, you are going to vote against the Department of Defense appropriations bill or hold it up. That is just an outrage.

I will tell you what is an outrage. An outrage is using this bill, which is designed for our troops and our soldiers, as a political vehicle.

There are things in here which are nothing short of amazing—not only this Arctic National Wildlife Refuge drilling, which has been debated for years around here, but an allocation of the resources from that drilling to the State of Alaska, and others, in ways that are very generous to that State, at the expense of other States and at the expense of the Treasury. There is a provision in this bill about the liability of pharmaceutical companies when they manufacture vaccines. That is in the Department of Defense appropriations bill.

Of course, there are provisions in here for Katrina victims. I am glad they are in here. I thought they would be part of some emergency appropriation, but it just shows you that this bill, and all its complications, is an example of why we are still here this week. It is a failure of leadership. It is a failure to really address the issues that present themselves to the Senate in a forthright manner.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator's time has expired.

Under the consent agreement, the Senator from Montana is recognized for 25 minutes.

Mr. BAUCUS. Mr. President, I echo a lot of the same concerns just voiced by the Senator from Illinois. We have all been here a few years, and we see some things that are questionable. But the actions taken by the majority in this session of this Congress are beyond questionable. In many cases, I think they are outrageous, and I am very glad the Senator from Illinois brought the Senate's attention to them.

Mr. President, I am here to speak on the pending legislation, and that is the budget reconciliation bill that is before us. I oppose this budget reconciliation bill, and I do so for a couple of very basic reasons.

First of all, this bill would cause many of America's poorest citizens to go without needed medical treatment. Just think of that: some of the poorest citizens in our country to go without needed medical treatment. It would make it harder for many of America's neediest citizens to move off of welfare and on to work. It would make it harder, not easier, to get off of welfare and on to work. It would also deprive many single parents help in getting child support from their deadbeat spouses. It makes it harder to get child support from deadbeat spouses. That is what this bill does, and I will explain later why that is the case. And this bill would undercut American lumber workers in their dispute with Canadian lumber.

There is a better way. The better way is something much more similar to what the Senate passed here, although I opposed it because I thought it was so draconian, and I opposed it because I felt it would lay the seeds for just what is happening here today, and that is a conference report that is much, much worse than the Senate-passed bill.

I think the Senate should vote down this bill. We do not have to pass it this year. This is not an appropriations bill. This is not a tax bill. It does not have to be passed this year. It should be voted down so we can get to work next year and cut the budget in a more fair and more moderate way, rather than this draconian way contained in this bill.

There is a right way and a wrong way, for example, to control health care spending. We all know health care costs are high, but let's just reflect a little bit and try to figure out what is the right way to cut health care costs to address that situation and do that rather than the wrong way.

Well, I might say, we in this body included some of the right way in the Senate-passed reconciliation bill. What is that? We included provisions to put us on the road to paying for performance and quality in health care. That is the right way to control health care costs; that is, to reimburse providers—doctors and hospitals—a little bit more when they show their outcomes are a little better, they are doing a better job. That means health care costs will come down because the quality will increase and we will not be providing, in many cases, health care that is irrespective of quality. We have to start addressing quality in health care. The Senate-passed bill started to address that. The conference report hardly even touches that. I will explain that a little bit later, too.

What does this bill do? Instead, this bill merely cuts holes in the safety net. It cuts holes in the safety net. It does not shore it up and try to figure out ways to address the problems; it cuts holes and makes things worse. How? Well, it raises Medicaid copayments for those least able to pay. It raises costs for people on Medicaid. It also allows States to cut Medicaid benefits below existing minimum benefits. That is the wrong way to control health care costs. The better way is to address paid performance and quality. The wrong way is to just willy-nilly cutting expenditures for the poorest of our Americans; that is, for the Medicaid Program.

We have also seen how the wrong way works, not in theory but in practice. Increasing costs for poor people forces them not to seek health care when they need it. It has that effect. When the poor people in our country have to pay that much more for health care, what do they do? They don't get the health care. What happens? They live a little bit more with the illness they have. What is the consequence of that? They come back to the emergency room later when their condition gets worse. The system ends up spending more on health care rather than less. The burden of uncompensated care grows. You and I and all the rest of us who pay for health care end up paying still more for health care because of the increased uncompensated care because the poorer people will not be seeking the health care they need but put it off and, therefore, go to emergency rooms, and we end up paying more. That is the way the wrong way works. That is the way provided for in this bill.

Furthermore, this bill is not a moderate package. Far from it. The Senate-passed bill was more moderate. Instead, the bill before us hews largely to the House-passed bill which is not moderate. It is extreme. It is draconian. The bill before us, which hews mostly to the House side, would impose nearly $2 billion in increased cost sharing on Medicaid beneficiaries or about 80 percent of the cost-sharing increases in the House bill. What else? The bill would also allow State Medicaid Programs to offer Medicaid beneficiaries an ''actuarially equivalent'' benefit package. What does that mean? I will tell you what it means. It means reduced benefits. It is a fancy euphemism for reduced benefits for Medicaid beneficiaries. States will also be able to impose new premiums for coverage and to drop individuals from Medicaid if they can't pay.

Last week I offered a motion to instruct participants of this conference not to harm Medicaid beneficiaries by passing a budget reconciliation bill that resembles the House-passed bill. The Senate overwhelmingly supported that motion. The vote was 75 to 16. I was heartened. I felt good about that action. The Senate was speaking clearly and strongly not to let the conferees impose draconian cuts. Senators who supported that motion should stick to their guns. They should remain consistent in their support of Medicaid. They should vote against this reconciliation conference report in view of what the Congress has done juxtaposed to that 75-to-16 vote.

I am disappointed with many of the provisions included in this budget reconciliation bill. I am also disappointed with provisions that were not included in this bill. The conference report does not include meaningful pay-for-performance and quality provisions. We live in a country that spends twice as much as any other country on health care per capita. Yet our country ranks

37th in the world on quality. Think of that. We spend twice as much per capita as any other country in the world and yet we rank 37th in the world on quality. Our country leaves almost 16 percent of our population with no health care coverage at all.

We are not getting good value for our health care dollar. The value that each health care dollar buys varies widely from patient to patient. Consider recent research from Dartmouth that looked at large hospitals in California.

That research found that per-person Medicare spending on health care in the last 2 years of life ranged from $20,000 to almost $90,000. The more expensive patients were not sicker. That is the point. They did not receive higher quality care. That is also the point. But they cost the Medicare Program over four times more.

I was proud to work with the chairman of the Finance Committee, Mr. GRASSLEY, to write legislation bringing quality improvement and accountability to Medicare. We worked hard on that. We got a bill passed out of committee. Under our Medicare Value Purchasing Act, Medicare providers would be held accountable for the care they provide. And the best providers would be rewarded accordingly.

Doesn't that make sense, that we reward quality? Shouldn't we do that in the health care system? We don't today in America. Most every other industry is rewarded for quality, but our health care service by and large is not. The Senate included our pay-for-performance legislation in the budget reconciliation bill that passed this Chamber last month. I did not support the larger bill, but I was pleased that our Medicare quality legislation was included in the package. But our quality bill has mostly been stripped in the conference report.

The conference report expands existing quality reporting requirements for hospitals. It sets up minimal reporting requirements for some home health. The report includes a study on pay for performance in hospitals and some minimal payment changes to discourage a couple of hospital-acquired infections. These provisions are only for hospitals and are mostly at the discretion of the Secretary.

Moreover, these provisions are delayed until years after the independent Medicare Payment Advisory Commission recommended that Medicare providers would be ready to be paid for quality. I am disappointed to see Congress setting the bar so low because we have so little time in which to address the increasing costs of health care and all the problems that creates. I oppose this conference report because it doesn't begin to address what could and should be done. I remain fully committed to seeing Medicare pay-for-performance become law.

I also supported a motion to instruct conferees related to TANF, the Nation's welfare program. Offered by Senator CARPER, this motion instructed conferees not to reauthorize TANF through the budget reconciliation process. That was the motion offered by the Senator from Delaware. That passed by a large vote.

What happened? First, let's remember that Congress enacted the TANF Program back in 1996. It was enacted to help welfare recipients get work skills and to help low-income families become economically self-sufficient. I supported it in 1996. Many Democrats did not, but I thought it was a good way to get people off of welfare and a fair way to get people back to work. What has happened? Welfare reform has mostly succeeded. That 1996 bill was a good bill. States have adopted creative policies to support low-income families making the transition from welfare to work, and millions have moved to self-sufficiency. It is not great, but it is a lot better than what it was prior to 1996.

The TANF law expired in 2002. Senator GRASSLEY, chairman of the committee, and I worked diligently on the TANF reauthorization bill this year. It was a compromise that enjoyed near unanimous support in the committee. We could not get that bill up in the full Senate. There were a few willful Senators who opposed it, even though it had the near unanimous support of the Finance Committee. It was a moderate reauthorization of TANF.

Let's also remember policy changes to TANF—and they are quite pervasive and significant—do not belong in the fast-track budget reconciliation process. It does not belong there. The Presiding Officer knows that, as does everybody in this body. That process was designed to reduce the deficit, not to reauthorize important safety net programs such as TANF or other major policy issues. That is particularly true given the nature of the TANF provisions in this bill. This conference report contains strict new work requirements in TANF. Not only is it a reauthorization, it has provisions that make the program not work, make it worse. It is not moderate. It makes it worse. It is in this conference report.

This report undermines the State flexibility necessary to meet the standards of their most vulnerable citizens. This conference report provides only $1 billion in childcare funds, even though we need $12.4 billion in childcare funding to keep up with inflation. How miserly is that? Only $1 billion in childcare, when we really need 12 billion. Let's compromise, maybe 6, $7 billion; that is a compromise. That is midway between what this bill provides and what inflation calls for. But no, there is only $1 billion in this bill.

The report also foists a set of unfunded mandates on States, mandates that would harm low-income families. Let's not forget these families are playing by the rules right now. They are trying to do what is right. They are trying to work their way off of welfare and trying to get into sustainable employment. But this conference report eliminates the State flexibility that has made the TANF Program a resounding success.

We should reauthorize TANF. We should improve the program to focus on reducing poverty as well as welfare caseloads. And we should ensure that more people can leave welfare for sustainable work.

This conference report does just the opposite. More families will lose assistance. And our State partners will lose the flexibility that they need to support families in their time of need.

Speaking of families, what about the child support enforcement provisions in this bill? This conference report includes a $5 billion cut in Federal funding for child support enforcement efforts. That's right, a $5 billion cut.

States use these funds to track down absent parents, to establish legally enforceable child support orders, and to collect and distribute child support owed to families. These cuts will take billions of dollars out of the pockets of mothers and children who are owed child support. This cut is simply indefensible.

This bill also fails to adequately address the health needs of Katrina victims. It has been nearly 4 months since Katrina hit, resulting in over a thousand deaths, the displacement of over a million people, and a reconstruction bill that may exceed a couple hundred billion dollars. The Katrina disaster was unprecedented. It required an unprecedented response by Congress. That's why I worked with Chairman GRASSLEY in the days following the hurricane to write S. 1716, the Emergency Health Care Relief Act.

That bill would have provided 5 months of temporary Medicaid coverage for Katrina evacuees in poverty.

That bill would have shored up State Medicaid programs overwhelmed by Katrina evacuees. That bill would have reimbursed providers for uncompensated care provided to Katrina evacuees. And that bill would have helped States with the unprecedented burden on Gulf State welfare programs.

But the Senate did not pass that bill. The Senate could not even take it up.

We tried to take it up many times. We stood on the floor many times and asked unanimous consent to bring up the bill, but we were opposed by a band of two or three or four Senators, but we cannot understand why. I think, basically, they are doing it at the behest of the White House, the President. The President didn't want to help people down there with their health care needs, and the congressional leadership did his bidding.

I appreciate Chairman GRASSLEY's efforts to help Katrina victims. He fought to pass S. 1716 legislation against the wishes of the White House and his congressional leadership. I want him to know that I appreciate his efforts.

When the Senate eventually passed this budget reconciliation measure, it included some Katrina relief. It was an

insufficient amount. And I could not support it. It was so paltry, it was an insult. As for this conference report before us today, it is still insufficient. Moreover, its Katrina funding comes in the form of a block grant.

So States affected by Katrina, as well as States treating Katrina evacuees, are given $2 billion for their Katrina health-care needs, whether that is a sufficient amount or not. Both the House and Senate bills had provided for 100 percent federal financing over the short term for all States with Katrina-related Medicaid costs.

Finally, I want to briefly mention an important trade issue. This bill repeals the Continued Dumping and Subsidy Offset Act, also known as the Byrd amendment. This repeal could not come at a worse time for the American lumber industry. The industry has recently suffered a series of setbacks in its long-running dispute with Canada on imports of Canadian softwood lumber.

The Byrd amendment is one of the few tools the industry still has to encourage Canada to settle the lumber dispute once and for all. Repealing the Byrd amendment now pulls the rug right out from under the industry. I won't do that. And I urge my colleagues who are friends of the lumber industry to join me in supporting the industry by voting against this bill.

We don't have to pass this bill this year, Mr. President. There is no need. None. So let's not pass it and do what is right in a subsequent reconciliation bill.

Mr. President, there is a great deal to be disappointed about in this spending reconciliation legislation. It does not meet the health and welfare needs of Katrina victims. It makes health care for the poorest among us more expensive and lets well-heeled people off the hook.

It puts forth an unreasonably austere welfare program in a vehicle where it doesn't belong. It fails to advance the Medicare quality agenda that many of us have worked so hard to make reality. And it undermines the U.S. lumber industry at the worst possible moment.

In short, Mr. President, the Senate should reject this bill. The Senate can do better. I urge my colleagues to do better by the American people by voting ''no.''

Mr. President, I ask unanimous consent to have printed in the RECORD a lengthy list of all of the groups that oppose this bill.

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

The following organizations have urged a ''no'' vote on the spending reconciliation bill:

AARP; Academy for Educational Development; AFL–CIO; AIDS Alliance for Children, Youth & Families; AIDS Alliance for Children, Youth, & Families; AIDS Institute; Alliance for Children and Families; Alliance for Retired Americans; Alliance of Louisiana Developmental Centers Families & Friends; American Academy of Child and Adolescent Psychiatry; American Academy of Pediatrics; American Academy of Physical Medicine and Rehabilitation; American Association of Community Colleges; American Association of People with Disabilities; American Association of State Colleges and Universities; American Association on Mental Retardation; American College of Nurse Practitioners; American Congress of Community Supports and Employment Services; American Council of the Blind; American Council on Education.

American Diabetes Association; American Federation of State, County and Municipal Employees; American Federation of Teachers; American Foundation for the Blind; American Medical Student Association; American Network of Community Options and Resources; American Nurses Association; American Public Health Association; American Therapeutic Recreation Association; Americans for Democratic Action; APSE: The Network on Employment; Asian American Justice Center; Association for the Mentally Retarded at Agnews; Association of Academic Physiatrists; Association of American Universities; Association of Community College Trusts; Association of Jesuit Colleges and Universities; Association of University Centers on Disabilities; Bazelon Center for Mental Health Law; Beatrice State Development Center Family and Friends Association.

B'nai B'rith International; Brain Injury Association of America; Catholic Charities USA; Campaign for Mental Health Reform (coalition of 16 national organizations); Center for Adolescent Health & the Law; Center for Advocacy for the Rights and Interests of the Elderly; Center for Public Policy Priorities; Center on Disability and Health; Child Welfare League of America; Child Welfare League of America; Children's Cause for Cancer Advocacy; Children's Defense Fund; Clearbrook Parents and Guardians Association; Coalition on Human Needs; Community Catalyst; Community HIV/AIDS Mobilization Project/CHAMP; Concerned Citizens For The Mentally Retarded; Consortium for Citizens with Disabilities; Consumers Union; Council for Exceptional Children.

Council for Higher Education Accreditation; Council of State Administrators of Vocational Rehabilitation; Council of Women's and Infants' Specialty Hospitals; Democratic Governors Association; Dever Association for the Retarded, Inc.; Disability Service Providers of America; District of Columbia Primary Care Association; Division for Early Childhood of the Council for Exceptional Children; Dixon Association For Retarded Citizens; Easter Seals; Epilepsy Foundation; Evangelical Lutheran Church in America; Families USA; Fight Crime: Invest in Kids (2,500 Police Chiefs, Sheriffs, and Prosecutors); Gay Men's Health Crisis; General Board of Church and Society of the United Methodist Church; Generations United; Gray Panthers California; Guttmacher Institute; Health and Disability Advocates in Chicago.

HIV Medicine Association; Housing Works, Inc.; Hudson Health Plan; Human Rights Campaign; Hyacinth AIDS Foundation; IDEA Infant Toddler Coordinators Association; Institute for Reproductive Health Access; International Association of Business, Industry and Rehabilitation; International Union, United Automobile, Aerospace & Agricultural Implement Workers of America—UAW; Jewish Association for Services for the Aged; Jewish Council for Public Affairs; Jewish Federation of Metropolitan Chicago; Learning Disabilities Association of America; Legal Action Center; Lutheran Services in America; Massachusetts Coalition of Families and Advocates for the Retarded; Medicare Rights Center; Mental Retardation Association of Utah; Mount St. Joseph Association; National Academy of Elder Law Attorneys.

National Advocacy Center of the Sisters of the Good Shepherd; National Alliance of State and Territorial AIDS Directors; National Alliance on Mental Illness; National Alliance to End Homelessness; National Asian American Pacific Islander Mental Health Association; National Asian Pacific American Women's Forum; National Association for Children's Behavioral Health; National Association for the Advancement of Orthotics and Prosthetics; National Association of College and University Business Officers; National Association of Councils on Developmental Disabilities; National Association of County Behavioral Health and Developmental Disability Directors; National Association of Health Advocacy Programs; National Association of Independent Colleges and Universities; National Association of Mental Health Planning and Advisory Councils; National Association of Pediatric Nurse Practitioners; National Association of People with AIDS; National Association of School Psychologists; National Association of Social Workers; National Association of State Head Injury Administrators; National Association of State Long-Term Care Ombudsman Programs.

National Association of State Universities and Land-Grant Colleges; National Association of Student Financial Aid Administrators; National Citizens' Coalition for Nursing Home Reform; National Committee to Preserve Social Security and Medicare; National Council for Community Behavioral Healthcare; National Council of La Raza; National Council on Aging; National Council on Independent Living; National Disability Rights Network; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Council; National Health Law Program; National Immigration Law Center; National Indian Health Board; National Latina Institute for Reproductive Health; National Mental Health Association; National Multiple Sclerosis Society; National Nursing Centers Consortium; National Organization of Social Security Claimants' Representatives.

National Partnership for Women & Families; National Partnership for Women and Families; National Respite Coalition; National Senior Citizens Law Center; National Spinal Cord Injury Association; National Women's Health Network; National Women's Law Center; NETWORK, a National Catholic Social Justice Lobby; NISH; Oregon Center for Public Policy; Paralyzed Veterans of America; Parent Hospital Association, Sonoma Developmental Center; Parents & Friends of Hammond Developmental Center Association; Physicians for Social Responsibility; Presbyterian Church (U.S.A.) Washington Office; Presbyterian Church of Christ; ProCare3; Project Inform; Protestants for the Common Good; Providence Health System.

Research Institute for Independent Living; RESULTS; San Francisco AIDS Foundation; School Social Work Association of America; Service Employees International Union; Society for Adolescent Medicine; St. Mary's Residential Training School; State Associations of Addiction Services; State PIRGs Higher Education Project; The Arc of the United States; The Episcopal Church; The Well Project; Tourette Syndrome Association; Treatment Access Expansion Project; Tuberous Sclerosis Alliance; UHCAN Ohio; United Cerebral Palsy; United Church of Christ; United Food and Commercial Workers International Union; United Methodist Church.

United Spinal Association; United States Psychiatric Rehabilitation Association;

United States Conference of Catholic Bishops; USAction; Voice of the Retarded; Voices for America's Children; Volunteers of America; Welfare Law Center; YWCA USA.

The following organizations have expressed concerns about the bill:

Alzheimer's Association; Ambulatory Pediatric Association; America Dental Hygienists' Association; American Association Medical Colleges; American Baptist Churches USA; American Bar Association; American Cancer Society; American Dental Education Association; American Dental Hygienists' Association; American Friends of Service Committee; American Orthopsychiatric Association; American Pediatric Society; Association of Medical School Pediatric Department Chairs; B'nai B'rith International; Call to Renewal; Child Neurology Society; Children's Health Fund; Church Women United; Churches of the Brethren Witness/Washington Office; Council of Women's and Infants' Specialty Hospitals.

First Candle; International Hearing Society; LCCR; March of Dimes; National Academy of Elder Law Attorneys; National Assembly on School-Based Health Care; National Association for the Advancement of Colored People (NAACP); National Association of Community Health Centers (NACHC); National Association of Police Organizations (NAPO); National Council of Churches; National Council on Independent Living; National League of Cities; National Puerto Rican Coalition; Union of Reform Judaism.

Mr. BAUCUS. This is a lengthy list. I don't have time to read them all.

The groups that start with A, such as AARP, for example, are at the head of the list. This is seven pages. Let me guess how many groups per page. It is about 30 groups per page at least, in groups of seven. So 30 times 7 is a couple hundred groups that are opposed to this bill—for good reason. This is not something they willy-nilly just came up with; they have looked at this bill. They have concluded, as I have, that we should not pass this bill. We don't have to pass it now. We can do it next year. We should go home for Christmas.

This is some Christmas present. This bill cuts Medicaid to people, pulls the rug out from under the lumber industry, and it hurts low-income people trying to get to work and off of welfare. Some Christmas present. We should go home for Christmas and not pass this legislation and then come back next year and do the right thing.

I yield the floor.

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

Mr. GREGG. Mr. President, I understand Senator CHAMBLISS is on his way over. I will yield when he gets here. I want to respond briefly to what the Senator from Montana said. I have respect for the Senator. He is one of the Members who is always constructive in trying to move the process forward in a way that is usually very bipartisan. But I do believe on the issue of the Medicaid accounts, he is inconsistent with where we ended up.

The Medicaid issue is really at the essence of this effort to reduce debt through this deficit reduction bill. Why is that? Well, because we know as we look into the outyears, the biggest problem we have as a Federal Government from the standpoint of fiscal policy is that we have these huge obligations. Yesterday I said it was $44 trillion. I am told by the staff that the Comptroller's office said it is $51 trillion of unfunded liability that the American people—especially our children and our children's children—are going to have to pay in order to support the retired population that is now called the baby boom generation. Of that $51 trillion—a trillion dollars is an impossible number to conceive, and $51 trillion is absolutely inconceivable. But of that number, the vast majority of it, up to $30 trillion, is health care costs in two accounts, Medicare and Medicaid.

Why is that? It is because the retiring generation is so huge that the demands it is going to put on the system are so dramatic that essentially it is going to bankrupt our children if we do not do something about addressing it. We know that by the year 2030, under the present flow of spending, the Federal Government, which today takes about 20 percent of the gross national product for everything we do—national defense, education, laying out roads, environmental protection, health care, and veterans care—because of this retiring generation, 20 percent of the gross national product will have to be spent on 3 accounts: Social Security, Medicare, and Medicaid. There is no way you can tax your way out of this unless you are willing to dramatically increase the taxes on our children and our children's children. You have to reform these programs.

This bill put our toe in the water, hopefully up to our ankles, on one of those three major entitlement accounts, specifically Medicaid. The proposals on this bill on Medicaid were proposals that essentially came to us as a Congress from the Governors in a bipartisan commission. The Governors got together and said, How can we improve the Medicaid Program? How can we give more services to more children but do it more effectively, thus costing less money and having the rate of growth of Medicaid slow a little bit. They came forward with a number of proposals which we have essentially adopted in this bill.

The practical effect of that is we will expand coverage to children. It is expected that about a million children who are not covered today under Medicaid will be picked up under this bill as a result of giving the Governors more flexibility.

As the Senator from Montana said, the concept that we are savaging the Medicaid accounts during the Christmas season is not defensible on its face. We will spend $1.2 trillion over this next 5 years on Medicaid. We are talking about reducing Medicaid spending during that period by $5 billion.

To give you a chart that reflects what type of reduction that is, the green line is Medicaid spending. The red line is Medicaid spending after this event, after this passes. There can be no difference because Medicaid spending goes up so dramatically during this period. When you reduce it by $5 billion, you literally are not dramatically reducing the Medicaid benefits—literally. The numbers still go up. You cannot even calculate it in terms of a digit. For example, Medicaid spending is going to go up 40 percent during the next 5 years. After this bill, Medicaid spending is going to go up 40 percent in the next 5 years. So this representation that we are doing some sort of terrible event to Medicaid is absurd on its face because the numbers don't defend it. What is in this bill that is important to Medicaid is the new policy which is going to give the Governors more flexibility, which is going to keep Medicaid from being abused and gamed by people, people who are worth a million dollars or hundreds of thousands of dollars, basically taking their obligations to pay for their retirement and putting it on the American taxpayer generally. That will end. Call it spend down. Governors will be given flexibility to try to reorganize their Medicaid Programs so they can deliver more services to more people.

I have to disagree strongly with the representation that somehow we have cut Medicaid. We have not cut it. The facts are that Medicaid is going to grow 40 percent over the 5-year period. I wanted to get a little more of a reduction in the rate of growth. I wanted to see us do $15 billion, but we compromised, as a result of a lot of different influences around here, at $5 billion on a $1.1 trillion base. It does not even show up as a statistical change over those 5 years.

But what is important in this bill is the policy, the policy which in later years, and hopefully as we move through this period, will allow Governors to deliver this program more effectively to more people at less of a rate of growth. We have to address this. We can continue to bury our heads in the sand, and we have done that now for 8 years. We have not addressed the entitlement accounts for 8 years. This is the first time we tried to step on this area, which represents 60 percent of Federal spending, but if we continue to bury our heads in the sand and not pass this small step forward in the area of trying to put better policy in place for these health care programs, all we are doing is saying to our children we don't have the courage to step up and try to give you a chance to have a decent lifestyle. We are going to take advantage of you. We are going to tax you so when you want to send your kids to college, you will not be able to afford it or when you want to buy a house, you won't be able to afford it because your tax burden will be so high to support this generation, it will be so huge.

It is not right for policymakers to take this position. We should step onto this turf called entitlement spending. That is what this bill does and that is why I think we should pass it.

I do not think Senator CHAMBLISS has arrived, so I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, in many ways the chairman has made my case, because the hard reality here is this bill does virtually nothing to address the deficit and debt crisis we face as a Nation. This bill has $40 billion of cuts over 5 years. The first year the cut is $5 billion in a budget of $2.5 trillion.

According to the math I learned growing up in Bismarck, ND, that is reducing the spending by 1/500 of the budget. Of course this is only chapter 1 of reconciliation. Chapter 2 is going to cut taxes, either, according to the Senate version, $70 billion, or the House version, $95 billion. In the House version in the first year they would cut the spending $5 billion and cut taxes $21 billion. Guess what. The deficit is not reduced. The deficit is increased. The deficit is increased, not reduced by this package of reconciliation.

But it is not just the first year or the 5 years; the thing nobody is paying any attention to is the growth of the debt. Last year the deficit was $319 billion, but that is not how much the debt increased. The debt increased by $551 billion. Under this budget plan over the next 5 years, the debt of this country is going up $600 or $700 billion a year, each and every year. We are going from a total debt in this country of $7.9 trillion at the end of last year to a projection, by those who are the advocates of this plan, of $11.3 trillion 5 years from now.

Is anybody paying attention? This is a budget that is going to increase the debt of the country, according to its own advocates, by $3.4 trillion. There will be $3.4 trillion of added debt. And they have a title of ''deficit reduction''? No. That is not going to pass any test. It is not deficit reduction we are talking about in this budget plan we are now in the final steps of considering.

Mr. President, I notice Senator CHAMBLISS is on the floor. He is supposed to be having this time. I will alert colleagues—is Senator CHAMBLISS prepared to proceed?

Mr. CHAMBLISS. Yes, I am.

Mr. CONRAD. Why don't we go to Senator CHAMBLISS. My understanding is the Senator will take 15 minutes; is that correct?

Mr. CHAMBLISS. Probably not that long, but certainly no more than that.

Mr. CONRAD. Whatever time the Senator consumes, we will go to Senator KENNEDY for 15 minutes and then to Senator SCHUMER, so colleagues have an understanding of where we are headed. Then my understanding is we try to slot in Senator STABENOW, and then Senator ALLARD, we have been told, would like to speak at 11:30, and then Senator STEVENS at noon.

We have not gotten a formal agreement on that, but that is the informal agreement at this point. If Senator GREGG has a need to respond to something in between, he would certainly have that right.

Mr. GREGG. Mr. President, that is a good outline. I note that if Members want to speak, it would be nice if they would give us a call and tell us they want to speak, and we will make sure they have time to speak. We want to make sure everybody has the time they need to get their points across.

Do I understand that the Senator is yielding time off the bill on his side to Senator CHAMBLISS?

Mr. CONRAD. Mr. President, on his side I think will be the most appropriate.

Mr. GREGG. Mr. President, I yield whatever time Senator CHAMBLISS uses.

Mr. CHAMBLISS. Mr. President, I will say nice things about the Senator from North Dakota, so it can come from either side.

I rise in support of S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005. Yet I must express some serious concern about the final results of the agriculture title which was negotiated by the House and Senate leadership. It was ultimately decided upon, frankly, by the leadership of the other body, but we would not be where we are today without the leadership of Senator GREGG as chairman of the Budget Committee.

This has been a long and very arduous process that we have gone through. It has taken us literally almost 12 months to get to where we are today. I think, at the end of the day, we are hopefully going to pass a meaningful deficit reduction package that, while not perfect, does move us down the road to getting our fiscal house in order.

I say to Senator CONRAD, who is a member of the Agriculture Committee, that while he didn't agree with what we were doing relative to budget reductions in the agriculture title of the bill, during the committee markup, he was very cooperative and allowed the committee to expeditiously report our title to the budget committee. That is a sign of leadership where, even when we disagree, we can still do what is best and that is bring up issues such as this for debate. For that I commend Senator CONRAD and thank him for his cooperation in that regard.

The good news is that the reductions contained in the conference report will reduce the Federal Government's overall deficit and borrowing. Unfortunately, the reductions in the agriculture title are not balanced nor fair. I stated throughout the reconciliation process that my ultimate goal was for all components of the farm bill—commodities, conservation, and nutrition—to be fairly treated. This package does not accomplish that goal.

I am pleased the final package maintained the Senate position of no reduction in the Food Stamp Program. At the end of the day, we decided that was fair and equitable because the Food Stamp Program benefits not just those people who need food stamps, but it is also extremely beneficial to farmers.

However, continued insistence of no extension of the commodity title of the farm bill by the leadership of the other body, the White House, and the U.S. Department of Agriculture has resulted in a package that now contains obvious inequities.

The Senate strived to preserve the agriculture baseline for all farm bill programs with temporary cuts over multiple years. In doing so, commodity programs, conservation, research, and rural development would have contributed in an equitable manner to deficit reduction. These options, along with the extension of the farm bill, would have protected the baseline, treated all components of the farm bill equally, and provided security for farmers in future years. However, the leadership of the other body insisted on concentrating deep temporary cuts in the 2006 crop-year only, rather than slight multiyear, across-the-board cuts to commodities which would allow us to have several options to extend the commodity program baseline as with conservation.

I cannot agree to impose such a heavy financial burden that hits producers still reeling from a season of crop loss and double costs for irrigation, fertilizer, and diesel. Until the bitter end, the leadership of the other body rejected several Senate alternatives, forcing the conference committee to drop multiple-year commodity program reductions.

The imbalance of this package is apparent on its face. While the baseline is preserved for some conservation programs through extension in the law, the House Agriculture Committee opposed similar treatment for the commodity title. This final package contains a short-term reprieve from cutting crop payments, which means commodities will not be protected like conservation during reauthorization. This will be a big problem for farmers as Congress begins to write the farm bill in 2007. The constant critics of agricultural programs will blame farmers for escaping their share of deficit reductions, as commodity support programs are about to be considered for reauthorization.

In addition, budgetary pressures on the next farm bill will be enhanced just as negotiations should be concluded in the World Trade Organization. We have already seen our trading partners and nongovernmental organizations target one commodity, cotton, which is widely grown in my home State of Georgia, with many other commodities within their target sights. With little shared sacrifice in budget reconciliation, I am concerned that critics at home and abroad will note that the United States has not moved forward on true reform and will call for deeper and more binding commitments in order to enforce the minimal amount of discipline.

We cannot say with the same vigor as we did when the Senate passed S. 1932

that the United States is already reducing the overall level of trade-distorting domestic support. Those who have successfully challenged our farm programs will be given added incentive to attack other commodities, and this may, and likely will, have an even more serious and severe impact on family farms across the country.

The conference agreement includes reductions for fiscal years 2006 through 2010 for commodities, conservation, energy, research, and rural development programs. Specifically, it includes no extension of commodity programs and no across-the-board cuts for commodity programs. It reduces direct advance payments to 40 percent for the 2006 crop-year and to 22 percent for the 2007 crop-year. The Cotton Step 2 Program is terminated effective August 1, 2006.

The Milk Income Loss Contract Program is extended for 2 years at a cost of $998 million but is not subject to the 2.5-percent reduction offered and proposed by the Senate.

The Environmental Quality Incentives Program is extended in law to 2010, but the funding is reduced $1.27 billion in fiscal years 2007 through 2009. It is increased to $1.3 billion in fiscal year 2010.

The Conservation Security Program is extended in law to 2011, but baseline funding is kept at $1.954 billion for fiscal years 2006 through 2010 and at $5.65 billion for fiscal years 2006 through 2015.

Additionally, funding for the Small Watershed Rehabilitation Program is rescinded.

The Renewable Energy Systems and Energy Efficiency Improvements Program is limited to $3 million in fiscal year 2007. Unspent obligated funds from prior years from the Value-Added Agricultural Product Market Development Grant Program and the Enhanced Access to Broadband Telecommunications Services in Rural Areas Program are rescinded.

Funding for the Rural Business Investment Program and the Rural Strategic Investment Program and the Rural Firefighters and Emergency Personnel Grant Program are also rescinded.

Authorized funding for the Initiative for Future Agriculture and Food Systems is eliminated for fiscal years 2007 through 2009.

Had the commodity title shared more equitably in the deficit reductions, these programs that are being rescinded, would not have experienced such deep cuts.

My deepest disappointment is with the lost opportunity of this negotiation. We had the opportunity to reaffirm our commitment to balancing the equities among all interests involved in the farm bill and establishing the trust that will be needed to reauthorize the farm bill in 2007. However, this process, once again, confirms my steadfast admiration for America's farmers and ranchers who are willing to share in reducing the deficit burden on their children and their grandchildren.

I want to reiterate my intent in reauthorizing the next farm bill to provide a balance to all of America's agricultural interests and end with a product that protects all of agriculture in rural America.

I close with one quick comment on the WTO negotiations which concluded in Hong Kong over the weekend but are not totally concluded at this point in time.

I commend Ambassador Rob Portman, our U.S. Trade Representative, and his staff, particularly his Chief of Staff, Rob Lehman, who have worked so hard since Ambassador Portman was appointed to this position to try to ensure that while American agriculture participated in the discussions relative to trade-distorting issues at the WTO, he never, ever made a commitment that would sacrifice the interests of American agriculture.

It is unfortunate that once Ambassador Portman put a meaningful proposal on the table to end the discussions with the European Union, the European Union made a conscience decision that they did not want to see any change in their substantive program from an agricultural perspective. Therefore, the European Union basically brought down the talks leading up to Hong Kong, and I do not think we could say in any way that anything meaningful came out of the discussions that were concluded in Hong Kong over the weekend.

It is my hope that the European Union will go back to the table and engage in meaningful discussions that hopefully will lead to some agreements that will be of benefit both to farmers in the European Union and obviously, from a parochial standpoint, farmers in the United States. I firmly believe that the future of American agriculture lies in our ability to export what we know to be the finest agricultural products grown anywhere in the world.

I yield the floor to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. How much time does the Senator from Massachusetts seek?

Mr. KENNEDY. Mr. President, I expect maybe about 12 minutes. If I could get 15 I will try and yield some back.

Mr. CONRAD. I am happy to yield 15 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from North Dakota. I hope both our colleagues, and Americans, will have a chance to listen carefully to his assessment of the whole budget process that we have been faced with in the Senate. It has very important implications for the American people. It will impact the financial condition of our Nation and of Americans and its relationship to the world economy. Most of all, I hope our colleagues and friends have listened to him carefully, talking about what the issue is before us in the Senate today before we vote.

As I have said previously, the budget is a question of priorities. The Republican proposal is going to give $95 billion in tax giveaways, the vast majority of which will benefit the wealthiest individuals, with just crumbs for individuals who earn below the $100,000. And who is paying for it? The neediest people in our country.

The conference report leaves the tax cuts for the rich under the Christmas tree but leaves middle-class families out in the cold. This is what we are talking about: families who make over $1 million will get $32,000 and families with incomes under $100,000 will get $29.

Now we have to ask, where will we get those resources? How are we going to come up with that money? Those who have been the most vulnerable in our society are the ones who will be penalized, particularly the elderly and needy who rely on the Medicaid Program and also the young people who rely on the student financial aid program.

The portion of the Senate bill reported by the Health, Education, Labor and Pensions Committee passed on a very strong bipartisan basis, unanimous on the education features of it. The bill included $12 billion in new student aid and benefits, $8 billion of this was put to need-based aid, which would be available to young people, to effectively raise the Pell grant, which is so important for more than 5 million families in this country, from $4,050 to $4,500. The bill also provided some additional assistance for those who were focusing on the study of math, science, and high-need foreign languages, basically a recognition and a response to the need to keep America competitive with China and India, and globally, in terms of engineering and other math and science graduates. So we decided to provide some stimulus and additional help to encourage people to study math and science. But we did it in addition to providing an increase for all needy students.

Most of the hearings that we have had in our committee, under the chairmanship of Senator ENZI, have focused on college access and affordability—and I pay tribute to him both for his leadership in getting this proposal through the Senate, and also for battling for any help for students in the conference.

We passed, in the budget resolution last January, a very significant increase for education that would have helped all needy students. The Senate Republicans and Democrats went on record to say in our Nation's budget we want to allocate additional resources to education. We increased it by $5.4 billion, and that was struck down by the Republican leadership over in the House of Representatives and completely lost in the conference report to

that bill. So this has been a long battle to try and provide some additional help.

What has come back from the conference in this reconciliation bill is no different. It is completely unsatisfactory. The conference completely struck our $450 increase for Pell students, putting the maximum Pell grant right back down to $4,050, where it has been for four years. The conference included some increase for individuals who are going to study math and science. As I mentioned, math and science is important, but we cannot focus on it at the expense of all other students. Most thoughtful educators believe that one has to begin with math and science in the very early grades. We are going to do something about math and science, and we have a bipartisan group that want to improve math and science education, but the approach in this legislation is not the answer to the challenge faced by our Nation.

This year, over 5 million students rely on the Pell grant to afford the cost of college. In the Senate bill, we gave additional aid to every one of those students. The bill that returned from the partisan meetings with the House takes that aid away from millions of students. In order to qualify for the additional aid in this report, students have to attend full time. Over 40 percent of the students who attend public 4-year colleges in a degree-granting program attend part time, so they will see none of the assistance that is provided in this bill. Those are hard-working students who have to work 25, 30 hours a week or more, one or two jobs, in order to put themselves through school. They will see no help from this bill.

To get any of this additional assistance, the students must maintain a B average. Is this the message we want to send to the students, that their aid disappears if they slip to a B-minus? How does this help the students? To get any additional grant aid in their junior or senior year, they must major in math, science, or engineering.

I strongly support and encourage more students to study math and science but not at the expense of other students. What does this say to the young people who want to be teachers? You are out of luck. What does it say to the millions of people we need to be nurses? You are out of luck. You do not benefit one cent with this particular program.

The Senate bill took a balanced approach, and made sure that all the children who needed our help got an increase in aid. That is not what came out of conference.

I think that is sending a message to young people: Don't bother spending your time being a teacher anymore, don't try to study to become a nurse because that extra aid and assistance will not be there.

Federal need-based aid was established to help all low-income students afford the higher education of their choice. That was the need. That was the reason for it. We said as a country that we have young people of talent and ability who can gain entrance into the best schools and colleges, but they cannot quite put it all together because their families can't afford it along with rest of their basic needs. We said, OK. They are able to gain entry into the schools and colleges of their choice, and we will help them afford it. Through a combination of the grants and aid programs, work-study programs, and their summer income, they will be able to continue through their degree. Not only did these individuals gain, but the Nation gained. The whole country reaped the benefit, because we said that every student matters and every student deserves our help. That is not what this conference report says.

During this holiday season, we should be focused on the true meaning of Christmas and the special thoughts that Americans of many faiths have at this time of year for their families, their friends and neighbors, and peoples everywhere. We're reminded that each of us as an obligation to care for one another and to help those in need—to lend a hand to the least of those in our midst. As the Bible teaches us, we should ''Love thy neighbor as thyself.''

But this budget reconciliation bill does the opposite. It robs from the poor to make room for tax giveaways to the rich. Wealthy Americans, banks and drug companies are big winners under this deal. Those who need hope and help are the big losers. It's a bill Scrooge would love.

Sadly, as we complete this measure at Christmastime, it will indeed be the neediest members of our society who have to tighten their belts. Republicans have decided to leave tax giveaways for the wealthy under the Christmas tree, while leaving middle-class families out in the cold. Those with incomes over $1 million will receive an average of $32,000 in tax cuts. But those with incomes under $100,000 will receive an average of only $29. Bah humbug.

Children and families struggling to pay for health care will be among those who are hurt the most, and 46 million Americans lack health insurance, but this bill will increase costs and cut health benefits for millions of low-income families. It slashes Medicaid funding by $6.9 billion over the next five years, and $28.4 billion over 10 years.

Under this administration, the number of uninsured has already risen to historic levels. But this Republican bill will send the level even higher, by raising costs and cutting benefits for low-income families who rely on Medicaid for needed health care.

The conference report is actually Worse than the Republican House bill in many respects. It would take away the guaranteed benefits for the 25 million children who receive health care through Medicaid by creating an ambiguous new state option called ''flexible benefits.'' It hurts seniors by increasing the prescription drug co-payments beyond those in the House bill, allowing states to charge up to 20 percent of the cost of each drug, beyond the means of many low-income Medicaid families. It indexes cost-sharing to medical inflation, a much higher rate of increase than family wages. It allows states to increase cost-sharing up to four times the amount allowed under current law.

The majority of the savings from these provisions don't come from the actual co-payments and premiums paid by Medicaid enrollees. They result from families using fewer medical services, because the increased costs will put the health services they need beyond their reach.

Unlike the Senate bill, which made the majority of its cuts by reducing overpayments to drug companies and HMOs, the conference report cuts Medicaid by limiting the access of low-income families to needed health care. Instead of getting rid of the outrageous slush fund for Medicare HMOs, it cuts health care for poor children.

The Republican Congress is telling hard-working Americans everywhere that they don't care about the hardships they face. Their policies encourage failure, not hope for a better life.

This bill means that mothers trying to hold down a job and put food on their table will go without the child care assistance and child support they need and deserve.

Behind closed doors, Republicans also have added a welfare reauthorization in this bill despite their repeated efforts to block debate on the reauthorization in the Senate. Democrats supported moving forward, but Republican reluctance to spend money on our most vulnerable citizens kept the leadership from bringing the bill to the floor.

So House Republican leaders decided to avoid the standard legislative process by unfairly slipping their welfare bill into this massive budget reconciliation bill.

The bill includes new work requirements without adequate child care funding. By eliminating the current caseload reduction credit, the bill requires over half the States to increase the number of welfare recipients in federal work activities by two-thirds in 2007, unless they have a substantial drop in their welfare caseload over the next year. Despite this increase in required work, the bill fails to allow child care funds to keep pace with inflation. The bill under-funds child care by $11 billion in terms of what is needed to maintain current purchasing power and to meet the increased work requirements.

In Massachusetts alone, 13,500 children are already on waiting lists to receive these essential services. Under this bill, the situation can only get worse.

The bill will make life harder for poor children who rely on child support to survive. It greatly weakens enforcement efforts to make dead-beat dads

live up to their responsibilities and provide for their children. Under the Republican plan, nearly $2.9 billion will be lost in child support payments over the next five years and $8.4 billion in over the next ten years.

In Massachusetts, $58 million in child support payments will be lost over the next five years, and $170 million over the next ten years.

These are the Nation's poorest children. They are vulnerable and in need. But the Republican plan would abandon them. Merry Christmas.

Families having to choose between putting food on the table and keeping warm this winter are also big losers under this bill.

In Massachusetts, the Low Income Home Energy Assistance Program, LIHEAP, serves 134,000 needy families. These families it will receive a maximum benefit of $765 for the current heating season. This is enough for only one tank of oil. It takes at least two to four tanks to make it through the winter.

Unfortunately, under this bill, low income families struggling to make it through the winter won't see any additional funds until fiscal year 2007. The bill cruelly ignores the obvious fact that the heating crisis is here now.

They claim that they have provided for LIHEAP in other bills. But when you add up the numbers, they've only provided $2.4 billion in regular funds and $1.6 billion in emergency funds. The emergency funds are given out at the discretion of the President, so it's possible that states will see little to none of the $1.6 billion this year. Obviously, the Republican majority had no intention of fully funding LIHEAP at its authorized level of $5.1 billion.

Republicans mouth the same old rhetoric about wanting to help our neediest citizens. But when it comes to putting their money where their mouth is they fall short—very short—and it's the nation's poor who suffer.

Students struggling to get a college degree are the big losers as well. We know that education is the key to keeping America strong, secure, and competitive. Now, more than ever, we must embrace and invest in education to advance America in the years ahead.

To do so requires a commitment to educational opportunity for all—especially for talented youth who have so much potential, but need help affording a college degree.

The cost of tuition and fees at public colleges has skyrocketed in recent years and Pell grants have fallen far behind. Under current law, this will be the fourth year in a row that the maximum Pell grant has not been increased.

For countless families, the gap is so great that college is out of reach. Over 400,000 talented, qualified students each year can't go to a 4-year college because they can't afford it, 170,000 don't attend college at all. That's unacceptable.

But in the face of this crisis, the Republican budget deal abandons the Senate provisions that increased the maximum Pell grant by $450.

It includes the biggest cuts in student loan programs ever, in order to pay for $13 billion in tax giveaways for the richest Americans.

The Senate bill included $8 billion to increase grant aid for all Pell grant recipients. In contrast, the small amount of funding for student aid included in this Conference report—$13 billion for tax cuts and only $3.75 billion for students—will only be available for a very small number of students eligible for Pell Grants.

This bill abandons the government's long-time commitment to ensuring that the neediest students get the most help. It imposes so many hurdles to new aid that it is sure to leave behind those who need our help the most to stay in school.

Under this proposal, a single mother who can attend college only part-time because she has to work 40 hours a week to put food on the table will not be eligible for a penny in new grant aid.

Under this proposal, a student who did not have the opportunity to take rigorous courses in high school because this administration underfunded the No Child Left Behind Act would not be eligible for a penny in new grant aid.

Under this proposal, a student who decides that the best road to a good job is to pursue a credential, such as a dental hygiene certificate, would not be eligible for a penny in new grant aid.

In today's global economy, we need stronger incentives for students to study math and science, and the Senate bill did that.

We also need to address the broader crisis of hundreds of thousands of qualified students who never go to college, because the costs are too high and student aid is too low. All qualified students should get the help they need to achieve the American dream.

Take the case of Carli, from Hampton, NH. She's a junior at a public college in the State, and she already has $25,000 of debt. She relies on her Pell grant, but even with that, she has to work 20 hours a week during the school year and 40 hours a week in the summer.

She writes, ''This is not a question of not working hard enough. It has been an uphill battle to put myself through school. I am happy to do it, but I just want to know that when I'm through, there is a place for me in the American Dream too.''

Becky, from Holyoke, MA is a junior in college and is already in $24,000 of debt. She's alarmed at how high her debt will be when she graduates.

She writes, ''We students are the future of the USA. By putting us at risk and in a financial crisis, Bush and his cronies are putting the future of the USA at risk.''

In addition to abandoning so many students who so desperately need our help, this bill also rejects our Senate-passed proposals to increase competition in the federal loan programs. As a result, private lenders will still have their unfair advantage over the more cost-efficient federal loan program. The end result will be increased costs to taxpayers.

The actions taken today hand the keys of the student loan program over to profit-hungry banks and lenders. Congress missed the opportunity to say students, not banks, should be given a break.

American students deserve better. America deserves better.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter signed by over 146 organizations that are against the reconciliation report.

Also, I ask unanimous consent to have printed in the RECORD a letter from the U.S. Conference of Catholic Bishops that finds that this is basically an immoral, unfair, and unjust budget.

I also ask unanimous consent to have printed in the RECORD a letter from a the educational groups who oppose this report.

There are even more groups than these who have joined in to oppose this bill. I have not seen groups as united as these in their opposition to the way this report fails to prioritize the needs of the American family. And they speak loudly and clearly.

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

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
Washington, DC, December 13, 2005.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: Last February in my capacity as President of the United States Conference of Catholic Bishops, I wrote asking you to give priority attention to the needs of poor and vulnerable people as you developed a budget for our nation. Congress is now nearing completion of the budget with reconciliation bills that reflect not only economic policy preferences but basic moral choices as well. As Congress prepares to resolve the differences between the House and Senate versions of the spending reconciliation package, I wish to express deep concerns and disappointment on the impact of certain proposed cuts on our most vulnerable brothers and sisters. At the same time, the Bishops' Conference is grateful that both bills take steps toward helping those who have suffered due to Hurricane Katrina.

In my previous letter, I urged you on behalf of the Bishops' Conference to develop a budget plan that would guarantee adequate funding to assist those who are struggling to move beyond welfare, to educate their children, to gain access to health care or to overcome hunger and homelessness. Unfortunately, the budget proposal developed by the House of Representatives includes provisions that fall well short of that standard. We urge you to choose the Senate's approach, and not include these provisions in the final bill.

We urge you to oppose harmful cuts to the Food Stamp program included in the House bill that will result in taking food away from children and others who are being helped now. According to the Congressional Budget Office the House proposal would result in over 250,000 children and adults losing access to Food Stamps. Just under one-third of those would be legal permanent residents

who will lose eligibility if the five year waiting period is extended by two years. The Bishops' Conference strongly supported President Bush's successful effort to expand access to Food Stamps for legal immigrants in the last farm bill. We strongly oppose retreating by making legal immigrants wait an additional two years for eligibility.

The Bishops' Conference strongly recognizes and affirms the sanctity of human life from conception to natural death. Access to adequate health care is a basic human right and an essential measure of respect for human life and dignity. No one should be denied access to needed health care because of the inability to pay. Allowing states to increase the burden of copayments, deductibles and premiums on Medicaid beneficiaries–including some children and pregnant women—and to erode federal standards of core benefits will have that effect. We urge you to reject including these proposals from the House bill in the final package. Attempts to save money by making it harder for low-income and vulnerable people to get the health care they need is simply unacceptable.

The House bill also includes provisions to reauthorize the Temporary Assistance for Needy Families (TANF) welfare program. The Conference has not supported earlier iterations of the House TANF proposal because of concerns about how it could impact low-income families and children, given that it increases work requirements, including for mothers of children under 6 years old; fails to provide sufficient child care funding; and fails to restore TANF benefit eligibility to recently-arrived legal immigrants. TANF reauthorization should be considered on its own terms to allow full review of these and other important policy decisions, instead of including it in a budget-cutting exercise.

The House bill, by cutting federal funding for state child support services, will make it harder for states to collect child support for low and moderate-income families and result in $21 billion less in child support being collected for children and families than under current law, according to the Congressional Budget Office. This proposal is not good for children or families, and we urge you to reject it. Child support payments are crucial to the economic viability of some families, keeping them out of poverty and off public programs. They can also encourage parental responsibility and help to maintain the connection between children and their non-custodial parent.

In addition to these areas where we ask you to follow the Senate bill, we are concerned with the approach both bills take in important areas of agriculture policy. First, the bishops have stated that protecting God's creation must be a central goal of agricultural policies, and we support programs that promote soil conservation, improve water quality, protect wildlife, and maintain biodiversity. We oppose proposals in both bills to reduce spending on key agriculture conservation programs.

Second, we are also deeply disappointed that neither bill begins the process of limiting U.S. farm supports and targeting them to those who need them the most—small and moderate-sized farms facing periodic price shocks or unpredictable natural disasters. Such a policy is needed so poor farmers around the world can sell their products and support their families, and to help family farms remain competitive in a volatile market.

Finally, the Bishops' Conference is pleased that both the House and Senate bills call for 100% federal financing for health care for victims of Katrina. The House provision goes farther than the Senate bill, providing for full federal Medicaid funding not only for Katrina victims and evacuees, wherever they now live, but for all residents of Louisiana, Mississippi and the most affected counties in Alabama. We urge you to support the more generous House language.

The federal budget is more than a matter of accounting: it reflects our values and priorities as a nation. The budget choices you make in the coming days will directly affect the lives of real people, especially ''the least of these'' in our midst. This is a time for a genuinely bipartisan commitment to focus on the common good of all, and on the special needs of the poor and vulnerable in particular. On behalf of the United States Conference of Catholic Bishops, I urge you to make that commitment by working for a budget that does not neglect the needs of the most vulnerable among us.

Sincerely,

Most Rev. WILLIAM S. SKYLSTAD,
Bishop of Spokane, President.

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, December 19, 2005.

DEAR SENATOR: The higher education associations listed below, representing the nation's two- and four-year public and private colleges and research universities and the students who attend them, strongly oppose the conference report to S. 1932, the FY 2006 budget reconciliation legislation. The decisions made regarding federal student loans in the conference committee pay for deficit reduction by sending the bill directly to America's college students and their parents.

Fully $12.7 billion—or nearly one-third—of the $41 billion in cuts contained in the reconciliation bill are derived from the student loan programs. This is the biggest cut in the history of the federal student loan program.

In addition, the legislation creates a new source of competition for scarce Pell Grant and campus-based aid grant funds, while simultaneously destabilizing the delivery of the federal student loan funds. This happens as a result of the bill's transfer of the ''Section 458'' administrative funds from the mandatory to the discretionary portion of the budget, a $600 million annual expenditure.

On the plus side, the bill uses a small portion of the student loan cuts to create two new grants for students majoring in math, science, and foreign languages; reduce loan origination fees; provide a modest increase in borrowing limits; and make improvements in the need analysis system. Ultimately, however, these provisions are too small, and in the case of one of the grant programs, far too complex and restrictive to offset the damaging consequences of the cuts to student loans. We are also extremely disappointed that the Senate's ''ProGAP'' program, which stood a real chance to expand college access by increasing need-based grant aid funding, was dropped in the conference agreement.

At a time when the nation's future economic prospects are tied more closely than ever before to a college-educated and highly-skilled workforce, it is shortsighted to ask college students and their families to bear so much of the burden of deficit reduction. Student aid programs, including student loans, are an investment in America's future workforce, and now is the time when our nation should be investing more in the higher education of its citizens.

We urge you to vote against the budget reconciliation conference report.

Sincerely,

DAVID WARD,
President.

On behalf of: American Association of Community Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, Association of Community College Trustees, Association of Jesuit Colleges and Universities, Council for Higher Education Accreditation, National Association of College and University Business Officers, National Association of Independent Colleges and Universities, National Association of State Universities and Land-Grant Colleges, National Association of Student Financial Aid Administrators, The State PIRGs Higher Education Project.

DECEMBER 19, 2005.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The undersigned organizations are writing to voice our concern about provisions in the conference report on the reconciliation bill. On behalf of the 53 million Americans who rely on Medicaid for their health and long-term care supports and services, we urge the Senate to reject the conference report. In particular, we strongly oppose the provisions of the conference report that would result in higher cost-sharing and fewer benefits for low-income Medicaid beneficiaries.

Congress now has the opportunity to take a stand for America's most vulnerable populations and reject the conference report because it harms low-income beneficiaries. The needs of millions of low-income children, seniors, people with disabilities and working families hang in the balance. We are depending on you to vote ''no'' on the conference report in order to keep health care accessible, affordable and comprehensive for Medicaid beneficiaries.

Sincerely,

AFL–CIO, AIDS Alliance for Children, Youth & Families, Alliance for Children and Families, Alliance for Retired Americans, Alliance of Louisiana Developmental Centers Families & Friends, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Academy of Physical Medicine and Rehabilitation, American Association of People with Disabilities, American Association on Mental Retardation, American College of Nurse Practitioners, American Congress of Community Supports and Employment Services, American Federation of State, County and Municipal Employees, American Federation of Teachers, American Medical Student Association, American Network of Community Options and Resources, American Nurses Association, American Public Health Association, American Therapeutic Recreation Association, Americans for Democratic Action.

Asian American Justice Center, Association for the Mentally Retarded at Agnews, Association of Academic Physiatrists, Association of University Centers on Disabilities, Bazelon Center for Mental Health Law, Beatrice State Development Center Family and Friends Association, B'nai B'rith International, Brain Injury Association, Center for Adolescent Health & the Law, Center for Advocacy for the Rights and Interests of the Elderly, Center for Public Policy Priorities, Center on Disability and Health, Child Welfare League of America, Children's Cause for Cancer Advocacy, Children's Defense Fund, Clearbrook Parents and Guardians Association, Coalition on Human Needs, Community Catalyst, Community HIV/AIDS Mobilization Project/CHAMP, Concerned Citizens For The Mentally Retarded.

Consumers Union, Council for Exceptional Children, Council of Women's and Infants' Specialty Hospitals, Dever Association for the Retarded, Inc.,

Disability Service Providers of America, District of Columbia Primary Care Association, Division for Early Childhood of the Council for Exceptional Children, Dixon Association For Retarded Citizens, Easter Seals, Epilepsy Foundation, Families USA, Gay Men's Health Crisis, General Board of Church and Society of the United Methodist Church, Generations United, Gray Panthers California, Guttmacher Institute, Health and Disability Advocates in Chicago, HIV Medicine Association, Housing Works, Inc., Hudson Health Plan.

Human Rights Campaign, Hyacinth AIDS Foundation, IDEA Infant Toddler Coordinators Association, Institute for Reproductive Health Access, Jewish Association for Services for the Aged, Jewish Council for Public Affairs, Jewish Federation of Metropolitan Chicago, Learning Disabilities Association of America, Legal Action Center, Lutheran Services in America, Massachusetts Coalition of Families and Advocates for the Retarded, Medicare Rights Center, Mental Retardation Association of Utah, Mount St. Joseph Association, National Advocacy Center of the Sisters of the Good Shepherd, National Alliance of State and Territorial AIDS Directors, National Alliance to End Homelessness, National Asian American Pacific Islander Mental Health Association, National Asian Pacific American Women's Forum, National Association for Children's Behavioral Health.

National Association for the Advancement of Orthotics and Prosthetics, National Association of Councils on Developmental Disabilities, National Association of County Behavioral Health and Developmental Disability Directors, National Association of Health Advocacy Programs, National Association of Mental Health Planning and Advisory Councils, National Association of Pediatric Nurse Practitioners, National Association of People with AIDS, National Association of School Psychologists, National Association of Social Workers, National Association of State Head Injury Administrators, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Council for Community Behavioral Healthcare, National Council of La Raza, National Council on Aging, National Council on Independent Living, National Disability Rights Network, National Down Syndrome Congress, National Family Planning and Reproductive Health Association, National Health Council.

National Health Law Program, National Immigration Law Center, National Indian Health Board, National Latina Institute for Reproductive Health, National Mental Health Association, National Multiple Sclerosis Society, National Nursing Centers Consortium, National Partnership for Women & Families, National Respite Coalition, National Senior Citizens Law Center, National Women's Health Network, National Women's Law Center Network, a National Catholic Social Justice Lobby, Oregon Center for Public Policy, Parent Hospital Association, Sonoma Developmental Center, Parents & Friends of Hammond Developmental Center Association, Physicians for Social Responsibility, Presbyterian Church (U.S.A.) Washington Office, ProCare3, Project Inform.

Protestants for the Common Good, Providence Health System, RESULTS, San Francisco AIDS Foundation, School Social Work Association of America, Service Employees International Union, Society for Adolescent Medicine, St. Mary's Residential Training School, State Associations of Addiction Services, The Arc of the United States, The Well Project, Tourette Syndrome Association, Treatment Access Expansion Project, U.S. Psychiatric Rehabilitation Association, UHCAN Ohio, United Cerebral Palsy, United Food and Commercial Workers International Union, USAction, Voice of the Retarded, Voices for America's Children, YWCA USA, Welfare Law Center.

AARP,
DECEMBER 19, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER FRIST: AARP strongly opposes the budget reconciliation conference agreement scheduled to come before the Senate for a vote today. Rather than reflecting the rational provisions of the Senate reconciliation bill, the final conference agreement is irresponsible policy.

The final conference agreement does not ask for shared sacrifice to achieve budgetary savings. Rather it protects the pharmaceutical industry, the managed care industry, and other providers at the expense of low-income Medicaid beneficiaries and Medicare beneficiaries who will foot the bill.

AARP members and your other constituents will question why members of the Senate would vote for a bill that would:

Make it harder for Americans needing long-term care to qualify for Medicaid;

Force some Americans to forfeit their homes in order to pay for long-term care services;

Require all Medicare Part B beneficiaries to pay higher premiums;

Reopen the MMA, not to make improvements in the new drug benefit, but to require those with more income to pay higher Part B premiums sooner; and

Force low-income Medicaid recipients to pay more for their care—and if they cannot afford to do so—to potentially be denied care entirely.

The conference agreement systematically undermines the critical protections built into both the Medicaid and Medicare programs. If the conference agreement becomes law, then over the course of the next few weeks and months we will make sure that our members across the country fully understand the impact of this conference agreement on them and on their families.

We urge the Senate to oppose the reconciliation conference package and urge Congress to instead return to the fair and responsible policies of the original Senate package.

Sincerely,

WILLIAM D. NOVELLI.

Mr. KENNEDY. If you are concerned about children, the children's groups are strongly opposed to this. If you are concerned about education, virtually the whole education community is strongly opposed to it.

If you care about those in poverty and the problems our needy families face, all those groups that combat poverty are strongly opposed to it.

I hope my colleagues will look at what is in this report, listen to the grave concerns of all of these organizations, and join me in strongly opposing this legislation. I hope my colleagues will stand up for the American family and vote against this conference report.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are going have a series of speakers.

I wish to respond quickly to the point of the Senator from Massachusetts on a couple of areas.

First, the purpose of the deficit reduction bill is to slow the rate of growth of entitlement programs. It is a net bill. In this bill, there are very major initiatives, especially in the area of education, which are new and fully paid for. There is $40 billion in debt reduction, but the actual reductions in the bill exceed that by a considerable amount.

The new programmatic activity which is fully paid for in the student area is $9 billion of additional funds for student activity.

The Senator from Massachusetts says we should have the best and the brightest have an opportunity to participate and go to good colleges. We agree with that. In fact, we are doing something about it. We are following the proposals of John Adams, a Massachusetts individual of note who helped our country get started and who considered public education and education generally to be the essence of how the American dream is going to be fulfilled. He was totally committed to a meritocracy.

We are essentially saying in this bill, by creating this new program called SMART, if you are a low-income student and you are focusing on math and science, we are going to give you a lot of help. If you can perform well in those two areas, you are going to get an opportunity to really succeed in this country. But we are going to give you the support you need to succeed. We are going to give you $4,000 a year on top of your Pell grant, on top of scholarships, on top of your borrowing capabilities. You are potentially getting $4,000 a year in college if you study math and science and have a low income.

We forgive $4 billion in student loans. We are going to reduce student loan taxes and fees by $4 billion, and we are going to provide $1.9 billion of loan forgiveness for people who go into special areas that we consider important, specifically teaching, primarily in these special education areas. This bill structures a $17,500 loan forgiveness program for people who go into special education teaching. We recognize special education teachers are, first, needed, and second, they are put under tremendous stress. If we can encourage people to go into that field, we want to.

This bill has some very good policy in the area of education. Sure, it isn't as strong as what left the Senate, which was actually worked out within the HELP Committee. That happened with the House. The House was zero, we were at eight, and we ended up essentially at four. This so-called compromise in that $4 billion is a lot of good initiatives in the area of the SMART Program.

I yield to the Senator if he has a question. For the purposes of a question, I will yield time off his time, of course.

Mr. KENNEDY. Mr. President, I reclaim a minute of my time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, if the Senator would outline the $9 billion of additional aid and assistance to students, if he would outline those figures, they are in complete conflict with the information we have about what is and what is not in this bill. I hope he's not referring to the higher loan limits that students have been given which will result in increased profits for the banks. Is he taking into account the higher origination fees that students in the Direct Loan program may have to pay under this proposal? What about the fact that only 10 percent of the total need-based population is going to benefit at all from the math and science program? If he wants to provide it sometime, or list it, we would be enormously grateful. That's not what our calculations say.

Mr. GREGG. Should I charge this to the Senator's time? Essentially, I am clarifying the Senator's point. I will do this on my time.

Essentially, the origination fees are being eliminated under this bill.

I point out that the initiatives which are in this bill are initiatives which had bipartisan support, the SMART Program specifically. But the new grant and aid for low-income college students is about $3.7 billion in this bill. Lower fees charged to students will cause students to gain about $4 billion in this bill. The program which extends the loan forgiveness program, as I just mentioned, to a number of different categories will generate about $1.9 billion in this bill. That adds up to about $9 billion of initiative in this bill.

We think this bill has some pretty positive initiatives.

As to the loan rates, I didn't insist on staying at this loan rate. I think that came from the other side of the aisle. Did it not? I believe it did. I think the Senator from Massachusetts is the person who basically has locked us into this fixed rate when it should be a variable rate. The variable rate would save our students a lot more money. Unfortunately, my idea of going to the variable rate was rejected in committee by, I believe, the Senator from Massachusetts, who wanted to stay at the fixed rate. That costs how many billions? Over $5 billion, according to my staff. Now, that is a back-of-the-envelope guess, but that is probably in the ballpark.

As to rates, I note to the Senator from Massachusetts, I disagree with the policy in the bill, yes. I wish we had gone to my policy and saved another $5 billion. That would be up to $14 billion to save students.

Mr. KENNEDY. I will include it in the RECORD at the appropriate time. I thank the Senator for trying to make a good case of a bad record. I will include the responses to each of those areas in my remarks.

I thank the Senator.

Mr. GREGG. Does the Senator want to outline who he thinks is speaking next?

Mr. CONRAD. Mr. President, we have Senator SCHUMER next, who will consume 10 minutes. Then we have Senator ALLARD, who probably will be here at that point. We will go to Senator ALLARD for half an hour. Then we would like to go to Senator STABENOW for 10 minutes. At approximately noon, Senator STEVENS for half an hour, followed by Senator MURKOWSKI from 12:30 to 12:50. We hope to slot Senator HARKIN from 12:50 to approximately 1:30.

Mr. GREGG. And Senator COBURN.

Mr. CONRAD. And Senator COBURN after that.

We are trying to put colleagues on notice. That is basically the speaking order.

At this point we yield 10 minutes to the Senator from New York, Senator SCHUMER.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New York.

UNANIMOUS CONSENT REQUEST—S. 2082

Mr. SCHUMER. Mr. President, I thank my colleague from North Dakota for extending the courtesy to me.

I rise today to talk about the U.S. PATRIOT Act. There has been a lot of talk on the subject. With all the smoke and mirrors, let's go to the simple facts.

First, every single Democratic Senator wants to extend the present PATRIOT Act for 3 months. Every single Democratic Senator, in fact, has cosponsored or supports—everyone but one, and Senator FEINGOLD supports—the legislation introduced by the Presiding Officer, the Senator from New Hampshire, that extends the PATRIOT Act by 3 months. We also have a number of Republican Senators, led by Senator SUNUNU of New Hampshire, who also want to extend the act for 3 months. In fact, no Member of the Senate wants the PATRIOT Act to expire. That is why 100 Senators supported a measure to reauthorize the act this summer. It spanned the gap from the most conservative Republican to the most liberal Democrat, which shows the consensus on this very important issue is very achievable.

The simple fact is if we extend the PATRIOT Act for 3 months, it won't end. So the act's fate is in the President's hands. We say to the President: Extend it, don't end it. It is as simple as that. Let me repeat: Extend it, don't end it. That is our position on the PATRIOT Act.

Lately, based on the comments of some of my friends across the aisle, I feel we are characters in the book ''1984.'' It is vintage Orwellian doublespeak to say when 49 Senators from both parties, a near majority, are eager to extend the PATRIOT Act, that they are causing it to expire. In fact, if either the President or the majority leader of the Senate today were to say they are for extending the act for 3 months, my guess is it would get an overwhelming majority of both parties in the Senate.

These Senators have agreed to extend the PATRIOT Act in its current form so we can take 3 months to get it in better form. On the one hand, I want to give a lot of credit to my colleagues from Pennsylvania and Vermont. Their compromise and the bill before the Senate is an improvement over present law. It is a significant improvement over the House bill. It comes a lot closer to the Senate bill than many of my colleagues even on my side of the aisle, at least in my opinion, are giving it credit for.

I have two principal problems related to the conference report. First and foremost, I have real concerns we did not correct the formula in terms of distributing aid, which hurts my State of New York. We have to give law enforcement not just judicial tools and prosecutorial tools but financial tools, as well. Every day when I ride over the Brooklyn Bridge, whether by car or on my bicycle, I see police cars at either end. New York has an undue burden in terms of security. New York and other places that are at greater risk should get a greater share of the funding. The House bill readjusted the formula, much to the relief of New Yorkers, but the Senate bill did not.

If we took 3 months, we could keep the present PATRIOT Act on the books and make a real attempt to adjust the formula on the basis of need.

Second, the revelations from last week about warrantless wiretapping have also given me pause. If this Government will discard a law that has worked well for over 30 years without a whit of discussion or notice, for sure we better be certain we have safeguards on that Government. I am extremely troubled the administration, which claims to value strict construction of the laws and Constitution, has used the September 11, 2001, congressional resolution authorizing the use of military force to justify secret wiretapping of Americans.

I have not read the whole record, but I daresay the word ''wiretapping'' never came up in that debate. Certainly I, who voted for that resolution, never thought it applied to wiretapping. I don't think anyone else did as well. To say when we authorized the President to use force, that allows him to wiretap American citizens without a warrant is stretching it, to say the least.

The balance between security and liberty is a delicate one. I agree with the President. Most Americans put security first. It has to be. But liberty and privacy, in particular, are very important to Americans, as well. It is very high on the list. Therefore, this Senate and the Government should make every effort to have both security and liberty.

We came very close. The Senate bill, as I said, had a 100-to-0 vote, from the most liberal Democrat to the most conservative Republican. The compromise Senator SPECTER shepherded through was a good attempt. But in these crucial areas we can do better. If we simply extend the PATRIOT Act—not end

it, extend it—we can try to make it better.

I tend to be fairly hawkish on these types of things. However, there is one thing for sure: When you are dealing with the delicate balance between liberty and security, there ought to be discussion. There ought to be debate. The President, whether he be a Democrat or a Republican, should not simply appropriate it to himself to change the law with the flick of a pen. That is what our Nation stands for.

In light of these problems and concerns, let me say again, when it comes to the PATRIOT Act, my position and that of every Member of the Democratic Party in the Senate and a good number of our Republican colleagues is extend it, don't end it.

Why are we talking about ending it if we have so many people who want to extend it? The majority leader has opposed extending the present PATRIOT Act. The President has threatened to veto an extension of the PATRIOT Act.

So here we are, on the brink, with 16 important provisions about to sunset. If that happens, make no mistake about it, it will be because the distinguished Republican leader has allowed it to happen. It will be because the President has allowed it to happen. The choice is not the present compromise or no PATRIOT Act. There are three choices: The present compromise, which does not have enough support in the Senate to pass as of now, with bipartisan opposition, letting it lapse, or extending it for 3 months.

If even in the President's and the majority leader's eyes, they cannot get the first, isn't extending it better than ending it? The choice is in their hands. So if it does happen, if the PATRIOT Act is allowed to sunset, despite unanimous support for its extension in one form or another, I would ask the President to explain why we are without the PATRIOT Act, why he would not allow a bipartisan measure to extend it. It is almost surreal.

Can it be that the majority leader of the Senate, the President of the United States, who at every turn has talked about the importance of security, who has talked about the importance of the sunsetting PATRIOT Act provisions, will force its expiration?

Certainly, they have the option of extending it for 3 months so that disagreements, which I say can be resolved, will be. And if they then persist in opposition to the 3-month extension and complain, it will be similar to the child who killed his parents and then complained that he was an orphan.

So let us all be reasonable for a day, as we approach our citizens' most sacred time of year, and do the mature thing, the logical thing, the right thing.

Therefore, Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2082, the 3-month extension of the PATRIOT Act, that the Senate proceed to its immediate consideration, the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is it the Senator's position that if the unanimous consent request was amended to be a 1-year extension, the Senator would support that unanimous consent request?

Mr. SCHUMER. Well, it is something I would consider. I think 1 month would be—right now we have support—

Mr. GREGG. One year.

Mr. SCHUMER. I understand. Right now we have support for 3 months. It is something that could probably be negotiated. My point is, we should extend it.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Reserving the right to object, if there is an orphan on the floor today, or in this city today, I would suggest it is the Senator from New York. As I made the point yesterday, if he wished to get to a vote on the PATRIOT Act it could have occurred. But the Senator from New York would not allow cloture to be invoked. And now the Senator from New York and the leadership of the Democratic Party are coming to the floor claiming that because they would not allow the PATRIOT Act to be voted on, they are prejudiced and that they should not be accused of killing the PATRIOT Act.

Well, obviously they killed the PATRIOT Act when they did not allow it to be voted on. That is a situation such as you referred to, where the individual killed his parents and then threw himself on the mercy of the court claiming he was an orphan. So if the Senator does not wish to extend the act for a year, then I would say his statements are Pyrrhic.

Mr. SCHUMER. Will my colleague yield?

Mr. GREGG. First, I am going to object, and then I will yield. But I will not yield on my time. I will yield on the time of the Senator from North Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. There is an objection.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the Senator's time has expired, and the Senator from Colorado——

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 1 minute to respond to my colleague from New Hampshire.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mr. GREGG. As long as the time comes off the bill on the Democratic side.

Mr. CONRAD. I am happy to yield the minute.

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

Mr. SCHUMER. Thank you, Mr. President.

The point is, we do have large numbers of people who want to extend the PATRIOT Act, not end it, whether it is 3 months or something more than 3 months. That is the point that I think is salient. I would hope my colleague would support 3 months, as his colleague from New Hampshire—he and his colleague from New Hampshire generally see things the same way—has asked for. But the idea stated by the President and the majority leader, that they would not be for any extension—1 year, 3 months or anything in between—is what is stymieing us here.

The bottom line is very simple. The choice is a simple one. Right now we cannot get the PATRIOT Act through the way the Senator from New Hampshire would like it. There are not enough votes by the rules of the Senate. Do you take your marbles and go home and let it expire or do you try to work out an extension, as opposed to saying: I am upset. I am going to end it. We are urging an extension. Right now, the Senator from New Hampshire, who has led the charge on this—not my colleague who is managing this bill, but the Presiding Officer, Senator SUNUNU—has suggested 3 months. I, for one, am not locked into a specific time. But I am locked in and very eager to see us extend the act, not kill it, simply because the compromise does not have the votes to prevail.

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

The Senator from New Hampshire.

Mr. GREGG. Mr. President, at this point, I will yield to the Senator from Colorado.

Mr. CONRAD. Mr. Chairman, I ask unanimous consent for 30 seconds on this subject.

Mr. GREGG. Well, I guess we can certainly give you 30 seconds. But I may take a minute and a half back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator is recognized for 30 seconds.

Mr. CONRAD. Mr. President, it has been suggested that the PATRIOT Act has been killed. The PATRIOT Act has not been killed. The PATRIOT Act is alive and well until December 31. So the fact is, we have time to get this right. And if we cannot get it right before December 31, then we have the potential to extend it, whether it is 3 months or 6 months or 9 months or some other time.

The point is, no one has killed the PATRIOT Act. The PATRIOT Act is still on the books. It is alive and well until December 31. So this issue has not yet been decided.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, prior to yielding to the Senator from Colorado, I am going to take a minute and a half, which would be the minute Senator SCHUMER had and the half minute

which we so graciously gave the Senator from North Dakota.

I would simply point out that the Democratic leader said:

We killed the Patriot Act.

So that is where the body lies. It does not lie on this side of the aisle. It does not lie at the White House. The body lies right there because of the fact that we were not allowed to go to a vote on final passage. That is the way the institution works. The Senator from New York said: Well, we are taking our marbles and leaving. We are not taking our marbles and leaving. We had 50-plus votes willing to continue the PATRIOT Act under the new law, as it has been drafted, as it has gone through the committee process. Fifty-plus votes, that is a majority.

What happened, however, was the other side of the aisle did not get it exactly the way they wanted it, so they are going to kill it. That is where the body lies.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. GREGG. I think we have continued this long enough. We actually do not have the PATRIOT Act inside the Deficit Reduction Act yet, but it is possible we could end up there before we finish.

Senator ALLARD has been very gracious in allowing us to take from his time. I yield to Senator ALLARD as much time as he may use.

The PRESIDING OFFICER. The Senator from Colorado is recognized for as much time as he may consume.

Mr. ALLARD. Mr. President, thank you very much.

Mr. President, I thank the chairman of the Budget Committee for yielding and also express my appreciation for his leadership.

Through these budget issues, there has been delay and obstruction all along the route. We are seeing delay and obstruction at the end of the session. We have just seen some of the debate going on as it applies to the PATRIOT Act. I do not want to debate the PATRIOT Act. But what I would like to do is talk about the budget because this is very important. It is a very critical piece of legislation.

This is the first time in 8 years Congress has attempted to control the rate of growth in entitlement spending. I have had an opportunity to deal with budget issues, both here and as a Member of the House. I was elected to the House of Representatives in 1990. Shortly thereafter, I was able to get on the Budget Committee.

I was fortunate enough to get on the Budget Committee when I came over to the Senate. I have seen a disturbing trend in our spending habits in the Congress. If we look at the 1990 fiscal year, when I first began to really look at the budget seriously as a policymaker, we had 48 percent in entitlement and mandatory spending. Another 23 percent was defense discretionary, and then we had some 29 percent or so that fell into interest, as well as nondefense discretionary. As the years have gone by, in 2000 we find our entitlements and mandatory spending are up to 55 percent from 48 percent in 1990. We see that defense discretionary is actually down to 19 percent from 23 percent. We see that our nondefense discretionary net interest rates are staying close to the same.

The real problem is in the future. As we look at 2010, we see that our entitlements are projected to go up to 58 percent—with another 17 percent on defense discretionary and nondefense discretionary and net interest is staying pretty close to the same range. This spells out problems for future generations. I want my children, who are now in their thirties, as well as my grandkids, to have an opportunity for economic growth. If we continue to push these obligations back and continue to allow entitlement spending to grow, it is going to take away from their discretionary spending. They are not going to have the opportunities my generation had. My wife and I have had wonderful opportunities. We were able to start a small business by ourselves. We were able to see our local community grow and the State grow, and we grew with them. If we continue to spend in the Federal budget as we are now, that opportunity is going to go away.

The budget reconciliation passed by the Congress earlier this year had a requirement of $34.7 billion in savings over 5 years. That is not much of a reduction in the rate of increase. Remember, these are all still increases that are happening. We only have reductions in the rate of increase.

Finally, we have a bill before us that is looking to save close to $40 billion. We have improved it. But you have to remember that this is actually just a reduction in the rate of increase. We are not cutting or eliminating any programs; we are just reducing the rate of increases. Only in Washington, DC, is a reduction in the rate of growth called a cut. In reality, year after year, you see spending increase. I have seen that happen in my experience in the House and now in the Senate. We have Members complaining about the cuts that are happening in the budget. Yet you look at all these budgets year after year, and they gradually increase. They are just not increasing as much as some Members want. It is like a kid saying, I want to have my allowance increased from $1 a week to $1.50 a week, and you say, No, I will increase it from $1 to $1.25. They would say that is a 25-percent cut. In reality, it is a 25-percent increase in the amount of money they are going to receive to spend. So the Senate needs to bring common sense to the budget process.

Mr. CONRAD. Will the Senator yield for an inquiry?

Mr. ALLARD. Yes, on the Senator's time.

Mr. CONRAD. Yes, sir. For management of the floor purposes—and I apologize to the Senator for interrupting him—it would be helpful for us to know, because of the time constraints, does the Senator intend to take about 30 minutes?

Mr. ALLARD. I have probably about 15 more minutes or so.

Mr. CONRAD. That is very helpful.

I indicate to the Chair and all colleagues, the intention would be to go to Senator STABENOW next. There is not a formal agreement in place, but that is the informal understanding, that after Senator ALLARD, Senator STABENOW would be next.

I thank the Senator very much. Again, I apologize for interrupting.

Mr. ALLARD. I thank the Senator. I certainly don't mind working with him in lining up speakers as they come down. It is important to give Members adequate notice.

So, again, only in Washington is a reduction in the rate of growth actually called a cut. The conference report we have before us suggests that we reduce spending by some $40 billion. This is a reduction in the rate of increase over a 5-year period. For too long the Government has been on automatic pilot for mandatory programs. We have done a few things in an attempt to reduce spending in some of the entitlement programs—a very small amount. These entitlement programs are going to continue to grow, at least at the rate of inflation. We have begun to address the rate of spending and brought it down so that the rate of increase will be less.

If we look at the total budget, the entitlements take up a large percentage of the budget. Discretionary spending—it gets a lot of attention in the media, I might add—that part of the budget only runs close to 30 percent. Sixty percent or so—better than 60 percent is going into entitlement spending. Mainly, that is Medicare and Medicaid. I was astounded by the figure that Chairman GREGG put out in his comments when he was opening the debate this morning on the Senate floor. He noted that we have $51 trillion in unfunded liability. Much of that is Medicaid and Medicare. This doesn't paint a good picture for my grandkids when they are going to grow up and look at starting a business.

One of the big costs I had as an employer was the amount of taxes I had to pay toward Medicare and Medicaid and Social Security. As these costs get higher and higher—and they are going to if we don't control spending—it is going to be more difficult for small businesspeople like myself to get started in business. It will be more difficult for them to prosper and grow and to create an opportunity for their kids and generation after generation. So we need to make some decisions.

I don't think these are tough decisions, by the way. These decisions should be relatively easy. We have a large budget that we passed, and a $40 billion reduction over 5 years is a very small amount of reduction in the rate of increase. Mandatory spending is growing at an unsustainable rate.

Entitlements are the fastest growing part of the Federal Government. Unless Congress takes steps to address mandatory spending, future generations will be left with an unsustainable program. The Comptroller General estimated unfunded liability somewhere around $51 trillion, as I mentioned.

The Deficit Reduction Act provides a downpayment toward hurricane and recovery costs.

The act also takes steps to reform outdated, inefficient, and overly costly entitlement programs.

Medicaid is reformed to expand flexibility of State Medicaid benefit packages, expanded home and community-based services, and expanded services for disabled children.

Education for low-income students is strengthened through new grant aid for low-income students and extending certain loan forgiveness.

The point is that we have to set priorities, and I think one of the top priorities of this Congress should be an attempt to reduce the ever-escalating costs in spending, particularly on the mandatory entitlement spending side. We need to work on all areas, by the way. In discretionary spending, there are things we can do to bring in more efficiency. But the areas where we are seeing the greatest growth, and the areas that are going to cause the greatest liability for generations, is the growth in entitlement spending.

The other side is constantly complaining about not doing enough to hold down spending. Here is an opportunity to hold down spending. I hope they will join the Republican side in getting the Deficit Reduction Act passed, the bill we have before us right now.

The argument that comes from the other side is basically that they want to increase taxes, they want to increase Federal spending, and they believe that we will all be better off. But that doesn't work. We have seen the President's economic plan work very well in the last few years. We have seen the economy rebound. You can look at all the economic figures you want, but you have to come to the conclusion, whether you look at employment or growth of the economy, interest rates, or disposable income, it has all been a good picture. The President's economic growth package has worked, which says that we cut back on taxes.

The reason that works is because we allow small businesses, similar to what I had, or individuals to keep more money in their pocket. More money in their pocket means they can buy cars, they will buy homes, they will buy whatever disposable items they have. This keeps our economy turning. If you take that away from them, then it slows economic growth.

Time and time again, we have seen in our country's history, whether it started with President John F. Kennedy, Ronald Reagan, or now President Bush, that when we have a high tax burden, and we reduce that tax burden, it is going to cause economic growth. In return that means more money coming in to State and local governments, and it means more money coming in to the Federal Government.

State and local governments around the country are now experiencing an unexpected return in revenues, and that means they can begin to address the needs of their communities and State.

We are seeing that there is an increase in the amount of revenue coming in to the Federal Government. Revenue is increasing because we cut taxes to keep the economy going. In spite of the fact we have had high energy costs, the economy is strong. When it has had to deal with high energy costs and the cost of the war, it is still showing growth figures, which is remarkable. It speaks strongly of an economic package that has been passed out of this Senate, out of the Congress, and pushed by President Bush.

We need to continue that effort. We should not backtrack. This bill keeps us on track. It says we have to look at holding down spending. The Federal Government doesn't create jobs. It does not create new wealth in this country. New wealth comes mainly from the small business sector. It comes from families who own businesses. It comes from individuals who own businesses who are innovative, who try to develop new ways to get into the market. That is where all our new technology comes from. We need to make sure we do everything possible to give them an opportunity to do that. When we increase the burden of Government on small business, we make it more difficult for them to make the investment they need to grow. When they grow, they pay more taxes, and that is going to mean more revenue to Government.

The problem is not tax cuts but spending. Tax receipts are growing. Yet we continue to have deficits because spending is growing even faster. The current Federal deficit is too high and out of control. Mandatory spending is threatening the economic security of future generations. This conference report will help keep the U.S. economy strong and growing. I urge my colleagues to join me in voting for the Deficit Reduction Act of 2005 conference report. It will make a difference. It is a step in the right direction.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for up to 10 minutes off the time on the Democratic side, as agreed to before.

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

PATRIOT ACT

Ms. STABENOW. Mr. President, I rise today to discuss the PATRIOT Act reauthorization. Our Nation's Founding Fathers could never have foreseen the kinds of threats we face today from America's enemies, nor could they have imagined the technologies we use to anticipate attacks on our country and to prevent them with cell phones, computers, electronic bank reports, and other kinds of efforts. But they did foresee the threats of unchecked Government power on the civil liberties of each of us as Americans.

The fourth amendment was adopted as a protection against the widespread invasions of privacy experienced by American colonists at the hands of the British Government. That is part of our history. That is why this debate is so important. That is why we are standing in this Chamber, just 11 days before the PATRIOT Act expires, to debate this reauthorization. And that is why my colleagues and I on both sides of the aisle are fighting to extend the current PATRIOT Act for 3 months while we work to get agreement on the right balance between our security and our right to privacy and due process.

I want to particularly say congratulations and lend my admiration to the Senator currently occupying the Chair in this Chamber and thank him for his leadership on this issue. We have come together in a bipartisan way under his leadership and other colleagues on both sides of the aisle. I am very grateful for the Chair's leadership.

We all agree that we need to protect our homeland, but we also have an obligation to protect the civil liberties that are the birthright of every American. It is important that we get the PATRIOT Act right, not just insist on getting it done right now. That is why we say extend it, don't end it. Extend it, don't end it.

This is a critical debate. The terrorist threat to our country is very real, and it is vital that we provide the Government with the law enforcement tools necessary to protect our Nation, to protect our families.

I am proud to have offered provisions in the PATRIOT Act to protect against money laundering. My provision, section 325, gives the Treasury Department the ability to better monitor anonymous bank accounts which can be used to move terrorist funds. This is an important provision that can be used to prevent terrorist attacks in the United States.

We need to use every tool possible to fight terrorism and to protect our citizens at home. At the same time, the threat to civil liberties is also very real in America today. Last week we were alarmed to learn that under a secret order signed by the President of the United States, the Government has been monitoring the international telephone calls and e-mail messages from people inside the United States, American citizens, without court approval. This is not something that is authorized by the PATRIOT Act or by any act of Congress but, instead, is being conducted under a secret Presidential order.

This debate is not about whether the Government should have the tools that it needs to protect the American people. Of course, it should. Nobody in this

Chamber disagrees with that. That is why the PATRIOT Act passed overwhelmingly 4 years ago.

The Senate's bipartisan reauthorization bill passed unanimously in July. It was an extraordinary effort by leaders on both sides of the aisle. I am very proud of what we did back in July in unanimously passing an improved version of the PATRIOT Act.

This debate is not about whether the PATRIOT Act should suddenly expire. Of course, it should not. That is why we say, ''Extend it, don't end it.'' That is why we have offered a bipartisan bill to extend the PATRIOT Act for 3 months to give Congress time to reach a bipartisan compromise—again, authored by the Senator from New Hampshire, who is currently chairing this August body.

This extension has 47 cosponsors and counting from both sides of the aisle. This debate is about balance. It is about ensuring the safety of the American people while at the same time protecting our rights and keeping the Government accountable for its actions. These are not mutually exclusive goals. Again, we need to amend the PATRIOT Act, not end it.

The PATRIOT Act reauthorization conference report does make some important improvements and I want to thank Senator SPECTER and Senator LEAHY for their hard work and leadership on this bill. The conference report contains the 4-year sunsets in the Senate bill instead of the original 10 years in the House bill. It no longer contains a provision that would have made it a crime merely to disclose the receipt of a national security letter. However, there is a lot more to be done before we should be passing this bill and sending it to the President.

Under section 215 of the PATRIOT Act, known as the library provision, the Government can obtain a secret order to access personal records of Americans without probable cause of a crime. That means the Government can get copies of Americans' medical or financial records, library records, gun ownership records, purchase records. It also prohibits the keeper of this information, such as a librarian, from telling anyone that they have handed over these records to the Government. Before the PATRIOT Act, the FBI had access only to certain kinds of business records such as hotel and rental car receipts and they had to meet a higher legal standards before a court in order to obtain this information.

The PATRIOT Act did away with these limitations and lowered the standard for obtaining these personal records. The Senate version of the reauthorization bill reestablished a significant check on this power, and that is very important. Under the Senate bill, relevance to an authorized investigation is not enough. The Government must also show some connection between the records they are seeking and a suspected terrorist or spy. Unfortunately, this basic protection is not in the final conference report. The Senate bill also included basic protections for the recipients of a section 215 letter to allow them to challenge the automatic permanent gag order and these protections were left out of the conference report.

The conference report's treatment of national security letters, or NSLs, also needs significant improvement. NSLs are documents issued by the Federal Government that allow the Government to seize a wide variety of business and financial records without the approval of a judge, a grand jury, or a prosecutor. This has been raised as a concern by the U.S. Chamber, other business organizations and others throughout the country. Like section 215, a person who receives an NSL is under a permanent gag order without any judicial review.

Last month, The Washington Post reported that the FBI issues more than 30,000 NSLs per year. That is a hundredfold increase over past practices.

Lastly, the conference report weakened the critical sneak-and-peek protections that were in the Senate bill. Under section 213 of the PATRIOT Act, the Government can conduct secret searches in criminal investigations. With a section 213 warrant, investigators can enter someone's home or their office, conduct a search, take pictures, seize items, without telling the person for weeks, months, or in some cases more than a year. The Senate bill replaced this standard with a 7-day rule, permitting the Government to obtain additional 90-day extensions when necessary. The conference committee changed that.

Our Founding Fathers may not have foreseen the threats we face from our enemies today, but they did foresee the threats of unchecked Government power on the civil liberties and freedoms of all Americans. Protecting Americans from unlawful search and seizure is one of the Nation's founding principles. To ignore that is to undermine our identity as Americans and our American Constitution. We owe it to the people of America to get this right, and that is why I support an extension.

UNANIMOUS CONSENT REQUEST

That is why I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senator SUNUNU's bill, S. 2082, extending the PATRIOT Act for 3 months; that the Senate proceed to its immediate consideration; that the bill be read a third time and be passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I move to amend the unanimous consent request as follows: That we call up the PATRIOT Act which is pending at the desk, have 2 hours of debate, and go to final passage.

The PRESIDING OFFICER. Does the Senator from Michigan consent?

Ms. STABENOW. I would object.

The PRESIDING OFFICER. Objection is heard to the modification.

Is there objection to the consent request?

Mr. GREGG. Mr. President, reserving the right to object, I notice that in the middle of the debate on the deficit reduction bill we are hearing a number of people debating what has been debated to a considerable degree, which is the issue of the fact that the PATRIOT Act, which is pending at the desk, will not be allowed to go to a final vote by the Democratic membership of the Senate. I would simply say this, that I guess it brings to mind the Shakespearean line, I think it was from ''Julius Caesar''—it might have been one of his other wonderful plays—methinks he doth protest too much.

The corpse lies on their side of the aisle. They are the ones who have killed the PATRIOT Act, if they do not agree to vote it, which is sitting at the desk, which has gone through the committee process, which has been amended, which has been brought forward, and which has a majority of the Senate in favor of it. So I suppose it is a diversion from the deficit bill, which we should be debating, to bring these items up, but I think it is more simply an attempt to try to move the blame for the responsibility for what looks like is going to be the ending of the PATRIOT Act at the end of this year. I think that is unfortunate.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, in response to my colleague, I simply say we have unanimous support on this side of the aisle to extend the PATRIOT Act for 3 months while working out the areas of concern to millions of Americans. I also find it rather curious, in watching this debate with the distinguished Senator, one distinguished Senator from New Hampshire speaking to another distinguished Senator from New Hampshire, who is in the chair, who is a Republican author, with another also distinguished colleague from Idaho who is another author of the extension. This is clearly a bipartisan effort on our part to do the right thing, to create the right balance to extend, not end, the PATRIOT Act at the end of the year. The choice is in the majority as to whether to join us to extend the PATRIOT Act, not end it.

I would object to bringing up the bill one more time that, in fact, has been voted on at this point. Procedurally, we have said no to this conference report. We want to extend the PATRIOT Act for 3 months, not end it, so that we

can go back to the great work done unanimously by the Senate, unanimously by this body.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. A consent request has been made. Is there objection?

Mr. GREGG. Reserving the right to object, which is my right.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I am reserving my right to object.

The PRESIDING OFFICER. Under the rules, there is no formal right to object. The Senator from New Hampshire has been heard. Does he wish to be heard further on the point?

Mr. GREGG. The Chair has an obligation, I believe, to allow me to speak.

The PRESIDING OFFICER. The Senator is recognized to speak further on the point, without objection.

Mr. GREGG. I will object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Michigan has the floor. Has she concluded her remarks? Has she yielded the floor?

Ms. STABENOW. Mr. President, in conclusion, we have an opportunity to reinforce the great work done back in July by the unanimous Senate. We have bipartisan agreement that this conference report does not include the balance necessary and we have come together in a bipartisan way, with every single person on our side of the aisle and great leadership on the other side of the aisle, to say: Extend the PATRIOT Act, don't end it. We know we can work together to get this right on behalf of the American people.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the PATRIOT Act has been inserted into this debate, which is unfortunate, but I do think it is important to make a couple of points in response to the Senator from Michigan because there is misrepresentation here, in my opinion, as to the characterization of the activity.

The majority of the Senate has said it wants to pass the PATRIOT Act which is at the desk. The Senator from Michigan has refused to allow us to take up that act, as has the vast majority of her party—although there were a couple of folks on our side who I believe voted that way. So the issue is not that the majority of the Senate is opposed to the PATRIOT Act at the desk; the issue is the minority of the Senate is not going to allow the PATRIOT Act to come to a vote in the Senate and thus the PATRIOT Act will expire. The only reasonable analysis of that situation is the expiration is a result of the minority of the Senate, led by a fairly large number of the Democratic membership of the Senate, desiring to put form over substance and not allow the PATRIOT Act to a final vote and, as a result, forcing the expiration of the PATRIOT Act.

They cannot now come to the floor and say, Oh, but we didn't mean it. We killed the PATRIOT Act, but we didn't mean it.

The fact is, this bill which is at the desk has bipartisan support, has gone through the committee process, and is the proper way to deal with the PATRIOT Act.

I suppose we can stay here all day and debate the PATRIOT Act, but actually this is a deficit reduction act and I hope we will get back to it.

At this point, do you have any speakers?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. GREGG. Mr. President, I have not yielded the floor yet.

The PRESIDING OFFICER. The Senator from New Hampshire retains the floor.

Mr. GREGG. I ask if we are going to return to speakers?

Mr. CONRAD. I was going to take some time at this moment on the same subject. I, too, regret we have gotten onto the PATRIOT Act, but since we have, I feel a need to take on a couple of these points.

Mr. GREGG. Senator STEVENS is here to speak. How much time do you require?

Mr. CONRAD. I will not take long.

Mr. GREGG. So we can get it fixed up so we can get a time agreement?

Mr. CONRAD. No, no, I will be very brief and then we will go to Senator STEVENS.

Mr. GREGG. All right.

Mr. CONRAD. Mr. President, we are on the budget.

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

Mr. CONRAD. We are on the Budget Reconciliation Act. But people have come to the floor, as is their right, to discuss other issues. Now we have gotten into a discussion of the PATRIOT Act.

I have great respect for the chairman of the Budget Committee, but I must say on this issue I profoundly disagree. The Senator from New Hampshire says there is a majority in the Senate who support the PATRIOT Act provisions that have come back from conference committee. That is true.

It is also true that earlier this year on a unanimous vote the Senate version of the PATRIOT Act was approved. The House had very different provisions, and when the conference between the House and the Senate was concluded, they came back with PATRIOT Act provisions that could not command the votes necessary to pass the PATRIOT Act. That is a fact. There are not sufficient votes to pass the version of the PATRIOT Act that came back from the conference between the House and the Senate, and on a bipartisan basis—there were those who supported that version of the PATRIOT Act and on a bipartisan basis there were votes against that version of the PATRIOT Act. So let's be very clear.

Now we may face a circumstance in which the PATRIOT Act would fail, would not be extended. It is still alive today. It is alive until the 31st of this month, so all the talk that we killed the PATRIOT Act—no, the PATRIOT Act has not been killed. The PATRIOT Act is still in force. If we cannot reach agreement on something to make permanent, for goodness sake, in the Nation's security interest we should be able to agree on a time of extension.

The Senator from Michigan has offered 3 months. The Senator from New York, Senator SCHUMER, earlier offered 3 months. The Senator from New Hampshire has talked about a year. I don't know which is exactly right. I frankly think 3 months may be too little; I think a year may be too long because we do want to keep pressuring our colleagues to actually reach agreement on something that might be more long lasting. But the one thing on which we should all agree, since every single one of us voted on the PATRIOT Act provisions that passed the Senate back in July—the one thing on which we should absolutely be able to agree is we do not allow the PATRIOT Act to lapse. That is one thing in this Chamber, deeply divided, that we certainly should be able to agree on. I hope before this week is ended we have found a way to extend the PATRIOT Act for some amount of time.

Let's be clear. There are not the votes sufficient to pass the version of the PATRIOT Act that came back from the House. That is clear. It is also clear that earlier this year this body, on a unanimous vote, approved the Senate version of the PATRIOT Act and that every single Member of this body now wants some version of the PATRIOT Act to go forward. The details have not yet been agreed to. So there is an opportunity in these final hours to either get the PATRIOT Act in a fashion that can command sufficient votes to pass or that we extend the PATRIOT Act for some period of time so this Nation remains protected.

I hope very much the cooler heads are going to prevail here and that we are going to find a way to keep the PATRIOT Act in force—modified, to be certain; that is what happens in the legislative process. None of us quite gets all he wants. But we should not be in a circumstance in which it is allowed to lapse completely.

With that, Senator STEVENS is waiting to speak. We are ready to turn to the Senator from Alaska.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Alaska.

Mr. STEVENS. Mr. President, I am sure it will come to no one's surprise that I desire to use this time to discuss the appropriations bill, the Defense appropriations bill that is before the Senate in the form of a conference report.

Over the night I have been thinking—as a matter of fact, too many nights I have been thinking about this conference report. As I thought about it, I thought about some of the comments that have been made that this is something new; that people should not put—

I should not put a nongermane portion into this conference report because it is a violation of the rules.

I remember the times we discussed Senator BYRD's steel loan guarantees or the mountaintop mining problem. I remember Senator CONRAD coming to me in a conference report dealing with the great problems of disaster funding in South Dakota and the Devils Lake issue. I remember Senator DORGAN on that one, too. I remember Senator HARKIN coming to me and asking me to deal with the multibillion-dollar environmental program and agriculture authorization program in an appropriations bill. I remember Senators JEFFORDS, KOHL, and LEAHY asking me to deal with the Northeast dairy compact. I remember Senator BILL NELSON telling me about the terrible problems of the shuttle disaster and ensuring key operations at the Kennedy Space Center.

For Northeast Senators on LIHEAP, in this bill, at my urging, there is a provision for $2 billion as emergency funds for LIHEAP. The House was further reluctant to agree to that until we worked out the funding mechanisms for repayment of that money on an emergency basis when the funds come in from the sale of spectrum.

Similarly, it went to the Budget Committee. They agreed that the estimate in the bill for ANWR of $2.5 billion for revenues from bidding was low and they, in fact, have agreed that there will be approximately $5 billion coming in.

But they can't, under the procedures, change the estimate under the Budget Act.

In this bill, we have allocated that money to repay emergency funding for other programs, emergency funding that the House would not agree to before including the $1.1 billion for homeland security.

Some people say to me: What you are doing is dragging this in front of people. You want them to vote with you. I haven't talked to anyone in connection with what I have done in this bill and said I will do this if you will vote for this bill. I have done it because I believe those things are right to do. If the Senate believes they are right to do, they are going to vote for cloture on the conference report. If they want to send it back to the House, they will vote against the cloture on the conference report or they will vote in favor of a point of order against the conference report. And then it goes back to the House, the House has to reconstitute itself, and we have to appoint new conferees.

The House has sent word this morning to forget about that. They heard what I said, and they said we will ask for a continuing resolution for the Defense Department appropriations until we all come back. Our people have gone home for Christmas, they say. I don't know whether they will.

But all I know is we are at a crucial juncture of a series of things, and one of them is, in fact, the subject I have dealt with now for 25 years since Senator Jackson and Senator Tsongas came to me and said stop the filibuster against the bill called ANILCA in 1980. President Clinton wanted it very much. And they said we will set aside 1.5 million acres of the Arctic as you have requested, and it will be open to oil and gas development until that process is finished. It will not became part of the Arctic National Wildlife Refuge until that is over.

For 25 years now, I have tried to get that commitment fulfilled. We passed a bill and Clinton vetoed it. We have had it before several Senate sessions, and it has always been filibustered on the other side. This year, we are successful in getting it in the reconciliation bill, which is the bill before the Senate right now, at urging of a bipartisan group in the House. They urged me to allow them to defeat that so there would be easy passage for this bill over there. It was passed very quickly, and it is before us now. They said put the amendment on the Defense appropriations bill and we will help you get it passed in the House. They did that. An overwhelming majority voted for it.

Now we hear all sorts of things—I am getting tired of being accused of so many things—outrageous, cantankerous Senator who is responsible for the bridges. I wasn't responsible for the bridges. They arose in the House. But I did defend them here in the Senate.

As a practical matter, history is behind us now, and we have before us a bill which is the Defense bill.

I have managed this bill, or the Senator from Hawaii has managed this bill, since 1981. I don't think there are any two Senators who know any more about funding for the Department of Defense than the two of us. We pride ourselves in doing a good job, and we have done the best possible job we can now. We have I think two of the best staff directors in the Senate. Sid Ashworth sits beside me now and Charles Houy is always beside Senator INOUYE.

We have a bill before the Senate now and a conference report that provides $446.7 billion to the Department of Defense. It has a $50 billion contingency for Defense. It is a conference report which should be voted on.

I hear some people say they are going to oppose cloture on the conference report. I can't imagine anyone voting against cloture on a conference report for Defense. You can argue about some of the amendments that were attached to it. That is fine. They can be voted on individually by points of order. But the conference report on Defense is for the troops. The conference report on Defense really goes far beyond the amendments that are on this bill.

Those who vote against this conference report must know that what they are doing is they are setting up a delay in the process of getting money to the troops.

I have argued since July that this bill should not be delayed. I am not responsible for the delay. What I am responsible for now, since this the last bill, is attaching three important amendments to it.

One deals with Avian flu. That issue was raised by Senator HARKIN. When I managed the bill on the floor, I first said that is extraneous, and we shouldn't put it in the bill. The more I thought about it, I went to him and said: You are right. Let us take this to conference and see what we can do.

We took it to conference and what resulted was not only money for avian flu, but the money for avian flu was approximately the same as Senator HARKIN sought.

But we have added liability compensation provisions to it. This is a stronger amendment now than Senator HARKIN asked me to add to the bill.

I ask: Are we going to vote against getting ready for the pandemic? If this bill falls, we will go back into conference. But a point of order against this bill under rule XXVIII, as I understand it—I will explain that in a minute—will take all of those, and it is a matter for the Senate to decide.

If a rule XXVIII point of order is raised against the conference report, the conference report in its entirety collapses. Rule XXVIII does not act similar to the Byrd rule and the offending provisions are taken out of the bill. A brandnew conference will have to be convened and new conferees will have to be appointed by each House. When the conference convenes, the conferees have to be circumspect about including any matter not committed to the bill by each bill from the House.

In other words, we will go back and be in conference, and we will come back and still be right where we are now. The items for the avian flu would be added. It may be that ANWR would be deleted.

I have to tell you, if we are going to a new conference, I am going to argue to put it back in. It should be there, and the votes in the conference are there to put it back in.

We are going to face up to ANWR either now, or Christmas Day, or New Year's Eve, or sometime—however long we stay in. We are going to face the question of should we keep the commitment made by Senator Jackson and Senator Tsongas.

This bill goes beyond, though, in terms of the subject matter that should be discussed.

We have to realize that ANWR is germane to the bill. Nothing is more germane and essential to national defense than energy. Our Department of Defense consumes 110 to 112 million barrels of oil. I have a chart concerning that. That is the consumption of Department of Defense.

The consumption during this global war on terror has risen to 133 million barrels of oil. This is a 20-percent increase in demand due to the general war on terror.

ANWR supports national security because it unquestionably will increase the national supply.

So when you vote on the question of whether this is beyond the scope, sure it was not in either bill, but is it germane?

Is it part of national defense? Listen to what Senator Jackson said at the time we debated the oil pipeline amendment, which Senators will remember was passed by one vote when the Vice President of the United States broke the tie.

In almost every issue I have been involved in since I have been here about Alaska, it has been a narrow vote. Why? Because extreme environmentalists think it is their playground, that they should set the policies for Alaska.

Here is what Senator Jackson said as chairman of the Energy Committee. This involves national security. It is a national security issue. He said this:

It involves national security. There is no serious question today that it is urgently in the national interest to start North Slope oil flowing to markets. Today we have a pipeline. I ask unanimous consent this report be printed in the RECORD following my remarks. It is titled ''Prudhoe Decline Highlights U.S. Oil Dependence.''

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

(See exhibit 1)

Mr. STEVENS. It shows Alaska's oil has decreased. Here are the figures. At one time we went up to 1.885 million. We actually have an ultimate capacity of 2.1 million. There were some surges where we transported more than 2 million barrels a day. Its design capacity is more than 2 million barrels a day. Now, throughput is 935,000. I was informed recently that the amount going through at this time, the average production, is down to 381,000. We have a pipeline designed to carry 2 million barrels of oil and it is running at a little over 30 percent throughput.

Where is the oil to come from? ANWR. It should have come from ANWR. If President Clinton had not vetoed our bill in 1995, it would be coming through now.

I urge my colleagues to think about what ANWR means and why we are here. We are here because every time we have been here, we have been frustrated by filibuster. Is it unethical to try to find a way around a filibuster, to try and find a way so we can fulfill our constitutional right—that is, to have an issue decided by a majority vote? All I am asking is to have an issue decided by majority vote.

Cloture is a creature of the Senate. The concept of unlimited debate is a creature of the Senate. I abide by it. I believe in it. However, we also have the process to curb that; that is, to have cloture on a bill. Now it is cloture on a Defense bill. I don't ever recall having to get cloture on a Defense appropriations bill.

As I said, in the 1973 timeframe when we had the Alaska oil pipeline built, a most controversial bill at that time, there was not one Senator who suggested a filibuster. We all knew oil was a matter of national security. It was agreed it would be an up-or-down vote. As a matter of fact, we had two votes. We had the first vote, and because one person was off the floor, we then had a second vote. That person came back to the Senate. He was standing right outside the door. When he voted, it created a tie. The Vice President then broke the tie.

We are at the point now where we should recognize what we have done is to finally have found a way to get a vote on the basic issue in the Senate in a way that will take the bill to the President. It is a DOD bill. It is a bill the President will sign, I am certain. But keep in mind what else is in this bill.

Before I get to that, I have to remember my good friend Judge James Buckley. I said before in the Senate, he was one of the first ones to oppose drilling in the Arctic Wildlife Refuge. In January of this year he sent me a letter, unsolicited. He says this in the final paragraph:

Having visited the Arctic on nine occasions over the past 13 years (including a recent camping trip to Alaska's North Slope), I don't think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don't see any threat to the values I cherish.

He changed his mind. He said, do your best to get it drilled.

I ask unanimous consent to have his letter printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2)

Mr. STEVENS. Mr. President, beyond that, we have a series of problems I would like to mention in closing. Then I will be back. That is the question of the point of order.

In 1996, we overturned a point of order on the aviation bill. It was a question of the FAA conference report, conference on the FAA. Senator Hollings, my great friend, Fritz Hollings, offered an amendment to that bill. The Chair ruled that Senator Hollings' amendment exceeded the scope of the conference. The Senate voted 56 to 39 to overturn the ruling of the Chair. I was part of that debate and in support of Senator Hollings. There are still in the Senate a series of people who voted to overturn that Chair. Senator CHAFEE's father, the former Senator Chafee did, Senator CONRAD did, Senator DEWINE did, Senator DOMENICI did, Senator FEINSTEIN did. We have a whole series of people. My great friend, brother, Senator INOUYE did, Senator JEFFORDS did. We have a series of Members who did. Senator MCCONNELL did. Senator PRYOR's father did. Senator REID did. So did several other Members here today.

I am making the point it is not something new to ask the ruling of the Chair be disagreed with. We seek to settle the disagreement over whether the amendments are within the scope—they technically are beyond the scope—but should the scope be adhered to in the circumstances today? Should they be adhered to for avian flu? Is there any Senator who wants to protest against that? Should they be adhered to on Katrina? Sure, if there is advance appropriations on Katrina, I found ways to advance moneys to the people in those disaster areas and repay them with future income.

The House of Representatives has approved that. The Committee on the Budget says if you make the assumptions I make, it is a fair way to do things. No, they did not say ''fair way'' but a way to do things.

When you look at it right now, the issue comes down to my amendment and that is ANWR. ANWR, to me, is the most significant thing we can do today because we are down now to importing almost 60 percent of our oil. No matter what anyone says, that is an enormous burden on our economy. It is such a great burden that the scope of it has to be detailed in order to find the solutions for the problems we face.

Remember, in defense now, 7 of the 10 suppliers of this country for petroleum for defense are not U.S. suppliers. Did you know that? Of the 10 suppliers of petroleum to defense, 7 are foreign countries. Twenty percent of the petroleum the DOD purchases comes from Middle East countries that embargoed our oil in the past.

We are dealing with a matter of security to increase our domestic supply. Our State not only produces oil, we refine in Alaska a considerable amount of the jet fuel used by our military. A considerable portion of our military comes to Alaska each year: 52 million gallons in Elmendorf, 21 million gallons in Eielson, 3.5 million gallons for Coast Guard, 76.5 million gallons in terms of our total purchases from our refined oil.

I do believe we have more than doubled our energy imports since 1969 and we are exporting now approximately half a billion a day for foreign oil. If that money were spent in the United States—we only spent $1 billion of it in the United States—it would produce 12,500 jobs. In 2003, we outsourced 1.3 million jobs by importing oil rather than producing it in the United States.

In the area where the distinguished occupant of the Chair comes from, Louisiana produces a substantial portion of this oil, but many of the facilities down there have been damaged or are in need of repair.

We should be doing everything we can to diversify the sources of our energy supplies. By developing the coastal plain, we will create between 700,000 and 1 million jobs. We will put $60 million back into the economy each day, money that will be paid to U.S. employees and paid to the United States, which will increase the flow of taxes into our Treasury.

I apologize for being slightly tired and sort of disconnected in terms of how I deal with this process, but I summarize by this: We have disaster assistance, we have home energy assistance, LIHEAP, we have interoperable equipment for the first responders, we have

emergency preparedness for the cities and the States, we have border security, 1.1 billion of real money, 1996 money. There is no other money available for 2006. It includes money for infrastructure and border assistance. And we also have money for agricultural assistance.

The amendment of the chairman of the Appropriations Committee, Senator COCHRAN, really does a tremendous job in meeting some of the disaster needs beyond those which will be met by my amendment.

I will have more to say later. But, Mr. President, I urge the Senate to think. We can either pass this bill soon and do our job and fulfill the demands and desires of millions of people, or we can pull this bill down, the conference report down, and ask the House to reconstitute another committee, a conference committee, and go back into the conference committee with approximately the same conferees and try to reach a different result.

I, frankly, do not see there would be much difference. As a matter of fact, if I am a member of that conference committee, it will produce the same result. So face up to the issue now and decide whether you want to provide for energy independence in the future, whether you want to provide for LIHEAP, for disaster, for first responders, for border security, or whether you just want to continue debating ANWR.

Thank you very much.

EXHIBIT 1

PRUDHOE DECLINE HIGHLIGHTS U.S. OIL DEPENDENCE

(By Tarek El-Tablawy)

NEW YORK.—Alaska North Slope crude oil production, once heralded as a domestic mother lode, has hit a new output low—embodying the precarious balance confronting the United States as it struggles for energy security in an era of volatility in the international oil market.

The decline in Alaska is led by a slump in output from the once-mammoth Prudhoe Bay field, which has been producing since 1969. At its height in fiscal 1988, the field produced an average of 1.6 million barrels per day. In fiscal 2005, it was down to 381,000 barrels per day. Overall production in the North Slope has dropped to an average of 916,000 barrels per day from 2.01 million barrels in the same period.

In Alaska, re-boosting output is as much dictated by politics as it is by geology.

While the Bush administration has pushed for opening a pristine Alaskan refuge believed to hold about 10 billion barrels of recoverable crude oil, environmentalists argue such a move would only temporarily delay the inevitable while ruining the delicate arctic habitat.

For Alaskans, Prudhoe's decline in particular, and the North Slope's in general, transcends politics and raises fiscal and emotional issues. Each year, state residents receive a substantial dividend from an investment account built over the year by a portion of oil tax revenues.

Those dividends, based on market investment performance, have ranged from a record $1,964 per resident in 2000 to $845 in 2005. But dividends are estimated to rise over the next decade, as returns on investments take the place of declining oil royalties and taxes that go into the fund.

''The word I would use is concern,'' said Michael Williams, the Alaska Department of Revenue's chief economist. North Slope crude ''represents a substantial portion of income for the state. The issue is: What's going to happen when it goes very low, or runs out?''

State officials are negotiating with three major oil producers to build a North Slope natural gas pipeline to markets in the Midwest they hope will compensate for losses from the decline in oil. State officials say oil is expected to account for at least 74 percent of Alaska's unrestricted general purpose revenue through 2013.

The history of Prudhoe, and the several fields discovered later that once helped buoy the state's oil daily production to over 2 million barrels, offers a window into the dichotomy of the energy security debate in the United States as oil prices hover tenaciously around $60 per barrel.

The fall in the North Slope comes even with the startup of the Northstar and Alpine fields which, with a combined projected output of over 200,000 barrels per day, many hoped would partially offset the decline in Prudhoe Bay.

Prudhoe ''was one of the last great fields in America,'' said Bill Samuelson, an analyst with the Houston-based consultancy, Purvin & Gertz.

''When you have such a large field that is declining so steeply, it's hard to offset that decline,'' he said. ''It's inevitable.''

Projections for new fields slated to come on-stream over the next 10 years are expected to do little but temporarily offset the steady decline. North Slope output, according to the state, is projected to drop to about 833,000 barrels per day by 2015, with 50 percent of that production coming from new fields.

Inevitability is an immediate issue across the country. U.S. domestic crude production, currently estimated at 5.4 million barrels per day, is slated to peak at 5.9 million barrels per day in 2014 before starting a steady decline to an estimated 4.99 million barrels in 2025, according to the Annual Energy Outlook, 2006, issued Monday by the Department of Energy's Energy Information Administration.

High crude prices have allowed small producers to restart ''stripper wells''—fields that were otherwise economically unfeasible because of recovery costs and minuscule reservoir pools. Such activity has increased in states like Kansas and Kentucky.

SHARON, CT, JANUARY 24, 2005.

Hon. TED STEVENS,
Hart Senate Office Building,
Washington, DC.

DEAR TED: Twenty-six years ago, after leaving the Senate, I was a lead signatory in full-page ads opposing oil exploration in the Arctic National Wildlife Reserve that appeared in the New York Times and the Washington Post. I opposed it because, based on the information then available, I believed that it would threaten the survival of the Porcupine caribou herd and leave huge, long-lasting scars on fragile Arctic lands. Since then, caribou populations in the areas of Prudhoe Bay and the Alaskan pipeline have increased, which demonstrates that the Porcupine herd would not be threatened, and new regulations limiting activities to the winter months and mandating the use of ice roads and directional drilling have vastly reduced the impact of oil operations on the Arctic landscape.

In light of the above, I have revised my views and now urge approval of oil development in the 1002 Study Area for the following reasons:

1. With proper management, I don't see that any significant damage to arctic wildlife would result, and none that wouldn't rapidly be repaired once operation ceased.

2. While I don't buy the oil companies' claim that only 2,000 acres would be affected, even if all of the 1.5 million-acre Study Area were to lose its pristine quality (it wouldn't), that would still leave 18.1 million acres of the ANWR untouched plus another five million acres in two adjoining Canadian wildlife refuges, or an area about equal to that of the States of Connecticut, Massachusetts, Vermont, and New Hampshire combined. In other words, it is simply preposterous to claim that oil development in the Study Area would ''destroy'' the critical values that ANWR is intended to serve.

3. In light of the above, it is economic and (to a much lesser degree) strategic masochism to deny ourselves access to what could prove our largest source of a vital resource.

Having visited the Arctic on nine occasions over the past 13 years (including a recent camping trip on Alaska's North Slope), I don't think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don't see the threat to values I cherish.

With best regards,

Sincerely,

JAMES L. BUCKLEY.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we do not have a formal agreement but an informal agreement. We would go to Senator MURKOWSKI for her remarks.

Can the Senator give us an idea, roughly, how long she might proceed?

Ms. MURKOWSKI. Mr. President, just approximately 15 minutes.

Mr. CONRAD. Fifteen minutes. All right. Then on our side, it would be Senator HARKIN for approximately 30 minutes.

Mr. GREGG. Then we come back to Senator COBURN.

Mr. CONRAD. I think we have some others in between to fill out the time. I think Senator COBURN is not until 2:15, so we have some others to fill in so we use the time as efficiently as we can during the period.

With that, I think, Mr. President, the next person to be recognized would be Senator MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Thank you, Mr. President.

Mr. President, I wish to acknowledge the comments of my colleague and my friend, the senior Senator from Alaska, giving us some of the historical perspective about some of the process we have seen in the Senate.

As we take up the issue of the Defense appropriations bill and as it contains within it the issue of energy exploration in the Arctic National Wildlife Refuge, it is fair to say there has been a hue and cry of ''This can't be done. We can't have this included in it,'' and almost a sense of outrage that such a controversial issue would be inserted in a bill that truly our troops, our national security depends on.

We know this is not a new issue in the Senate. This is not a new issue in the Congress. The Alaska delegation has been fighting this issue for just about three decades now. Senator STEVENS has indicated that for 25 years he

has been working on this issue. My father, who held this office before me, spent the 22 years of his career working to advance ANWR; trying to get our colleagues here in the Senate to understand the issue and to move it through the process, to convince the Congress of the merits of opening the Coastal Plain to environmentally sensitive energy development. We have debated this issue so many times on this floor, I have some of my colleagues saying: Can't we just pass ANWR so we don't have to keep hearing this debate year after year after year? And we have been successful, twice here on the Senate side and numerous times on the House side, where the measure has moved through. We were successful in moving the ANWR provision through the Congress, both Houses, in 1995, only to have President Clinton veto it, and we were successful just several months ago in passing the ANWR measure through on the reconciliation bill. So this is not new debate. This should not come as a surprise that this is a priority, not just for the Alaska Senators, but a priority for the Congress, a priority for this country.

Senator STEVENS spoke to the issue of national security and how ANWR can assist us in that.

When we talk about the ''whys,'' why we should open ANWR to limited exploration and development, what we are talking about with ANWR is not an insignificant quantity of oil. It is not the ''drop in the bucket'' that some people suggest. It is not the ''mere months of supply'' that some people suggest. At predicted prices, at what we are seeing today, we recognize that the expectation out of ANWR is between about 6 billion barrels of oil and 14.65 billion barrels of oil. So the mean figure that we use, a conservative figure, is about 10 billion barrels of oil for this country. This is by far the largest known source of domestic onshore oil in this country today. The estimates lead us to make the statement that we believe that the ANWR field, or oil find, could rival that of Prudhoe Bay, which has been supplying this country with about 20 percent of our domestic needs for about the past 25 years.

Now, when we recognize what high oil prices are doing to this country in terms of the health of our economy, in terms of our ability to travel. Face it, the energy costs this country are facing are a burden on hard-working Americans. And what is the expectation? Do we expect the price of oil is going to be dropping? Right now, we are looking at future prices in the area of $60-a-barrel oil. The Energy Information Administration, EIA, 2006 forecast has predicted the price of oil is going to remain between $50 and $55 a barrel for the next couple decades. We have to recognize that everything we can do to bring down that cost of oil through increased production domestically is going to help us.

We have always talked about the jobs, the jobs aspect that ANWR will help bring about. It will bring about hundreds of thousands of jobs, not just in my State of Alaska, but all around the country.

And as we talk about these issues we must remember the deficit we face as a nation and the balance of payments deficit that we face. This especially is where ANWR development can make a dramatic improvement in reducing our balance of payments deficit. If we are at peak production with ANWR, anticipating 1 million barrels a day, this will reduce our country's balance of payment deficit by just about $20 billion annually. This is significant, folks. This oil is coming from the United States. This is domestic production.

Now, the big debate today, of course, is the fact that this provision, the ANWR provision, has been included in the Defense appropriations bill. Is this the perfect place for this? Well, when we started several months back, at the beginning of the year, it was not in this bill. It was in the reconciliation bill. We took criticism, great criticism, at the time for inserting it in that legislation as well. But let's talk about why it makes sense, why it is not illogical to place the ANWR provision in the Department of Defense appropriations bill.

My colleague from Alaska made mention that there is a great tie-in between ANWR and our national security and meeting the needs of our military.

We have direct benefit through increased domestic oil production because we help our military to strengthen our national security by becoming less reliant on foreign sources. Sufficient reliable energy supplies are vital to our military. That is absolutely the bottom line. Consider that it takes eight times more oil today to meet the needs of the average soldier than it did decades ago during World War II. Our military today consumes on average about 4 percent of the oil we as a nation consume daily about 800,000 barrels per day. This is a reality. This is what we are dealing with.

Right now, the military accounts for about 80 percent of all the oil that our Government consumes daily. So when we look at what we can anticipate from ANWR—about a million barrels a day at peak production—that development will help us to fully meet our military's total fuel needs. This fact alone makes ANWR a worthy candidate for inclusion in the Defense appropriations bill.

Really what we need to be focused on is what ANWR does for us, how it helps facilitate our energy security and, in turn, our national security. Opening ANWR offers America the best chance for finding a secure supply of oil that helps to reduce our dependence on OPEC, on other nations; and it does this for decades.

You all heard that we are 58 percent dependent today as a nation on foreign sources of oil. We are expected to pass the two-thirds mark within about 20 years. When you put that into perspective and you recognize that such a quantity of our energy—more than half of our energy comes from elsewhere—particularly from OPEC or unstable Mideast regimes, that we have a vulnerability. Think back to some of the statements made earlier this year coming out of Venezuela, one of our leading sources of imported oil. Again, this should remind us that we need to do all that we can responsibly do to increase our domestic energy production. Look at the world picture—what is happening with China and India and a host of developing nations and their need for supplies of oil. That makes it all the more important to make sure we are doing what we can at home.

So we need to increase our energy independence, but we also need to do it in balance with our environment and diversifying energy supplies. I wish to talk about the environmental perspective for a minute because this is important. We just cannot develop for development's sake without a corresponding obligation to balance our environmental needs and requirements. But this bill containing the ANWR provision actually lets us address the environmental issues that have been raised about ANWR for years.

When the reconciliation bill was going through, because of procedural issues—notably the Byrd rule—we were not able to include, for instance, all the environmental safeguards in that that we might have liked. It could plain and simply only open ANWR. But contained within this Defense appropriations bill are the environmental safeguards, the provisions that we have been discussing for decades. It also has provisions that will require the best technology. We are talking about directional drilling to limit the surface disruption. It requires industry to maintain winter exploration drilling schedules, a technique of using ice roads so the wildlife isn't disturbed. The tundra remains protected. It includes the provision that we voted on not too terribly long ago that would limit ANWR oil from export, from going outside this country. There is an export ban that would be in place contained within this legislation.

For Alaska Natives, it finally allows them to develop their lands as long as the total disruption doesn't exceed 2,000 acres of the surface of the coastal plain. That is another point that needs to be made. We are not talking about disturbing the surface of the entire 1.5 million acres of Coastal Plain; we are asking for permission to explore and drill in the entire plain, but not to impact more than 2,000 acres in the process. For some in rural areas, that is the size of a small farm. For some in urban centers, this is size of your airports. That is what we are talking about. This bill allows us to place this language in it.

There was mention in the Washington Post this morning that somehow or other the language contained in the bill allows for an even greater area

to be opened for oil exploration and development. That is not the case. The case is that the 2,000-acre limitation covers both federal and Native and state lands. What it does allow for is for Alaskan Natives who live up there to have the ability to gain their final land selections, but any development from those lands are subject to the 2,000-acre limitation. It is a 2,000-acre limitation in total.

We also require the Department of the Interior to consult with the Natives so that their local knowledge is considered to reduce the impact on the environment and their subsistence lifestyles. We have the support of those Natives who live there, work there, and send their children to school there, who want to see good infrastructure in terms of health facilities and schools. They support opening ANWR, but they want to do it in a responsible manner and in consultation, so that they know their voices are heard. We have put language in this bill that speaks directly to those wishes.

We have also included a provision that provides for local impact aid for any of the communities that may be subject to oil development impacts. These include the Inupiat of the North Slope, the Gwich'in south of the Brooks Range, and the municipalities and Native Corporation lands that border the Trans-Alaska Pipeline corridor.

And we included language that encourages project labor agreement talks and local hire provisions.

So we have been able in this legislation to take the concerns of some of our friends and colleagues who have been working with us—our friends from Hawaii wanted to make sure we had Native consultation provisions included. We have been able to add that in this Defense appropriations bill along with the environmental provisions that have been discussed for decades, ensuring that when we move forward with opening ANWR to responsible oil exploration and development, we have all of these provisions in place. This is key to us in the Senate, and it is certainly key to the Alaskans whom I represent, and most certainly to those who live and work on the Coastal Plain.

Now, I have to comment very quickly about a remark that was made yesterday by my colleague from Washington. In her argument against opening ANWR, she talked about ''toxic'' spills on the North Slope, and essentially argued that Alaskans are not being responsible somehow with our oil development. That does require a response.

Opponents have claimed there have been a high number of spills. But they fail to mention that the companies who operate on Alaska's North Slope have to report spills of most any substance that is more than a gallon in size, whether it is pure water, salt water, oil, or chemicals; whatever it is, it has to be reported if it is over a gallon in size.

According to the Alaska Department of Environmental Conservation, there has been an average of 263 spills on the North Slope yearly, seven times less than in the rest of the state yearly. The average oil spill, however, was just 89 gallons—that is about 2 barrels of oil—and 94 percent of that was totally cleaned up. Most spills are of water used in making ice roads.

According to the National Academy of Sciences's 2003 study, if you look at all the spills from 1977 through 1999, 84 percent of all those spills were less than 2 barrels in size. Only 454 barrels of oil per year have been released into the environment, compared to the 378,000 barrels of oil that enter North American waters yearly as a result of urban runoff, the drips we see at filling stations and other spills. That may be less oil than enters the Alaska environment naturally because of the oil seeps that come up from under the ground on the North Slope.

I wanted to take a second to correct the record on other point.

Senator STEVENS spoke in his comments previously about how including ANWR in the Defense appropriations bill not only helps Alaskans in getting the pipeline from a status of half full, or less than half full, to full; but it is also important to point out how adding ANWR to the Defense bill is going to help Americans overall.

I have mentioned national security. I have mentioned the jobs. I have mentioned the economic security and the reduction in the overall trade deficit.

What we will also be able to do as a result of the ANWR proceeds and the revenues that will come forth is to aid Americans who have been impacted by the disaster on the Gulf Coast. The bill also allocates 5 percent of the revenues to go to fund increases in money for the program that will also help Americans with their energy costs. This is the LIHEAP program, the Low-Income Home Energy Assistance Program. We know here it is getting cold, and it is going to be a colder winter as we move into January and February. Americans are looking at their home heating bills. They are looking at their utility bills, and they are seeing increases of 30 to 40 percent. We are going to see natural gas increases in our utility bills in excess of that.

This is a huge consideration for us as we try to balance our budgets within our own homes. So the ability to share with those who have been impacted by Katrina, helping to provide financing, if you will, for Gulf Coast rebuilding is a key of this bill. Under the Gulf Coast Recovery and Disaster Prevention and Assistance Fund about 25 percent of the total ANWR revenues will go into the fund—80 percent of the bonus and 20 percent of the longer-term royalties from ANWR production will go to the Gulf Coast States to help them recover from the effects of Katrina, Rita, and Wilma.

Also, we are talking about the reduction of the Nation's budget deficit over the life of the field—tens of billions of dollars to reduce the budget deficit will come from the proceeds from ANWR.

What is coming from ANWR is not something that only benefits Alaskans, and there have been those who have suggested that. It is not something that benefits only oil companies, and there are some who have mentioned that. The proceeds from ANWR and what we will be able to do in terms of providing for jobs, for energy security, national security, funding programs such as LIHEAP, funding to the States of Louisiana, Mississippi, Alabama, Texas, and Florida in the restoration fund, are significant; it is important, and it is appropriate that all are included in the legislation before us.

I, too, join my colleague, my senior Senator from Alaska, in asking our colleagues to end this debate once and for all, after the 25, 30 years we have been debating, arguing, and talking, and allow America to finally use its own resources to help our economy and protect our security.

Mr. President, I have several letters and resolutions I would like printed in the RECORD. These are a letter from the mayor and city council of the city of Kaktovik, addressed to Members of Congress; a board resolution from the Alaska Federation of Natives in support of opening ANWR; letters of support from unions; from the Chamber of Commerce; from Americans for Tax Reform; from the American Gas Association, as well as the Alliance for Energy and Economic Growth. I ask unanimous consent they be printed in the RECORD.

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

CITY OF KAKTOVIK, AK

December 2005.

DEAR MEMBER OF CONGRESS: If ever there was an issue that cried out for a fresh infusion of truth, reason and balance, it is oil and gas leasing in the Arctic National Wildlife Refuge. The fact is: a vote to support oil and gas exploration within the 1002 section of ANWR more than meets the criteria for thoughtful, far-reaching policy-making in the national interest.

Many of the Republican Main Street members of the House of Representatives have come under intense pressure to remove the provision for oil and gas leasing within ANWR from the budget reconciliation bill. In most cases this pressure comes from people who neither live on the Arctic Coastal Plain nor have ever set foot in our community.

We, the people of Kaktovik, Alaska—the only people directly affected by leasing on the coastal plain—understanding the pressure you are under, respectfully request that you consider the following important facts about this issue.

The homelands of the Kaktovikmiut Inupiat encompass the coastal plain and much of the refuge to the Continental Divide. These homelands define who we are as a people, they feed us and they are part of the legacy we leave for our children.

Despite how things may appear to outsiders, this is not empty country. We have lived here for millennia and will continue to do so. Our collective memory, the spirits of our ancestors, our place names, our dreams for the future, fill this place.

Protection and survival of our culture depends on nurturing new economic activity that allows our young people to remain and thrive here in their own country.

Although the Arctic National Wildlife Refuge was established without our consultation or consent, we have tried hard to adjust to this regime superimposed on our homeland—and not without considerable hardship. But there remains a critical fact: It is a matter of explicit and settled Congressional policy that we retain ownership of lands on the coastal plain and have been granted permission to help build a viable future for our children. There is an issue of fundamental fairness and of Native rights to be considered here.

Despite much rhetoric, oil development here offers real benefits to the nation as part of a responsible comprehensive strategy to develop diverse energy sources to help build and sustain a strong and secure economic future.

Most importantly to us, and to the majority of Americans, these benefits will NOT sacrifice the values the refuge was created to protect, in particular the wildlife and ecosystem on which they depend. Claims to the contrary are simply not supported by the facts.

We not only live in this country, we're intensely protective of it. We would not have agreed to the idea of oil leasing if we did not have assurances of the most rigorous stipulations to protect our lands, the animals on which we depend, the culture and values that guide us to the future.

These assurances are contained in a bipartisan bill, S. 1891, the Arctic Coastal Plain Domestic Energy Security Act, introduced by Sens. Stevens, Murkowski, Inouye and Akaka. This bill sets very high standards for the leasing process, holding industry and government accountable for doing it right. Key to our concerns, it gives Kaktovik an explicit role in monitoring and helping shape the leasing process so there is no lasting negative effect on the lands, waters and wildlife of this country.

We have lived in respectful and intimate association with this land for a very long time. We know with a sensitivity and a depth of practical ecological understanding—an understanding that deserves far greater recognition and respect in this debate—that under our watchful eye leasing on the coastal plain will be a safe, responsible undertaking.

You have the power to make a dramatic positive impact on the security of the nation's energy supplies while protecting our wildlife, our people and our cultural heritage. We respectfully ask that you join with your colleagues in the Senate and support the inclusion of language opening the Arctic Coastal Plain as a part of the 2005 Budget Reconciliation.

Sincerely,

Lon Sonsalla, Mayor; George Tagarook, City Council; Norah Jane Burns, City Council; Ida Angasan, City Council; Sherry Wolf, City Council; Richard Holschen, City Council; Joseph Kaleak, Vice-Mayor; Phillip Tikluk, Jr., President, Kaktovik Inupiat Corporation (Tribe); Annie Tikluk, Board Member, Native Village of Kaktovik; Adam Linn, Administrator, Kaktovik Inupiat Corporation; Isaac Akootchook, President, Native Village of Kaktovik.

ALASKA FEDERATION OF NATIVES, INC.,
ANCHORAGE, AK, BOARD OF DIRECTORS

BOARD RESOLUTION 05–01

Title: Alaska Federation of Natives (AFN) Support of Opening of the Alaska National Wildife Refuge (ANWR) to Oil and Gas Development

Whereas: The delegates of the Annual Convention of Alaska Federation of Natives of 1995 are on record in supporting the opening of Arctic National Wildlife Refuge (ANWR) for oil and gas development; and,

Whereas: The opening of the Arctic Wildlife Refuge (ANWR) to oil and gas development will bring considerable econoniic benefits to the State of Alaska; and

Whereas: The Alaska Natives should be assured of sharing in such economic benefits; and

Whereas: The Alaska Native Communities lack many basic infrastructure and economic opportunities and energy costs are extraordinary; and

Whereas: The Native Corporations created under the Alaska Native Claims Settlement Act (ANCSA) are charged by Congress with promoting the economic and social welfare of the Alaska Natives; and now therefore be it

Resolved by the Board of Directors of the Alaska Federation of Natives, that in the consideration of the economic wealth that will be generated by the development of ANWR that the Alaska Federation of Natives request Alaska's Congressional Delegation to pursue federal legislation that will include:

Federal support to fully fund the Power Cost Equalization Endowment Fund;

Measures that ensure ANCSA corporations with an opportunity to participate in the ANWR development activities;

Measures providing the ANCSA corporations with the opportunity of ownership interests in the development of ANWR; and

A 20 percent Alaska Native employment requirement in the authorizing legislation leading to the development of ANWR; and, be it further

Resolved that AFN also pursues legislation that will include revenue sharing of two percent (2%) of federal or state royalties from any oil and gas development of ANWR be earmarked for the tribal governments and non-profit organizations.

U.S. CHAMBER OF COMMERCE,
Washington, DC, December 16, 2005.

TO MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, strongly supports legislation which may be considered in the coming days that would authorize the much needed energy exploration in the Arctic National Wildlife Refuge (ANWR). The Chamber urges you to support passage of this important legislation.

As one of America's greatest prospects for domestic oil exploration, ANWR is conservatively estimated to contain 10.4 billion barrels of recoverable crude oil. According to the U.S. Energy Information Administration, ANWR would provide the United States with approximately one million barrels of oil each day for the next 30 years. This additional production would decrease oil imports from the Persian Gulf region by 40%, which would strengthen national security by making the United States less dependent on oil from politically unstable regions.

In addition, ANWR exploration makes sense because of its potential to raise substantial revenues. Recently, the Congressional Budget Office (CBO) released a recalculation of the amount of revenue that may be generated through lease sales in ANWR. Using a $50 per barrel long-term price for oil, as opposed to the $25–$35 per barrel used earlier this year, ANWR exploration would generate more than $10 billion in revenue by 2010.

Important policy objectives, such as energy security and fiscal responsibility, are placed at risk when substantial domestic energy resources remain off limits. The provisions in H. Res. 315 are an important step toward providing an affordable and reliable supply of domestically-produced energy.

The Chamber urges you to support passage of legislation that would authorize much needed energy exploration in ANWR. The Chamber will consider including votes on or in relation to this measure in our annual "How They Voted" scorecard.

Sincerely,

R. BRUCE JOSTEN.

MEMO: UNIONS SUPPORTING RESPONSIBLE ANWR DEVELOPMENT

DECEMBER 17, 2005.

Within the next few days, you will be asked to vote on legislation making appropriations for the Department of Defense and other vital government programs. One of these important policies is the authority to develop vast oil resources in the Arctic National Wildlife Refuge, popularly known as ANWR. This is a jobs issue for our unions and our members.

On December 7, 2005 the Congressional Budget Office wrote Senator TED STEVENS and responded to the Senator's inquiry that ANWR bonus bid receipts "might total at least $10 billion—roughly double CBO's official estimate." That means it also increases the federal revenue to a total of $5 billion, as the state of Alaska and the federal government will share bonus bid receipts on a 50/50 basis. In the Defense appropriations legislation, the conferees have dedicated a significant portion of those additional revenues for funding future federal disaster relief programs. As we understand it, these sums will also be used as collateral for immediate relief for damage caused in the Katrina, Rita and Wilma disaster areas.

We also see all of this as an affirmation of the progressive jobs policies generated by ANWR production.

Again, we urge you to support this legislation, because ANWR will create thousands of jobs for our members for many years. The bill assures ANWR work is protected by a project labor agreement. You will hear strident calls from opponents who claim opening ANWR will degrade the environment. We have heard their arguments, discussed them and made reasonable adjustments. They remain unyielding. Their baseless slogans can no longer be used as impediments to creating jobs or frustrating reasonable energy development.

When the question is called on the Defense Appropriations bill, it will be framed as one of process—to invoke cloture on the bill.

For us, process is policy.

The choice is clear. We can either continue to be hamstrung by the exaggerations of obstructionists, or be guided by policies that create jobs and assure a secure energy future.

Please support the Conference Report and oppose procedural devices that would delay this important legislation.

Thank you for your consideration.

International Union of Operating Engineers, AFL–CIO.

Seafarers International Union, AFL–CIO.

International Brotherhood of Teamsters, Change to Win Federation.

United Association of Plumbers & Pipefitters, AFL–CIO.

Laborers' International Union of North America, AFL–CIO.

United Brotherhood of Carpenters and Joiners of America, Change to Win Federation.

Building & Construction Trades Department, AFL–CIO.

AMERICANS FOR TAX REFORMS,
Washington, DC, December 12, 2005.

Hon. WILLIAM FRIST, MD,
Majority Leader, United States Senate.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives.

DEAR MAJORITY LEADER FRIST AND SPEAKER HASTERT: On behalf of Americans for Tax Reform (ATR), I am writing to express this organization's strong support for ensuring the Arctic National Wildlife Refuge (ANWR) provision, included in the Senate version of the budget reconciliation package, is included in the final Senate/House conference agreement.

In the wake of Hurricane Katrina, it has became increasingly evident that America must begin to increase its own domestic oil production. Requiring more domestic energy will create new jobs, lower prices, and boost the economy.

The ANWR provision in the Senate reconciliation package is expected to raise $2.4 billion by producing more than 10.4 billion barrels of oil in ANWR. Obviously, this is a win-win situation as the provision will increase future energy supplies, reduce American's dependence on foreign oil and help lower oil prices in the future.

Once again, I urge you to ensure the ANWR provision is included in the final Senate/House Conference Agreement of the Deficit Reduction Act of 2005.

Onward,

GROVER NORQUIST.

AMERICAN GAS ASSOCIATION,
Washington, DC, December 16, 2005.

DEAR MEMBERS OF CONGRESS: On behalf of the 195 local energy utility members of the American Gas Association, which deliver natural gas to more than 56 million homes, businesses and industries throughout the United States, I urge you to support legislation that would open the Alaska Arctic National Wildlife Refuge (ANWR) to energy production, which will be included in the FY–06 defense appropriations bill scheduled to be voted on by Congress this weekend.

Allowing energy production in ANWR is a vital component to addressing one of our nation's more urgent public policy issues, namely the imbalance between energy demand and available supply, and the resulting high and volatile energy prices that America is experiencing. Increasing our access to domestic energy supplies is critical to enhancing America's energy security, sustaining America's economy and providing the American consumer with relief from ever spiraling energy costs.

AGA speaks on this matter not only as the representative of natural gas utility companies, but also as a voice for their customers who have been hit so hard financially because of higher natural gas prices. Whether it's a homeowner struggling to pay the heating bill, a small business facing significantly increased energy-related business costs or an industry being forced to move overseas in order to compete in the global marketplace, soaring energy prices have been a severe detriment to America's quality of life.

Thanks to new technological developments energy can now be produced without undue harm to the surrounding environment. Hopefully, this vote will be the beginning of a trend that recognizes America's energy needs can be met with adequate environmental protections.

Again, we urge you to support passage of legislation containing the provisions to finally open ANWR.

Sincerely,

DAVID N. PARKER.

ALLIANCE FOR ENERGY AND ECONOMIC GROWTH,
December 16, 2005.

TO ALL MEMBERS OF THE UNITED STATES CONGRESS: We are writing to you again in strong support for legislation to open the Arctic National Wildlife Refuge (ANWR) to energy production, which is now being moved in the defense appropriations legislation. This is an issue of both national and economic security for America. Our country depends on foreign sources for almost 60 percent of the oil Americans consume. In a world that continues to be plagued by instability in many of the oil-producing regions, this type of dependency should be of concern to all of us.

The Alliance for Energy and Economic Growth (AEEG) is a broad-based coalition whose members develop, deliver, or consume energy from all sources. With more than 1,200 member organizations and businesses, AEEG is seeking to build a national consensus for a comprehensive U.S. energy strategy that balances supply and demand, without compromising environmental safeguards, so that we can fuel America's dynamic economy and support our quality of life.

Our members believe that ANWR is one more critical part of securing America's energy future. While ANWR alone can't provide us with all the domestic energy we need, combined with the rapid development of other domestic oil and natural gas supplies ANWR would make a tremendous difference, especially when coupled with greater energy efficiency, conservation and diversification. In addition, we must protect those Americans most at risk by supporting full funding of the Low Income Home Energy Assistance Program (LIHEAP).

ANWR's Coastal Plain holds the nation's greatest potential for another Prudhoe Bay-size discovery. Conservative estimates from both the U.S. Geological Survey and U.S. Energy Information Administration peg technically recoverable crude oil reserves at approximately 10 billion barrels. That is enough to provide the United States with 1 million barrels of oil a day for 30 years.

Oil production on the North Slope of Alaska is handled with the greatest care possible for the environment and with the least possible disturbance of wildlife. To ensure continued environmental protection, House and Senate language on ANWR development requires the application of the best commercially available technology for oil and gas exploration, development, and production.

Now more than ever, it is time to increase access to areas containing vast domestic reserves of energy-such as ANWR. As we have stated in the past, energy is the lifeblood of our nation's economy. While Congress has taken a number of steps over the past two years to improve the nation's energy policy, we still urgently need to increase domestic supplies of oil and natural gas. Our members, who represent the agricultural community, manufacturers, small and large businesses, labor and the energy industry, all recognize that additional supplies of oil and natural gas are critical to this nation's energy security and more affordable energy is needed to support economic growth.

We urge you to support the bill and the rule (in the House) that contains legislation to open ANWR.

Sincerely,

THE MANAGEMENT COMMITTEE.

Ms. MURKOWSKI. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE.) Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand the ranking member was going to yield me 30 minutes of time.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, last week this story, ''Prayers Made to Protest Budget Cuts,'' appeared in the Quad-City Times in my State of Iowa. Ollie Finn of Bettendorf said:

> We're concerned about the budget cuts and that's why we're having the prayer vigil. We wanted to bring awareness to the community about how horrible these budget cuts are. . . .
>
> The Rev. Roger Butts, pastor of the Unitarian Church of Davenport, asked people to determine whether the Fiscal Year 2006 budget serves the common good. ''I've come simply to pray with you and to stand with you for those whose voices are easy to ignore,'' he said.

I ask unanimous consent that this article from the Quad-City Times be printed in the RECORD.

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

PRAYERS MADE TO PROTEST BUDGET CSUTS
(By Mary Louise Spear)

People representing faith and social action organizations gathered together Wednesday to protest federal budget cuts that will affect low-income families.

The group prayed together at the building that houses the Social Security office in downtown Davenport. They presented petitions with 438 signatures protesting the cuts to representatives from U.S. Sens. Tom Harkin and Charles Grassley of Iowa and U.S. Rep. Jim Nussle's offices. The group also plans to present copies to U.S. Sens. Dick Durbin and Barack Obama and U.S. Rep. Lane Evans, of Illinois.

''We're concerned about the budget cuts and that's why we're having the prayer vigil. We wanted to bring awareness to the community about how horrible these budget cuts are,'' said organizer Ollie Finn of Bettendorf.

People at the vigil represented Pax Christi, Progressive Action for the Common Good, Churches United of the Quad-City Area, Sisters of Humility and Carmelite order.

The majority in Congress are proposing $60 billion in tax cuts which includes extending the capital gains and dividend tax cuts through 2010 according to information from Harkin's office. He opposes the cuts. Senate Republicans are also looking at taking $35 billion out of entitlement programs which help working Americans, he said.

The U.S. House of Representatives has called for $50 billion in cuts to food assistance, support for children in foster care, Medicaid and enforcement of child support payments.

The Rev. Roger Butts, pastor of the Unitarian Church of Davenport, asked people to determine whether the Fiscal Year 2006 budget serves the common good. ''I've come simply to pray with you and to stand with you for those whose voices are easy to ignore,'' he said.

''The group is hoping legislators respond to their concerns about the proposed cuts.

''We are working to at least restore the additional $15 billion in cuts. We feel this will have a strong effect on the poor,'' said Rick Schloemer of Rapids City, Ill.

The Wednesday vigil coincided with members of the U.S. Senate showing their support for a motion from Harkin. He asked members of the joint House-Senate conference committee to reject the House's proposal for food assistance cuts.

''The number of Americans who are food-insecure has been steadily rising over the past few years, and it's critical that conferees reject any attempts to scale back food assistance that will make this problem even worse,'' he said.

Single mothers living in Humility of Mary Housing Inc. transitional housing program would certainly feel the impact, said Sr. Pat Miller of Humility of Mary and a board director. They have 57 apartments in Davenport and about half of their budget for programs and housing comes from the federal government, she said. These women also depend on food stamps and assistance to help with heating bills.

The budget cuts ''will particularly affect the poor we serve,'' agreed Sr. Michelle Schiffgens of Humility of Mary. ''We have many single moms with kids living in those apartments and they are greatly concerned about what could happen to them.''

Mr. HARKIN. Mr. President, I know that people of faith held many events in Iowa, Washington, and many other places around the country last week on this very topic. Unfortunately, their prayers were not enough. Their prayers were not enough because yesterday we awakened to the flurry of late-night activities in the House of Representatives. House Republicans waited until the middle of the night Sunday, less than a week before Christmas, to order deep cuts to health care initiatives and farm programs and to sneak through blanket protections for the pharmaceutical industry.

It is not an accident these House votes occurred in the dead of night. There are now only 5 days until Christmas. Throughout much of the world, it is the season of giving, but here in Congress, it is the season of taking away—taking away education programs, taking away job training, taking away health care from low-income families, taking away money for needed medical research, taking away from farmers and rural communities and, worst of all, taking away hope from so many. This is a cruel holiday surprise for many American families.

Why are we doing this? Not for deficit reduction, but to provide tens of billions of dollars in tax giveaways for the wealthiest in our society. Forty percent of the benefits in the House tax bill go to those making more than $1 million a year.

Seventy-eight percent go to those making over $100,000 a year. Only 8 percent go to those making under $50,000 a year. So, again, those in the bottom of the ladder get some crumbs from the table. So while the wealthiest in our society unwrap Christmas presents, while the wealthiest in our society are hanging their Christmas stockings and getting thousands of dollars of tax giveaways stuffed in their stockings, for the poor and low income, Congress has come with a couple of lumps of coal for their stockings.

Take a look at some of the provisions I am talking about. Take the provision of the child support enforcement. This is essential to helping families achieve self-sufficiency. For families in poverty who receive child support, those payments account for an average of about 30 percent of their income. Next to a mother's earnings, child support is the largest income source for poor families receiving assistance. Child support payments are used to pay for food, child care, shelter, and the most basic essentials of life. The bill slashes funding for these child support enforcement efforts.

The Congressional Budget Office estimates that as a result of the cuts, more than $8.4 billion in delinquent payments will go uncollected in the coming 10 years. The biggest negative impact will be by children living in poverty and low-income households. One hundred seventy-six thousand children benefit from child support payments in my State of Iowa alone. In the past, President Bush himself praised the program, calling it one of our highest performing social services programs, and he is right. For every dollar in Government spending, $4.38 is recovered for families in child support payments.

Since 1996, there has been an 82-percent increase in collections, from $12 billion to $22 billion. If we were smart, if we were compassionate, if we were looking at ways to get the most bang for the taxpayers' dollar, we would be increasing funding for the child support enforcement program. The bill before us cuts this program in order to make way for more tax cuts for the wealthiest. It is simply unconscionable.

Let us take a look at Medicaid. I am very concerned about the cuts to Medicaid in this bill. I have said all along, if one wants to do something about Medicaid we ought to have a fair, honest, open debate about reforming Medicaid. We should do so in a way that does no harm to the beneficiaries because who are the beneficiaries of Medicaid? The poorest among us, poor women and children, the disabled, low-income elderly who need access to long-term care.

This bill before us today makes two changes that are permanent changes. One, under this bill, States can now alter or eliminate services to individuals. They can do it on their own. Secondly, the bill allows States to charge fees—sometimes it could be exorbitant fees—on many services where there were no fees before. Again, this could limit access to care for so many.

For example, States may provide any child, even those whose families have the lowest incomes, with a smaller benefit package than they have today. That means that low-income children, no matter how poor, are no longer guaranteed, as they are now, vision screening; no longer guaranteed coverage for eyeglasses; no longer guaranteed therapy services, medical equipment or any other benefit.

This bill would allow States to charge up to 20 percent of the cost of each medication that an individual gets in Medicaid. For individuals who take multiple drugs, this is 20 percent for each medication, so an individual who has multiple drugs or maybe an individual who needs expensive medication, these provisions could, in effect, eliminate access to needed medicines.

Keep in mind these are people who qualify for Medicaid. That means they are poor, by definition. They do not have money. So now we are going to ask them to pay more for services? Now we may ask them to pay for eyeglasses for their kids. Well, their kid needs eyeglasses, they do not have any money, they cannot pay for it, tough. That is the way it was 50 years ago in our country.

I suppose they can go get charity, can they not? I forget about that. That is right. I suppose they could go to their local church or their local synagogue maybe, local mosque, and maybe they will pay for all the eyeglasses for all the poor kids in our country now.

Under the bill, medical care providers can deny medical care if the patient has no ability to pay the charges at the time the care is needed. States can terminate coverage if the family cannot pay the monthly premiums. Again, these changes were made despite a large body of evidence, research, and studies that determined that such cost-sharing increases are likely to lead many low-income Medicaid patients to forgo various health care services and medications or not to enroll in Medicaid.

Guess what. When they do not take their needed medications, when they forgo needed health services, when they do not sign up for Medicaid, guess where they are seen. They are in the emergency room, and we are paying three, four, five times as much to help them. So much for the health care safety net that we have worked so many years to provide for low-income Americans.

Let us look at education, student loans. The reconciliation bill increases the interest rates paid by the parents of students who are taking out loans to help their kids. Merry Christmas; you are going to get higher interest payments.

It also creates a potential problem for the federally operated direct loan program. This is a direct loan program utilized by many schools. The University of Iowa, UNI, Iowa State University in my State all use it. This bill before us says the accounting of the administrative costs for the direct loan program now goes to Labor and Health and Human Services rather than being automatic. That means it is subject to a cut. This year's Labor-HHS-Education bill has been cut this year. And, I expect next year could be very difficult.

Let's look at agriculture and rural development, so important in my State and so many other States. I have long believed that there was really no justification for making budget cuts in the area of agriculture and rural development programs. Commodity prices are down. Prices for energy and fertilizer and other goods and services

that farmers buy are sharply higher. Rural communities are struggling to hold onto jobs, to survive.

Keep in mind, when we wrote the 2002 farm bill—I happened to be chairman at that time—we stayed within the budget allocation we were given. In fact, the commodity programs in that bill have cost us $14 billion less than what we were allocated. That is $14 billion that we saved the taxpayers of this country.

There were commitments made in the farm bill, but this reconciliation bill reneges on those commitments. In agriculture and rural programs, again, the sacrifice is being imposed on those least able to bear it. It is hard to understand what they have in mind for our farmers or rural communities.

Secretary Johanns and the President and others have been going around the country saying the future of farm policy lies in less emphasis on the traditional commodity programs and greater focus on conservation, renewable energy, agricultural development, and agricultural research. You cannot argue with that. It all sounds good. That is what we did in the 2002 farm bill because these types of assistance are all allowed under the WTO trade agreements. We put those in the farm bill. We put a tremendous focus on conservation in the farm bill.

President Bush, when he signed it, touted it and said oh, this is wonderful. There is a lot of good conservation. We put in for the first time ever an energy title in the farm bill. It came out of the Senate, not the House, with an energy title to get farmers—to get us all focused on energy.

Rural economic development and new rural investment-type programs for rural development, we put in money for broadband extension to small communities all over America. Guess what they are cutting in the reconciliation bill: conservation, renewable energy, rural economic development, agricultural research—all being cut. Conservation suffers the largest funding cuts of all, and the Conservation Security Program is hit the worst. The Conservation Security Program is a voluntary program of incentive payments for farm and ranch conservation practices, exactly the kind of program that Secretary Johannes and the administration are talking about as they go around the country. Yet the Conservation Security Program is virtually demolished in the bill before us. It is cut back so far that there will probably be few enrollments next year. The damage to the CSP is only a part of the serious cuts to a number of farm conservation programs in this bill.

Some argue that in the Defense appropriations bill there will be some money to make up for cuts in conservation. Don't be misled. Defense appropriations funds are not even available until 2008, and then only if Congress doesn't take them out later on, as they have done year after year. What is going on here? Why are drastic cuts conservation being made in one bill and then we have a restoration a few years later in another bill?

The DOD bill is going to come before us, and you will hear some talk about: ''There is money in there. We have some money for conservation.'' There is money in there for 2008 but, guess what, next year they may come and say we need that money, we will make up for it in 2009. They may keep doing this every year to us, the old shell game.

The bill takes away rural development funding to expand high-speed broadband access in rural communities. President Bush set a goal. He set it in Des Moines, IA. We are going to have broadband in all rural communities by 2007. Yet they are cutting the funding in the reconciliation bill for that very purpose. Do I hear anything from the President about it? Not a peep.

The bill takes away $20 million of $23 million for an innovative program to help farmers and rural businesses adopt renewable energy systems and energy efficiencies and improvements. When you take $20 million out of a $23 million fund, that kills it. Let's face it. I guess the $3 million they are leaving is for some bureaucrats so they can sit at their desks and twiddle their thumbs because and little else.

The bill cuts $760 million, almost three-quarters of a billion dollars, out of funding that we had in the farm bill that goes to agricultural research.

Again, the administration has just been in Hong Kong saying we have to push for cuts to farm income and commodity programs to make them combined with WTO. But at the same time they are in Hong Kong, they are here in the House and Senate cutting the very programs to sustain farmers, to sustain rural communities, and provide for rural economic development that will be consistent with WTO provisions.

I said all along the reason they are doing this is not to cut the deficit. The deficit actually goes up under this bill. I think of the word, ''reconciliation.'' We have before us the reconciliation bill. ''Reconciliation''—nice word; to reconcile, to make things even. To reconcile things. To make them fit.

When we passed the Budget Act 30 years ago we put in this reconciliation process so that the budget would come out, the Appropriations Committee would do their work, and then after they did all their work they would reconcile the spending with the budget, so as to keep the deficit under control. That is the way it is supposed to work.

We had a budget. We did all of our appropriations work. We have the reconciliation bills. Does the reconciliation bills make the deficit come down? Not on your life. This reconciliation bill actually is the first in a pair of reconciliation bills that increases the deficit so it has the reverse effect of what reconciliation bills were supposed to be. They may use that word, but this is a deficit-increasing process. This is one of a pair of bills to provide tax giveaways to the wealthy and increase the deficit. It sure cannot properly be called a reconciliation bill.

So they cut child support enforcement, foster care benefits, cut Medicaid, make students pay more interest on their loans for going to college. But we get to ram through $70 billion in more tax giveaways mostly for the most privileged. Not only is this fiscally irresponsible, it is the wrong priorities. It is the wrong values for America.

The two main tax provisions we are considering in this process are, No. 1, the extension of the dividends and capital gains cuts and No, 2, the alternative minimum tax. The extension of the dividends and capital gains tax cuts for just 2 years will cost the Treasury $50 billion. Because of it, 40 percent of the benefits of the House Reconciliation Tax bill will go to individuals making over $1 million a year.

Back in 2001, when they rammed through the first year's tax giveaway bill, they purposely doubled the number of taxpayers who would pay higher taxes because of the alternative minimum tax, but then they delayed the impact for the first few years. Now we have to pay the Piper to the tune of $30 billion just to fix it for 2006.

This chart is a little hard to read. It is from the official Congressional Joint Tax Committee explaining the bill written at the time. Basically, under the old law before the tax cuts of 2001, by 2010 there would be 17.5 million Americans paying the alternative minimum tax. When they passed the tax giveaway program of 2001, it doubled it to 35.5 million. Many of these are basically middle-income people. Now we all want to fix it. To fix it costs $30 billion for just 2006.

Again, the Republicans will argue that everyone benefits from the 2001 and 2003 tax cuts. I guess that is true. Everyone benefits. Even when you get crumbs from the table, you get food. Even when some crumbs fall off the table, you can say: Well, the people on the floor got some food. The same with tax cuts.

Look at the chart. The bottom fifth of taxpayers, individuals and families making under $13,500 a year, gain an average of $23 a year. This is the bottom 20 percent. These are the one out of every five Americans.

I know it is almost hard to believe that for people around here when you are making $157,000 a year, and out of 100 Senators you have some who are megamillionaires. It is hard to imagine one out of five people outside this building, outside of these hallowed halls, one out of five making less than $13,478 a year. They got 23 bucks. You can say: Well, they got a break—23 bucks. Will that buy 8 gallons of gasoline? Well, maybe—7 or 8 gallons of gasoline. It will not even fill up your tank. That is for 1 year.

People in the middle 20 percent who make between $25,847 and $44,451, they

got $618 a year. It is not bad. But you spread that over a year's time, that is a tax cut of about $26 a paycheck.

That is why, when you ask your typical middle-income American, Did you see any gain from this tax cut, they will say, Are you kidding? They might have gotten $26 a paycheck. Guess what. It went out in higher taxes for their property taxes. Why? Because we have cut back funding for No Child Left Behind and for education and for special education which means that middle-income families have to pay more on their property taxes for education and that chewed up more than $26 a paycheck which they got back. Again, a good old Republican tax shell game.

Where did the money go? The top one-tenth of 1 percent of income earners, people making over $1,589,000 a year—yes, there are people in America who make that kind of money. I don't hold that against them. That is fine. It is part of the American dream—to make money. But it is not the whole American dream. Over the last 4 years, $1.7 billion in tax cuts, 145,000 people with incomes over $1.59 million a year got $195,762 a year. I will bet they noticed that.

Again, the old trickle-down capitalism. All you have to do is give more money to the top and it all kind of trickles down. The best way to help the poor at the bottom is set a lavish table with all the finest foods and let the people at top eat the best, drink the best and the crumbs will fall off and the poor will get help. Trickle-down economics, trickle-down capitalism.

There is another form of capitalism. It is called percolate-up capitalism. It is where you invest in education, it is where you get people decent jobs and job training. It is where you provide decent housing and health care so people are able to work and keep their families together. It is a kind of a capitalism that understands you don't eat your seed corn. You invest in people, and these people then became better educated, healthier, more productive citizens, and they make the pot grow.

Other examples of the difference between trickle-down capitalism and percolate-up capitalism. Sure. Look at the 1981 tax cut when Reagan came in, big, massive tax cuts, again, mostly for the wealthy. We lost 3.5 million jobs in the 18 months after it passed. Guess what. Later, we saw employment rise. But, that followed several tax increases.

The Democratic administration came in, in 1993. Yes. We had a responsible tax increase in large part on the wealthy to help eliminate the huge deficits. Many on the other side predicted economic disaster. Look at what happened. We got 4.4 million new jobs in the following 18 months. That is percolate up. That is giving people hope, giving people jobs. Guess what. Everybody did better. The rising tide lifted all the boats.

Then we come back in 2001. Again, similar to 1981, we had not learned our lesson, massive tax giveaways for the wealthiest, large increases the deficit, we lost 2.7 million jobs.

We keep doing trickle-down economics. We tried it under Reagan. We tried it under Bush. The same thing happened: less new jobs. But there is something about a belief system and trickle-down economics. I will tell you what that belief is. Their wealthy friends made out like bandits. That is exactly what happened.

Simply put, what we have before us is not a reconciliation bill. What we have before us is a bill that turns topsy-turvy what we are supposed to be about, in terms of providing for justice in our society, a fair shot at the American dream to ensure that people have a decent safety net when things happen beyond their control; when they become disabled, when they get sick, when families split up, and the father deserts and isn't paying child support any longer.

We need to pay attention.

In terms of topsy-turvy, what we are supposed to do at this time of the year—we all remember Charles Dickens' classic tale of ''A Christmas Carol,'' the story of Ebenezer Scrooge. He learns the true meaning of Christmas at the end and opens his heart to those less fortunate than he.

Unfortunately, in the Congress, life does not imitate art.

Less than a week before Christmas, Congress is poised to deliver a cruel blow to the most underprivileged and disadvantaged in our society. Unlike Dickens' tale, no remorse at the end, no nagging conscience, no change of heart at the end of the day. In this Congress, in this Senate, Scrooge would feel right at home. This is Scrooge's domicile. Scrooge lives in the Senate and in the House.

That is why we need to reject this proposal. We need to reject it. We need to have the spirit of Christmas to understand that there are less fortunate in our society. They need hope. They need a hand up. They need the Government to make sure that their kids can get a decent education and housing and health care, that they will get their child support payment, that they will invest in medical research.

That is what we ought to be doing. That is why we have to defeat this conference report under the so-called reconciliation process. We do need to extend some tax provisions, but they should be progressively paid for.

Send this bill back. Let us be similar to Scrooge at the end, when we look upon the poor family and we have a change of heart and we realize that what we have done before we can't keep doing. Let us have the change of heart and defeat this so-called reconciliation bill. Let us have a continuing resolution, let us come back after the first of the year and do the right thing for the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senate is considering the conference report to accompany S. 1932. The majority has 2 hours 24 minutes remaining.

Mr. CORNYN. Mr. President, I would like to speak on the PATRIOT Act and on the National Security Agency story in the New York Times for approximately 20 minutes. Is there any limitation on my ability to do so?

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

PATRIOT ACT AND NATIONAL SECURITY AGENCY STORY

Mr. CORNYN. Mr. President, since the New York Times revealed the existence of a classified program whereby the National Security Agency was conducting intelligence operations on al-Qaida and terrorist-related operatives here in the United States and overseas, there has been a lot of reaction to that revelation.

First of all, we know the New York Times had been sitting on that story for approximately a year, and then for some unstated reason decided to release the story the day we were supposed to vote on the reauthorization of the PATRIOT Act. As a result of a variety of circumstances, but I believe in part that story, we find ourselves in the very strange position of not having reauthorized the PATRIOT Act and having the PATRIOT Act expire—16 provisions of it at least—on December 31, 2005.

There are some who said when they heard about the National Security Agency's surveillance of foreign terrorist suspects that this was an illegal usurpation of congressional authority by the President, or otherwise improper. Others have asked questions about the propriety of the program.

Frankly, I do think there has been more heat than light generated on this subject, and what I would like to do is spend a few minutes sharing with my colleagues some of the research I have been able to do over the past few days to try to understand exactly what the President's authority is and what procedures apply to the collection of signals intelligence, telephone communications between terrorist suspects in America and abroad.

The fact is that previous Presidents have also argued that they had authority that the President of the United States claims to have under the provisions of the Constitution. In fact, in 1981, President Ronald Reagan signed Executive order 12333, which provided for warrantless searches directed against a foreign power or agent of a foreign power. That was in 1981.

So it perhaps should be no surprise the President who immediately preceded the current President, President

Bill Clinton, his administration, also argued specifically in testimony provided by Jamie Gorelick, Deputy Attorney General, on July 14, 1994, before the Intelligence Committees, that the Clinton administration believes and the case law supports that the President has inherent authority to conduct warrantless searches for foreign intelligence purposes and that the President may, as has been done, delegate this authority to the Attorney General.

So we see there is historical precedent for the argument made by President Bush, our current President, that Presidents have some authority to act even without employing the use of the Foreign Intelligence Surveillance Act to protect American lives and to save us against the designs of terrorists who would kill innocent American citizens.

It also appears that the U.S. Supreme Court has spoken on a related issue that could be interpreted to confer authority on the President of the United States. My colleagues recall that in 2001, after the terrorist attacks that occurred in Washington and in New York City and which was thwarted in the fields of Pennsylvania, this body passed a use-of-force resolution authorizing approval of the President and the executive branch's use of force to combat and win the global war on terrorism.

We recall that not too long ago, when trying to determine the extent to which the President's powers extended, the United States Supreme Court decided a case called Hamdi v. Rumsfeld. This involved Yaser Hamdi, who was being held as an enemy combatant, and claimed that his detention violated 18 U.S.C. 4001. Section 4001(a) states that ''[n}o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.''

This is analogous to the Foreign Intelligence Surveillance Act, which claims that it is the exclusive method by which foreign intelligence may be obtained by use of signals intelligence.

Justice O'Connor's plurality opinion, joined by Chief Justice Rehnquist, Justice Kennedy, and Justice Breyer, concluded that the use-of-force resolution was ''an act of Congress'' that authorized Hamdi's detention, notwithstanding the argument that it violated 18 U.S.C. 4001.

Her rationale, as I understand the opinion, was that because the detention was meant to prevent a combatant's return to the battlefield, it was a fundamental incident of waging war in permitting the use of necessary and appropriate force.

Justice O'Connor, in the plurality opinion, concluded that Congress had clearly and unmistakably authorized detention in the narrow circumstances considered here. Thus, the question seems to me to be, by analogy, whether this use-of-force resolution, which authorizes American troops and our military to search out and to detain and, if necessary, to kill terrorists before they come to our shores and kill us—the question is, is the intelligence gathered by the use of this surveillance a fundamental incident of waging the war on terror? And it strikes me that it is.

Inherent in waging war is obtaining actionable intelligence from our enemy or on our enemy. Certainly, I would believe, under the rationale in the Hamdi v. Rumsfeld case, that this would be a fundamental incident in waging the war on terror and one authorized by the use-of-force resolution in 2001.

So we see that President Clinton believed, as did President Reagan, that the President had authority, even outside of the Foreign Intelligence Surveillance Act, but another arguable basis of that authority is the resolution that Congress itself passed in 2001.

Now, there is one other authority that I think bears on this issue that is important. When the Congress created the Foreign Intelligence Surveillance Act in 1978, it created a special court to consider ex parte—that is, ''without the benefit of the other side being there''—applications for orders to get electronic surveillance.

Now, people have thought: Well, this must be similar to other courts. But the truth is, it is not an adversarial process because we do not let our enemies know we are going to the Foreign Intelligence Surveillance Court to get an order so we can find out what they are doing. But, nevertheless, Congress did create this, what we call a court, for the purpose of considering those applications.

But more to the point, the Congress also created an appeals court called the U.S. Foreign Intelligence Surveillance Court of Review. Now, granted, most of the time the Foreign Intelligence Surveillance Court operates in secret and does so for the obvious reasons that these are classified operations. We cannot let our enemies know what we know, so we can discover their attempts to hurt innocent American civilians.

The Congress understands, and certainly the Intelligence Committees and all the Members of Congress understand, that most, if not all, of this has to operate in confidential or classified circumstances.

But in November of 2002, the Foreign Intelligence Surveillance Court of Review—this appellate court created by Congress under the Foreign Intelligence Surveillance Act—actually issued a public opinion, which was extraordinary. It is the first time since the creation of FISA, the Foreign Intelligence Surveillance Act, that an appeal was actually brought and that the court actually issued a written opinion.

Now, notwithstanding the fact that there is not an adversarial process—again, it is a one-sided process by the Government seeking permission from the judges to conduct this important surveillance against foreign agents and international terrorists—notwithstanding that fact, the court invited the American Civil Liberties Union and the National Association of Criminal Defense Lawyers to submit briefs so they might consider their decision with the additional input of these organizations that, by their nature, would argue perhaps a more limited approach to Government power.

Well, all of that I say to point out that in the absence of a controlling U.S. Supreme Court decision—and I mentioned the Hamdi case which is applicable by analogy to this situation when it comes to the authorization of the use of force—in the absence of a controlling decision on the President's inherent power to conduct these operations through a warrantless surveillance, the court created by Congress to be the authoritative decisionmaker of these matters, in 2002, said, on page 48 of this opinion:

> We take for granted that the President does have that Authority [that is, to conduct warrantless searches to obtain foreign intelligence information] and, assuming that is so, FISA could not encroach on the President's constitutional power.

Now, concededly, that is what lawyers like to call ''dicta.'' It is perhaps not essential to the decision of the specific issues that came before the FISA Court of Review, but it does recognize that the case law and precedent supports the President's authority to conduct warrantless surveillance in foreign intelligence and international conspiracies against the United States because of the power conferred on him under article II of the Constitution.

So in summary, we see that not only did the Clinton administration believe the President had that authority, the Reagan administration believed the President had that constitutional authority under article II and, by analogy, that the U.S. Supreme Court has suggested that the use-of-force resolution would authorize surveillance as a fundamental incident of waging the war on terror.

So these are helpful in shedding some light on exactly what authority the President had during the course of this surveillance, which he says was essential to protecting American lives against foreign agents bent on doing Americans harm.

It seems reasonable to me that the President ought to be able to rely on the Foreign Intelligence Surveillance Court of Review's opinion that has stated that every court that has reviewed this or similar questions has found inherent authority to conduct this type of intelligence.

Certainly, I agree that it is appropriate for Congress and this Senate to have oversight hearings. I know Senator SPECTER has indicated his interest in doing so; Senator ROBERTS, chairman of the Intelligence Committee, likewise. But we have to understand, as I know my colleagues do, that this is a classified program. There are limits to what we can talk about in public without putting in jeopardy our methods and sources of obtaining information

against those people who are bent on our destruction and certainly the destruction of innocent American lives.

So it is appropriate to have a hearing. But it is not appropriate for anyone, including a Member of the Congress, to leak classified information about the existence of this program.

Now, some have said: Well, it is not illegal nor unconstitutional for the New York Times to write about it. And I will leave that for some court sometime, someplace. But we know for a fact it is a violation of the criminal law of the United States to leak classified information. My hope is that the Justice Department and the appropriate authorities will conduct a prompt and thorough investigation into how this information was leaked because, as a result, our enemies now know what we are doing and, to some extent, how we are doing it, in a way that undermines our ability to fight and win the global war on terror.

It strikes me, when you are trying to be analytical about this, trying to figure out why is it important that the President have this authority—that the Foreign Intelligence Surveillance Court of Review has assumed the President has and that President Reagan and President Clinton claimed to have—why is it important that authority exists outside of a typical law enforcement or criminal prosecution context?

Well, of course, in an intelligence-gathering mode, we may not have a target per se of that intelligence-gathering activity. There may not really be knowledge that a crime has actually yet been committed but, rather, a reasonable belief that there are individuals who are plotting, conspiring to do innocent American civilians harm. So it is impossible to do in that context what we would ordinarily do in a criminal prosecution context, which would be to have an affidavit filed by an FBI agent in support of a petition for an issuance of a warrant, which would then be filed as a public record for everybody to see.

If we have learned anything as a result of 9/11, it is that we must break out of this pre-9/11 mindset, which says that terrorism must be combated as a criminal law violation alone. It is true that terrorist activity could be a crime, but our main goal is to detect and disrupt terrorist activity before people in this country or our friends and allies across the globe are injured or killed. So the fundamental goals of our national policy have to be to disrupt the information, discover it, disrupt these cells, and protect Americans in the process.

So I wanted to come to the Chamber and say a few words about this issue because there have been some who have, in breathless tones, said that this is a great travesty, they cannot believe it has happened, and some have even gone so far as to suggest the President has acted illegally. I would say that, on balance, my conclusion is, based on historical precedent and based on the authorities that are invested with the power to render legal decisions on such matters, the President probably did act within his authority, but we should proceed to have hearings to further flesh that out so Congress can understand exactly what is going on.

Finally, I wish to say a couple of words about the Senate's failure to reauthorize the PATRIOT Act. I believe the PATRIOT Act has been one of those things that have made America safer and prevented terrorists from executing another attack on our own soil. If you look from September 11 up until this date, thank goodness, the United States of America has not suffered another attack on our own soil. We do know there have been terrorist attacks that have been disrupted but were planned in the style of 9/11 against American civilians by terrorists who care nothing about our laws or our way of life but care only for their misguided ideology and are willing to do anything, including kill innocent people, in order to accomplish their goals.

It is only reasonable to assume that the PATRIOT Act has played an important part in our safety in the United States. The reason I say that is if you look out across the world, we have seen terrorist attacks in London, Madrid, Bali, and in other places around the world. I can only conclude that the PATRIOT Act has played an important role—perhaps not the exclusive role but an important role in combating global terrorism and making sure they are not successful in attacking or killing or injuring Americans on our own soil.

It is with that in mind that I am at a loss to explain how some of our colleagues could prevent a bipartisan majority in the Senate from voting on the reauthorization of the PATRIOT Act. The fact is that some of them have said we didn't get everything we wanted in the negotiations. Well, the news is that nobody does. But the fact is the PATRIOT Act passed 98 to 1 roughly 6 weeks after the attacks of September 11. It was a bipartisan bill, obviously, because it enjoyed overwhelming support on both sides of the aisle. There is literally nothing that has changed other than additional concessions being made to address the concerns of those who claim there are civil liberty concerns in the PATRIOT Act.

Rather than allow us to have that vote, unfortunately, there is a minority in the Senate that is filibustering and preventing us from having an up-or-down vote. Ultimately, in the interest of the safety of the country, I ask my colleagues to reconsider their obstruction and denial of our ability to have that vote. We know that 16 provisions are going to expire December 31 unless we do.

There are those who say that what we need is a 3-month extension. Well, that is a phony deal, Mr. President, I suggest. We have been debating this PATRIOT Act since it was originally passed in October 2001. I think everybody has a pretty good idea where they stand. I believe every issue that could be debated has been debated, and every issue that could be negotiated has been negotiated. There has been an attempt to reach out and define common ground. Indeed, I believe the conference between the House and Senate did exactly that. It would be a terrible shame under the guise of, Well, we just need 3 more months to further dilute the provisions of the PATRIOT Act that have made America safer. Unfortunately, that is what I see happening with the unwillingness of the minority Senators to have that up-or-down vote and reauthorize the PATRIOT Act.

So I implore them not to make these offers of just 3 more months because we know all they are trying to do is use that for additional leverage to water down the strong protections of the PATRIOT Act. What they ought to do is reconcile themselves to the fact that they are not going to get everything they want, just as I didn't get everything I wanted. I would like to strike all sunsets in the PATRIOT Act and make it permanent. I advocated for provisions for administrative subpoenas, and that didn't make it into the bill. There are other things I would have liked to see in the bill that are not in the bill, but in the interest of trying to find common ground and in the interest of trying to pass a bill that will keep America safe, I have been willing to make those concessions.

I ask all of our colleagues, when it comes to passing this legislation, to try to find a way to allow us to have that up- or-down vote so we can reauthorize the PATRIOT Act and the American people will know we have done everything within our power to try to keep them safe, which is, in fact, the No. 1 obligation of the Federal Government—our national security.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent under our allocation of time to speak until 2:15.

The PRESIDING OFFICER. Please repeat the request.

Mr. DORGAN. I ask unanimous consent that under our allocation of time I be allowed to speak until 2:15 p.m.

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

Mr. DORGAN. Mr. President, there is a lot happening in the final days of this Congress. One might ask, What on Earth are we doing here days before Christmas? We are doing the work that should have been done in March, April, May, June, July, and August, work that wasn't done then for a number of reasons. But now we come to a number of important issues and this is reconciliation, budget cuts, and we have a tax cut bill ricocheting around. We have the PATRIOT Act that my colleague just described. We have the Defense appropriations bill. That has now

been burdened with an amendment that calls for drilling in ANWR.

It is an interesting time, but one that is frustrating for some of us in the Senate. I will give you a description of that frustration.

On Sunday, we met at 12 o'clock—this past Sunday—on a conference, a very large conference dealing with the Defense appropriations bill. I was a conferee. We started at 12, and I left at 5 or 5:30 in the afternoon. We finished the work on that conference report. I opposed a number of things that happened on Sunday. The Defense appropriations bill was before us. They added drilling for oil in Alaska, the ANWR provision, having nothing to do with the bill. They added it because they thought they had the votes to add it.

Well, we finished the conference, and I left here at 5:30 on Sunday, and I discovered they added another provision. There wasn't a conference still going on at that point. A bunch of folks got in a room and decided what they were going to stick in the conference report.

I told my colleagues I grew up in a small town of about 350 people. When I was a kid, I used to go and watch the blacksmith. We had a blacksmith in my hometown. It was kind of fun to go and watch the blacksmith work. He would take a piece of metal, put it in a tong, stick it in heat, in hot coals until it turned white hot, and then he would put it on an anvil, take a big old hammer and beat it. That is how he shaped metal. Heat it and beat it with an old hammer. I watched that guy with dirty clothes, sweating all day long. He would heat that metal and beat that metal. Some people think apparently that is the way the Senate should work—heat it and beat it. Get hold of a big old hammer and pound ANWR through here. It doesn't matter the rules don't permit it; pound it through here. In fact, change the rules if they get in your way. It doesn't matter. Don't like the rules? Change them.

I am usually an optimist. They say a pessimist is someone who smells flowers and looks around for a casket and a body, and an optimist is someone who sees a manure pile and looks for a pony. I am an optimist, usually, looking for good things in what we are doing and where we are heading. But this notion that we live in a special place on this Earth and somehow we don't have to care about nurturing it to make sure it remains special, that it will all work out is a notion devoid of leadership.

The fact is, we are off track in this country. We are No. 1 in exports in waste paper. Did my colleagues know that? The largest volume of export in America is waste paper to China. Unbelievable. Yes, we are No. 1 in exporting waste paper.

And, oh, by the way, in the last 4 years, we also sent about 3 to 4 million jobs to Asia, mostly to China. We have the largest trade deficit in the history of humankind. This past year on the budget deficit, we will borrow $550-plus billion, nearly $570 billion. So we have a budget deficit that is way out of control, a trade deficit that is way off the charts, and we are shipping jobs overseas. Our No. 1 export now is waste paper, and you think things are going great. Suck it up, they say, it is a great place, things are going fine.

I don't think things are going fine. The question is where is the leadership here? David McCullough wrote a book about Adams. It is a wonderful book. He is a great historian. He wrote this book about Adams. I have told this story before. In this book, he described John Adams as representing this country's interests in Europe. Adams would write back to his wife Abigail as they were trying to put this new country together, and he would say: Where will the leadership emerge to help frame and start this new country of ours? Then he would say: There is really only us. There is me and there is Thomas Jefferson and there is George Washington and there is Ben Franklin and there is Madison and there is Mason. There is only us.

Now, of course, we know in the rearview mirror of history that the ''only us'' is some of the greatest human talent ever assembled, and they built a very extraordinary place, a very special country, with a Constitution that says ''We the People.'' The first 3 words, we the people.

But the current leadership in the White House and Congress says we don't have to worry too much about deficits. We are going to cut some spending but, oh, by the way, even though we are up to our neck in deficits, we want to cut taxes, and, oh, by the way, we still want to cut taxes mostly for upper income people. The second part of this reconciliation document is still in the House of Representatives, the tax side. It is very important to say that capital gains and dividends, normally called unearned income, capital and dividends—be given preferential tax rates. That is the most important thing. Warren Buffett, the world's second richest man, said when all this is phased in, he will pay a lower tax rate than his receptionist in his office. Tax work, they say, tax work but exempt investment. That is the mantra around here.

What is the most important thing? Drive down the taxes on dividends and capital gains; drive them down. It doesn't matter, we don't need the revenue. Deficits don't matter, Vice President CHENEY said. Deficits don't matter.

They now come to the floor of the Senate with a proposal that says, by the way, let's cut some spending. Guess whose spending is going to get cut. Is it a surprise that the most vulnerable among us get cut? Is it a surprise the proposal is to decide there should not be enough money in Medicaid, that which delivers health care to America's poor, to provide the kind of funding that is necessary in Medicaid?

It is said by some, and I believe it, that budgets are moral documents as well. Someone once asked the question: If you were required to write an obituary for someone you had never met and the only information you had was that person's check register, what would it tell you about the obituary you would write?

What if all you knew about this country was its Federal budget and that is all the information you had as a moral document, but what was important? What mattered to this country? What did this country believe represented the most important areas of investment, expenditure to build on the successes of this country? Would it be, for example, that you decided tax cuts for wealthy Americans are the most important?

Let me show you a picture. I showed it yesterday, but I think it is important. This is a picture of a five-story building on Church Street in the Cayman Islands. Some people would just as soon you didn't this picture. But On Church Street in the Cayman Islands, there is a five-story building called the Ugland House. Do you know what is inside this building? This building is the official address for 12,748 corporations. Impossible, you say? No, it is not impossible. It is not impossible. We are running an economy now and, by the way, with the advice and consent of those in the Congress and in the Senate who voted for it—we are running one that says to businesses: Go ahead, get rid of your American jobs, move them to China, ship the products back to this country to sell them, and run your business through a mailbox in the Grand Cayman Islands so you don't have to pay taxes. That is what this building is about. And, oh, by the way, many of the companies that have this building as their address in the Cayman Islands to avoid paying U.S. taxes got a gift from this Congress—not with my vote—that is the equivalent of a $60 billion tax break—a $60 billion tax break.

In the past year and a half, a bill was passed called the JOBS Act to create new jobs. Of course, it didn't. It cost jobs. It gave a very fat tax break to the largest corporations in our country that do business here and overseas. It said, if you repatriate your income from overseas, because some day you are going to and when you do, you have to pay the 35-percent corporate rate, if you do it now, we will give you a special deal that we won't give to any other Americans: You pay a 5.25-percent tax rate. There is not one American living in Ohio, North Dakota, Oklahoma, or any other State represented in this Chamber who is told in law that they get to pay an income tax of 5.25 percent.

This Congress told the largest companies in this country, we will give you a 5.25-percent tax rate. That was a priority. My colleague who sat in this desk behind me, Senator Fritz Hollings, offered the amendment to strip it. I voted for it. I spoke for it. But, no, we could not strip that out because too

many Members of this Congress believed it was important, a priority, to provide a big fat $60 billion tax break to the largest corporations in this country, with a 5.25-percent tax rate.

Compare that to the proposition we are offered today by people who come to the floor breathlessly saying we have to cut spending to reduce the deficit. Did they care about reducing the deficit when they gift-wrapped a $60 billion tax cut package for the biggest companies by giving them a 5.25-percent tax rate? No. It did not matter. It did not matter then. They just promised that it would create new jobs.

Interestingly enough, the very companies repatriating income to take advantage of this bargain basement tax rate are cutting jobs. This is not just me saying it. This is from the Wall Street Journal and other newspapers that describe exactly what is happening.

So today we have the breathless chant about let us cut funds for the Child Support Enforcement Program, which, it is estimated by the Congressional Budget Office, will result in $2.9 billion in child support going uncollected. Let us cut funding $12.7 billion for the student loan programs. Let us cut funding from family farmers—by the way, many of whom faced some disaster this year; the worst drought since 1895 in Illinois, Missouri, Iowa. One million acres could not be planted in North Dakota.

Those farmers are not going to get disaster help, but the leadership had no reservations about allowing a situation where 12,748 corporations establish their address in one five-story building in the Cayman Islands, for the purpose of not paying taxes in this country. It is all perfectly legal because this Congress believes it ought to continue to happen.

We have had vote after vote on my amendment to try to shut this down. Cannot do it. So in terms of priorities I think it is important to ask the question, on whose behalf are we legislating? I happen to believe we ought to cut the deficit. In fact, in January and February I am going to be offering a very specific set of plans on how you cut spending in a real way. We have very large agencies in our Government, and unlike businesses that have overhead expenditures and then direct expenditures there is no distinction between our overhead expenditures. In fact, they cannot even separate out overhead expenditures.

The first thing one should cut back on is overhead and travel and those kinds of things, but it cannot even be separated out in these agencies. We ought to take a whack at that. I am going to propose that.

I support some of these issues, but let me mention a number of issues that are attendant to this as well. There is a provision buried in this huge reconciliation bill, as is always the case in these things that come to our desk—my colleagues can see the size of this legislation. There is a provision repealing something called the Byrd law that I want to talk about just for a moment.

When American enterprises, American companies, are the victims of unfair trade—and there is a lot of it—our government sometimes imposes antidumping and countervailing duties. The Byrd amendment, which I supported, says that U.S. producers who have been injured by unfair trade should receive those duty revenues.

But the WTO stepped in and said: Well, it is not right that you would recompense your victims of trade who have been injured by unfair trade. So the WTO ruled against us, and we have our colleagues in the Senate and in the House who have been very anxious to overturn the Byrd rule. Sure enough, they do it in this bill.

They cannot run to the bank fast enough, in my judgment. Those who want to do this sort of damage to us cannot run to the bank fast enough to deal with all of these issues. We have the biggest trade deficit in history. We have jobs flowing out of this country. We have a country that does not have the spine, the backbone, the will to stand up for our producers on unfair trade. Those who have been victimized, those who have been hurt by unfair trade, ought to receive the benefits of the tariffs. Now the majority says that is not true; we are going to take it away.

I do not understand that. I do not have the foggiest idea where the Senate's priorities are.

We are right at the end of the session, a couple of days left, and the Defense appropriations bill was not passed this year. Now it is about to be passed, except they load on one of the most controversial issues called drilling for oil in ANWR. Under any other circumstance, one would be laughed out of the Chamber for that. Yet we have people come here—I heard a colleague of mine yesterday say: Well, let us all be bipartisan.

I am all for being bipartisan. Let us also be fair and let us legislate the right way. Let us not stick these unrelated issues on this legislation and then say: By the way, it does violate the rules, but we will change the rules and we will change it only for this purpose and change it right back, and never mind.

Do they think that we cannot see, hear, or think? Is that what this arrogance is born of? I do not understand it. We are close enough to the end of this session, and this country is in deep enough trouble with trade and budget deficits and a range of other issues that we ought to find a way to work together.

This is not about bending steel. This is about compromise, working together to do the right thing for this country. There is no Republican or Democrat way to go off track on trade or on the budget. It just hurts our country. Together, we ought to be able to do better for America.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. The Senator from North Dakota has risen and spoken, obviously, with enthusiasm and energy about his position. But I think that there are a couple of points which need to be made.

First of all, on this Byrd issue, the Byrd trade rule issue, let us talk about what that really is. Where did it come from to begin with? It came in the middle of the night. It was put in an appropriations bill a few years ago. Who does it benefit? It benefits a very few specific industries in this country that get the windfall from an unfair trade practice. In other words, what happens under this rule is that $3.2 billion is paid to a few specific industries. In fact, one specific company got 39 percent of the funds up until this year. Who would get it if it were not in place? The American taxpayer would get that money. That money would go to the Treasury.

It is not about cutting that money out of the budget; it is about having that money flow to the Treasury so the American taxpayer has the right to that money so it can be used either to reduce the debt or it can be used for programmatic activity that is necessary, such as national defense, instead of having it be a special interest event which goes to benefit very few industries in this country and a very specific number of companies within those industries. Quite honestly, I would not be surprised if some of those companies did not have some sort of headquarters in this building right here that get that $3 billion.

In addition to that, this $3.2 billion, because of the insistence of a couple of Members in this Senate, has been kept in, so it is still flowing to those specific companies. So the taxpayer is still not getting the benefit of that money that the taxpayer should get.

Prospectively, the rule has been changed, as it should be changed. Why should it be changed? Well, the Senator from North Dakota sort of passed over this a little quickly. The WTO ruled against us. It said: You cannot give that money to specific industries and specific companies. It said: You cannot do that.

Maybe the Senator from North Dakota does not want us to be a member of the WTO, but we are a member of the WTO. We use the WTO aggressively to try to defend our trade interests around the globe. They are the arbiter. They are the ones we go to when something goes wrong and our companies get maltreated. So it is a little hard to say to the WTO: We want to use you to enforce a dumping procedure against Japan, China or Singapore, but when you find that we have violated the World Trade Organization's laws because we are giving money specifically to one or two companies in this country in violation of those laws, well, you

cannot do that. You cannot tell us how to do things.

So what does the WTO do? The WTO now assesses fines against other American companies—I think it totals to something over $100 million annually—which American products, produced in this country, are now having to pay, which make those products less competitive, because we continue to violate the WTO and give this money, instead of to the taxpayers of America, instead of putting it in the Treasury where it should be, thus reducing the debt, to a couple of companies that have the influence to get it across this floor.

I do not find a whole lot of persuasiveness in the argument of the Senator from North Dakota on this point, but he won. The $3.2 billion is going to flow out of the door to specific companies, in violation of WTO rules, will stay in place, and other American manufacturers will be prejudiced because they will be hit with a fine by the WTO, which is a legitimate fine.

The second point the Senator makes is, he says, Oh, we are cutting the subsidies to students. I think he said $12 billion. That also is inaccurate. There is no reduction of subsidies to students. In fact, we expand the programs, the Pell grant program, and we create a new program for math and science. What we do is what we should do, and we need to do it before the end of the year, and that is we reduce the windfall that is coming to lenders because of the way the rules are presently set up. That is $12 billion.

Again, I wouldn't be at all surprised if some of those lender companies had clearinghouses down in the Cayman Islands that he is complaining about. But he is defending them now because he is saying we should not make that change.

If, by the end of this year, we do not change the rules as to how we calculate the lender activity to students in this country, lenders will get I think it is a $7 billion windfall. It might be more, actually. It does not go to the students. It will not help the students. All it does is help a group of lenders because the law is structured in a way which basically benefits them. We tried to change it. We were not able to permanently change it last year, but we now do have the permanent change in this bill. And, by the way, it was bipartisan. That proposal, because it is so obviously fair and the right thing to do, was reported out of the HELP Committee unanimously. This alleged $12 billion event that the Senator from North Dakota has decided to highlight as a corporate subsidy to the disadvantage of students is just the opposite. We are cutting a corporate subsidy to advantage students. The only debate between myself and Senator KENNEDY, who was actually supportive to the policy relative to the reduction of the subsidy to the lenders, is how the money that is raised from that subsidy should be spent. We believe it should go to debt reduction, and we believe it should go to the expansion of student loans. He wants more money to student loans. We want to have a balance and we have a balance.

On both those policy points, the Senator from North Dakota, in my humble opinion, has misrepresented the character of the bill—$3.2 billion is flowing to special corporations for a special interest benefit under this bill. It should be going to the taxpayers. But the policy which energized that is at least being changed so at least prospectively that is not going to happen, and other companies in this country that are being fined by the WTO because of violations of the WTO standard will actually have that relief in the outyears. And the subsidies which, if we do not act before the end of this year, are flowing to corporate lenders are going to be moved over to students, to benefit students, or to deficit reduction.

I yield to the Senator from Oklahoma.

Mr. DORGAN. Mr. President, I ask the Senator from Oklahoma if he would mind if I take a minute and half off our side to respond, at which point the Senator from Oklahoma will be recognized.

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

Mr. DORGAN. Mr. President, let me say my colleague from New Hampshire, while interesting and articulate, stops a couple of pages short of good research. First, my colleague talks at length about the WTO. I am not sure which direction we would be required to bow to the WTO. Is it the east or the west? The WTO, of course, does not run or manage American public policy and trade.

But I do want to say this with respect to the Byrd law. My colleague said ''just a few companies'' benefit from it. The fact is, well over 700 companies benefit from it. So, when one talks about misrepresentation, I will ascribe that, I guess, to a mistake.

Mr. GREGG. Will the Senator yield?

Mr. DORGAN. No, I only have a minute and a half. Several hundred companies have benefited, not just a few.

If one wants to run America's trade policy exclusively through the sieve of the World Trade Organization, I will say get a big armchair, sit back, have a good time, and say: Whatever you want, WTO.

That is not my belief. My belief is we ought to invest in this country's strength. When American companies are victimized by unfair trade, we ought to in my judgment have the good sense, as we have in this legislation we call the Byrd law, to use the tariff to recompense them.

Mr. GREGG. Mr. President, 39 percent of this benefit went to 1 company, 39 percent; and $2 billion of the $3 billion that is going to go out of this is going to go to a small group of companies that deal in lumber. Those dollars belong to the American taxpayer. They should be in the Federal Government's Treasury. They should be used for deficit reduction. They should be used for initiatives here at the Federal level that are important.

The WTO ruled against us, and if the Senator doesn't like the WTO and doesn't want to be part of the World Trade Organization—we are. It is called a treaty. We have to live by treaties. It is called the rule of law.

Mr. DORGAN. It is not a treaty.

Mr. GREGG. And the treaty says we submit issues to the WTO, we debate them. We win sometimes; we lose sometimes. On this issue, the WTO ruled that because we specifically send this money out to specific corporations—and there is only one that got 39 percent. I don't care if there are 700 that maybe got a dollar, there is one that got 39 percent of the benefit—then you are violating the rules of the WTO, and then they assessed us with a fine and our companies now pay that fine and make our goods less competitive.

So not only are our taxpayers losing out because of this language, but the companies that have to compete in the world are losing out. The attack of the Senator from North Dakota on the bill on that point doesn't hold water.

I yield to the Senator from Oklahoma such time as he needs.

Mr. COBURN. It is my understanding I am allotted 30 minutes. I would appreciate it if the Chair will let me know when I have 10 minutes left.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. COBURN. Mr. President, I come to the floor first to meet those two who were just debating to wish them a Merry Christmas and a happy holiday season. This is a season, a time about giving. When you give something, most often it costs you. It is called sacrifice. It is what our Nation was built on. It is the very heritage that we have as a nation, that we sacrifice to do what is in the best long-term interests of our country.

The chairman outlined the unfunded liability that is facing this Nation between now and 2070. He gave a figure of $51 trillion. That is an underestimate of what the true unfunded liability is for our country. We just added $8.7 trillion with the Medicare Part D Program. But it is such a large number we have a hard time getting our hands on it.

One of the ways to get our hands on it is to think about what it means per individual, and $51 trillion in unfunded liabilities means every man, woman, and child in this country today is responsible for $171,000. Think about that. That is more than the net worth of the country.

Why do I raise that? Because the debate we are having about this bill and movement forward and the comments about how you judge whether somebody is compassionate is based on how you treat those less than you and those who are going to follow you. I believe everybody in the Senate would agree

that leaving $171,000 worth of obligation for every man, woman, and child in this country is inappropriate. It belies the heritage of this country.

If you think about the great generations that have come before us—the greatest generation, the World War II generation—those who have sacrificed in this country and those who are sacrificing today in the war on terrorism, it is inconceivable to me that we will not start doing some of the small things we can do, with the bills that are going to be before us today and tomorrow, to assure a Christmas gift to every American.

Some say, How can you do that and still be compassionate? My argument is, if we don't start doing it, we are not going to be able to be compassionate at all.

I would like to put up a couple of charts.

The first is from the Government Accountability Office. It shows where we are going if we freeze discretionary spending in this country. If we absolutely freeze discretionary spending, what will happen is between now and 2040, there is no increase in any discretionary spending whatsoever. You did see how our growth and expenditures take place. You can see that the vast majority of that is Medicare, Medicaid, Social Security, and all other spending, of which the largest proportion in 2040 won't be on any program but will be interest on the national debt.

I am also struck by the inconsistency that I hear in this body when one group of Senators has offered over $400 billion in new spending this year—$400 billion in new spending proposals this year.

If you think about why this is important, this line is represented as a percentage of our gross domestic product. All we have to do is look at the country of Germany today to see where we are going and what is going to happen to us. They have unemployment of 13 percent. Their growth is minimal in terms of their gross domestic product. Why? Because 40 percent of their gross domestic product is taken up by the Government. This only goes to 2040.

At 2050 and 2075, we are at 40 percent of our gross domestic product. That means money that could be invested in new jobs, in capital, in future opportunities for our children, won't be there because we will be consuming.

Now let's look at if we just have the Government grow at the rate of inflation. What do we see? By 2040, we are above 40 percent.

So the questions before this body and the criticisms of the bills on the floor don't make any sense if we are going to give a Christmas gift of a future to our children. This is unsustainable. The Government Accountability Office has said we are on an unsustainable course. It is impossible.

The Senator from North Dakota earlier said he is going to bring a spending reduction bill to the floor. I embrace that. There is no question that I am known in this body to try to restrain our spending. But if we don't, we belie the very heritage this country has stood for since its inception; that is, one generation sacrificing for the next so opportunities and a bright future will be there.

How have we done that? Because we are more interested in the next election than the next generation. We are more interested in making the easy choice, the expedient choice, rather than the difficult choice.

The choice is this. The way things are set up now, there is no way we can keep our obligations to you if you are dependent on the Federal Government. What is compassionate about that? What message do we send to those who truly are dependent upon us if we will not make the hard choices to make sure anybody is in a position to help them in the future?

I will talk about some specific things.

This reconciliation bill didn't go nearly far enough in terms of reducing spending. Let me give you a couple of examples.

The Federal Financial Oversight Subcommittee which I chair had a hearing on inappropriate payments. There is an Improper Payment Act which is law that the Center for Medicare and Medicaid Services has failed to enforce on Medicaid alone. But let us talk about Medicare, and then we will talk about Medicaid.

In Medicare alone, it is estimated that over 10 percent of the payments that are made by Medicare are inappropriate. Of that, 90 percent are overpayments. What do I mean, overpayments? I mean fraud, I mean abuse, I mean cheating the Federal Government. And as a physician, I am talking about some of my peers and others in the health care industry, whether they are in durable medical equipment, in the pharmaceutical industry, or others who are taking advantage of the bureaucracy of the program. But this bill saves a small amount of money over the next 5 years. The total is under 8-point-some billion dollars. Less than half of that comes from Medicare and Medicaid. Think about 90 percent of $21.7 billion. That is $19 billion a year in Medicare fraud, and $19 billion a year times 5 years comes up to $95 billion. This bill doesn't even save $40 billion over the next 5 years.

If we want to be serious about giving a Christmas gift of opportunity and future and making the sacrifices, it starts in this Chamber. That sacrifice is, there is no excuse for us not to rid Medicare of the fraud that is in it today, an estimated $19 billion a year. If, in fact, we rid Medicare of the $19 billion and we rid Medicaid, which is $18 billion worth of fraud—that is estimated because they have not followed the law and reported improper payments.

I ask unanimous consent to have printed in the RECORD an article from New York Times that outlines some of the Medicare fraud issues in New York State.

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

[From the New York Times, July 19, 2005]

AS MEDICAID BALLOONS, WATCHDOG FORCE SHRINKS

(By Michael Luo and Clifford J. Levy)

New York's Medicaid program pays more than a million claims a day, feeding a $44.5 billion river of checks to radiologists and ambulance drivers, brain surgeons and orderlies, medical centers and corner pharmacies. Many who get those checks pocket more money than they deserve, and millions of taxpayer dollars are believed to be lost every day to theft and waste.

Yet the state, charged with protecting those dollars, has done little to stop them from draining away.

A yearlong New York Times investigation found only a thin, overburdened security force standing between this enormous program and the unending attempts to steal from it. Even as spending by New York Medicaid has more than tripled since the late 1980's, the number of fraud investigators who guard its cash register has fallen by half, and several of their leaders have quit or retired in disillusionment.

Of the 400 million claims that Medicaid paid last year, Health Department regulators uncovered just 37 cases of suspected fraud, far fewer than their counterparts in any other large state, even though New York's Medicaid budget is by far the largest in the nation. Many experts say that it is likely that at least 10 percent and probably more of New York Medicaid dollars are stolen or wasted.

In dozens of interviews, prosecutors, lawmakers and former regulators said the program paid for almost everything and scrutinized almost nothing, in large part because its primary mission has been to ensure that there are enough health care providers in the system to address the needs of the poor. It often appears that the Health Department is barely even looking: There are more than 140,000 hospitals, nursing homes, doctors and other health care providers in the system, but the department visited just 95 in the 2004 fiscal year to audit their billings.

Analyzing Medicaid data obtained under the state's Freedom of Information Law, The New York Times identified scores of instances in which the claims of health care providers jumped markedly in a single year. These spikes are a classic indication of possible improper billing, yet few of those providers had even part of their billings audited by the department, state records show. New York's Medicaid program, once the pride of the Great Society era, has become a system ''that almost begs people to steal,'' said Michael A. Zegarelli, a senior New York Medicaid regulator until 2003 and a past president of the national association of Medicaid oversight officials.

Meanwhile, other states, including California and Texas, have increased their antifraud efforts and discovered what seems a simple truth: The effort to seek out theft and unnecessary spending can more than pay for itself, just as a parking violations bureau brings in revenue. Workers assigned to Medicaid fraud prosecution units around the nation help bring in an average of $200,000 each in recoveries, according to federal statistics.

Twenty-five years ago, New York was in the vanguard of fraud prevention. But over the decades it has failed to maintain the investment in employees necessary to close the door on thievery and abuse. Repeated delays stretched the replacement of a 1970's-era computer system that could barely detect fraud into a seven-year ordeal, allowing billions to slip by with little scrutiny.

As dozens of former employees describe it, the state's antifraud effort has been plagued by the same gridlock that has stifled innovation in Albany for years: bureaucratic infighting, allegiance to campaign contributors from the health care field, reliance on public indifference.

In an interview, Dennis P. Whalen, executive deputy commissioner of the Health Department, said combating fraud remained a major goal. He denied that the department had been lax in policing Medicaid and excluding providers who had cheated the program, saying that new computer systems have improved the state's detection efforts.

But State Senator Kemp Hannon, a Nassau County Republican who is chairman of the Senate Health Committee, called The Times's findings deeply troubling, and said they showed that the Medicaid fraud detection system was broken. Mr. Hannon said the Health Department, run by a fellow Republican, Gov. George E. Pataki, was failing to oversee the system.

''This is a red flag for them,'' Mr. Hannon said. ''I have not seen anything that would indicate that there has been any sort of focus at all from the department.''

New York's failures have come at a high price, according to advocates for the program's recipients.

''There is all this money that is being drained away and not being spent on care for the poor people who need it,'' said Elisabeth Benjamin, who spent eight years as a lawyer at the Legal Aid Society specializing in Medicaid. ''It's analogous to the $5,000 toilet seat in the military.''

INVESTIGATION STAFF IS CUT

More than a dozen years ago, in the heyday of the unit charged with fighting Medicaid fraud and abuse in New York City, dozens of state employees would troop out to locations throughout the city for a regular ritual. With reporters in tow, they would serve papers on scores of shady doctors operating low-quality, high-volume clinics known as ''Medicaid mills,'' said James Mehmet, who retired from the State Health Department in 2001. Mr. Mehmet was the unit's chief of investigators in New York City.

Most days, more than a dozen investigators went undercover as patients to see how they were treated by a doctor or a pharmacist, and then how their visit was billed. In the office, they worked alongside auditors and lawyers, as well as nurses, dentists and doctors—a full medical review staff.

But the energy and ambition of the office have dissipated along with the staff, Mr. Mehmet said. By the time he retired, he said, the 15 lawyers in the office had been reduced to one. The medical review staff was gone. And with the Medicaid budget growing rapidly, it was not the fraud that had diminished, he said, but the will to pursue it.

''The volume of work was so much different,'' Mr. Mehmet said, recalling earlier days. ''The caliber of work was so much different. There was much more emphasis on going after people that were committing fraud and abuse.''

Mr. Mehmet and other frustrated former regulators say the drop in the New York City office mirrors the statewide decline in staffing over the last decade, at a time when thieves have become more sophisticated.

In the late 1980's, more than 200 people in the New York Medicaid bureaucracy were devoted to fighting fraud and abuse, said Philip J. Natcharian, who directed those efforts until 1990. Now only 50 people, including clerical staff, have that job, along with a few dozen outside contractors, said Mr. Zegarelli, who worked at the Health Department's headquarters in Albany until his retirement. He said that was far too few to be effective, an assessment echoed by four other former senior department officials.

The former officials said reducing the fraud force made little sense to them, given the huge increase in Medicaid spending in recent years, which has brought the program to more than 40 percent of the state budget.

''How do you not increase the staff to monitor the largest expenditure in New York State?'' said Mark J. Ives, who directed the state's fraud and abuse efforts until he retired in 1998.

One likely result of the staffing decline is that since 2000, the amount of money the Health Department has recovered from fraud investigations has fallen by 70 percent, according to data compiled by federal regulators.

At the same time, the state has virtually stopped excluding doctors from Medicaid for violating its rules, excluding only eight out of the 43,000 doctors enrolled in the program last year, a Times analysis shows.

''I think the department's reached the point of Smokey the Bear with a shovel,'' Mr. Zegarelli said. ''They're just running around putting out fires.''

The former regulators said they did not believe there had been a deliberate decision in Albany to loosen enforcement. Instead, they described a gradual move away from regulation as Albany focused on expanding and plugging holes in the program.

''They want recipients to get medical care,'' said Michael P. Sofarelli, who retired as a Medicaid prosecutor in the attorney general's office in 2003 after handling some of the state's biggest Medicaid fraud cases. ''Investigating is a small part of the job.''

The Health Department reports to Governor Pataki, and in recent years, his budget aides have actually reduced goals for recouping money from Medicaid providers for improper billing.

The decline of fraud control in New York contrasts sharply with the situation in other states. In 1998, California, which had several high-profile Medicaid fraud cases in the 1990's, added about 400 employees to an existing staff of about 40 charged with rooting out abuse. The number of fraud cases referred to prosecutors has since doubled.

Officials in Illinois and Ohio, where the Medicaid budgets are roughly a quarter the size of New York's, visited more than three times as many health care providers in the 2004 fiscal year to audit their billings.

Mr. Whalen, the executive deputy commissioner of the Health Department, said it frequently stopped Medicaid payments it considered questionable. He acknowledged that the staffing for fraud prevention had dropped, but described the change as insignificant, saying the state employed roughly 400 workers whose jobs involve fighting Medicaid fraud and abuse, supplemented by 200 outside contractors.

''The number, in terms of a pure number, has declined, but I would say that it has not been a huge decline,'' he said.

''Every agency, I am sure, would love to have more staff, and we are no different,'' he said. ''But we are also realistic about the state's fiscal situation.''

But former senior department officials said most of the workers cited by Mr. Whalen are not actually investigating fraud. They are accountants, nurses, computer analysts, clerks and others doing administrative jobs, making sure basic regulations are followed, leaving only about 50 state employees dedicated to fraud work.

Mr. Whalen and his aides said new computers and software were helping the department shift its focus from reviewing Medicaid claims already paid to preventing questionable claims from being paid in the first place.

But state statistics show that the department rejected a much smaller percentage of claims in the 2004 fiscal year than its counterparts in California, Florida or Pennsylvania.

Asked to list cases that they developed that led to arrests and prosecutions, Health Department officials could point to only a handful in the last two years.

The result of the cuts is evident in case after case that the state simply missed. The billings of a Queens pharmacist, Newton Igbinaduwa, rose to more than $1.4 million in 2002 from $78,000 in 1998, according to billing records analyzed by The Times. But the department never referred the case to the state attorney general's office.

It was only when prosecutors in the attorney general's office got a tip through another case that they found out about Mr. Igbinaduwa, who pleaded guilty last year to grand larceny after billing for drugs he never dispensed.

PROSECUTION UNIT SHRINKS

The Health Department is only half of the dwindling security force posted outside Medicaid's gate. The responsibility for prosecuting Medicaid fraud lies with the state attorney general, Eliot Spitzer, who runs the Medicaid Fraud Control Unit. And in the attorney general's office, too, Medicaid abuse has had a reduced priority for more than 15 years, with far fewer prosecutors than it had in the days when Medicaid was a much leaner program.

Though New York has the largest Medicaid fraud prosecution staff in the country, several other states have fraud offices that are larger in proportion to the size of their Medicaid budgets, and they recover a larger percentage from fraud prosecutions. As a percentage of the overall Medicaid budget, New York's 301 employees won less than half as much as those in Texas, Florida and New Jersey, according to statistics compiled by the federal government for its 2003 fiscal year.

Mr. Spitzer's office said New York used a more conservative method of calculating recoveries than other states, but even using that method, New York still fails to make the nation's top 15 states in the amount recovered as a percentage of the overall Medicaid budget, going back as far as 1999.

Mr. Spitzer's zeal in fighting corporate abuses has not been matched by his efforts in fighting Medicaid fraud, former employees say.

''I didn't think there was that much focus at the main office,'' said John M. Meekins, who retired in 2003 as the director of the Albany regional office of the Medicaid Fraud Control Unit. Referring to Mr. Spitzer, he added: ''I'm not faulting the man. His focus was on Wall Street.''

Mr. Spitzer said his office had made strides, especially in investigating the abuse of nursing home residents. The fraud unit's prosecutors have made a philosophical shift, he said, cutting back on the number of inquiries to concentrate on what they consider cases with bigger impact, which could lead to industrywide changes.

''The strategies that we have pursued have made sense and have been successful,'' Mr. Spitzer said.

However, the attorney general's office has had few such breakthroughs. None have shaken the health care industry in the manner of his successes on Wall Street and in the insurance industry, or the inquiries into nursing homes conducted by his predecessors in the 1970's.

The relatively low profile given to antifraud efforts dates to before Mr. Spitzer's term in office. The size of the fraud control unit dropped by more than 40 percent between 1979 and the early 1990's. Even after

Mr. Spitzer became attorney general in 1999, the size of the fraud unit remained about 300 workers, the same as in the early 1990's. Back then, though, Medicaid cost about $14 billion a year, and its cost has since more than tripled.

The state could have a much larger prosecution force with a relatively small investment, because the federal government has made a standing offer to pay three-fourths of the cost, and New York's current allotment is well under the maximum. If the state spent an additional $24 million on its fraud prosecution unit, the unit's current budget of $45.7 million would more than triple to $148 million, mostly from the federal match.

Mr. Spitzer said state budget officials had repeatedly demanded hiring freezes for his office.

''The possibility of increasing simply has not been presented by the Department of Budget,'' he said, emphasizing that he believed that hiring more staff members made sense.

Last year, Mr. Spitzer said, the fraud unit recovered a record amount in overpayments: $62.5 million, up from $40 million in 2003. But the higher figure includes $30.8 million that was New York's share of a major nationwide settlement with two pharmaceutical companies over drug pricing. That case was spearheaded by federal prosecutors, not New York officials.

BEHIND THE SCENES, TURF BATTLES

The Health Department and the attorney general's office must contend not only with growing fraud and depleted resources but also with another opposing force: each other. Over the years, they have accused each other of foot-dragging, incompetence, or resistance to change. Their mutual animosity and suspicion have come at the expense of the battle against fraud.

By law, it is the Health Department, not the attorney general's office, that is primarily responsible for identifying fraud. But the department's principal task is to keep the huge flow of payments moving swiftly, and at this point, with its shrunken enforcement bureau, the department sends very few cases to prosecutors.

Former officials of both departments say their different missions have left them clashing instead of cooperating.

Former prosecutors complained that Medicaid regulators often crippled their criminal cases by suing those they suspected of overbilling in civil court, hoping to get some money back to the system before the attorney general filed criminal charges. In those cases, prosecutors said, the state would often settle a case quickly for only a fraction of the amount overbilled.

Mr. Spitzer, a Democratic candidate for governor, said his prosecutors could not depend on the Health Department.

''They are just not a useful resource for us in the sense of providing us with ideas, places to look, referrals,'' he said.

Asked about Mr. Spitzer's criticism, a department spokesman, William C. Van Slyke, said, ''We believe that his political ambitions are the motivation for his comments, as opposed to the facts.''

Former Health Department officials said that when they turned over evidence of fraud to the attorney general's office, the prosecutors often took months or even years to piece together a case, all while the fraudulent activity continued to siphon money from the system. Medicaid officials said they preferred a civil case to stop the fraud immediately.

''They were malingerers,'' said Mr. Ives, former director of the department's fraud section. ''They would take forever and ever to process a case.''

Mr. Van Slyke said 70 percent of the cases the department referred to the attorney general's office since 2000 were still open. The office responded that many of those cases were fully investigated but just not technically closed.

Whatever the cause of the tensions, the department refers far fewer cases to prosecutors than its counterparts in other large states. Texas referred nearly seven times as many cases to its Medicaid prosecutors as New York did in the last fiscal year. California referred nearly four times as many, and Ohio more than three times as many.

RESISTING REFORM

In the fight against fraud, New York's inadequate arsenal is not an accident. In Albany, reformers have repeatedly been outspent and outmaneuvered by the health care industry.

Several large states, including California, Florida and Illinois, have laws that encourage whistleblowers to come forward with information about fraud schemes, offering them a portion of any money recovered. There is a similar federal law to fight fraud in Medicare, the program for the elderly and disabled.

But when Mr. Spitzer has had this type of bill, called a false claims act, introduced in New York, it has died. The bill was denounced by the Healthcare Association of New York State, which represents hospitals, nursing homes and other providers, as well as the State Medical Society, which represents doctors. The groups, which spend millions annually on lobbying and campaign contributions, predicted that the bill would lead to an epidemic of frivolous allegations.

''New York State's health care provider community has faced unprecedented, overzealous investigations by regulators and law enforcement officials,'' the association said in a memo.

Daniel Sisto, president of the association, said that its members believed that federal officials had used inappropriate tactics to crack down on fraud, and that they had fought the whistleblower law out of fear that the state would follow suit. He said the group's members faced a raft of different requirements from Medicaid, Medicare and numerous private insurance companies, and as a result made billing mistakes that were wrongly criminalized.

''What concerns me from our past experiences is that there is overzealousness in the interpretations of any overpayments as fraud and abuse,'' Mr. Sisto said.

In May, the Republican-controlled State Senate approved legislation, sponsored by Senator Dean G. Skelos of Nassau County, that would create an independent Medicaid inspector general. The measure would take away some of the responsibility for combating fraud from the Health Department and the attorney general's office and give it to the new agency and to local prosecutors.

Mr. Pataki and Mr. Spitzer opposed the measure, as did the Democratic majority in the State Assembly, which has long allied itself with large health care lobbies and unions. Assemblyman Richard N. Gottfried, a Manhattan Democrat who is chairman of the Health Committee, said he did not believe that the system needed to be changed.

Asked whether the Democrats would take any action on the issue, Mr. Gottfried said, ''Maybe that would be a good one for us to hold hearings on in the fall.''

Mr. COBURN. Mr. President, it is estimated that the fraud in New York State is $14 billion a year in Medicaid alone, of which the Federal Government pays two-thirds. In 5 years, solving the Medicaid fraud in New York would pay for every savings we have claimed in this whole bill for the next 5 years.

Examples: St. Barnabas Health Care System agreed to settle $3.9 million in claims it overcharged Medicare; the Premium Health Care Group, $1.6 million for fraudulent wound-care claims; Michael Clemens, FBI special agent—$1 billion in Medicare fraud in south Florida alone.

If you add up what is going on in Medicare and Medicaid, $37.5 billion a year at a minimum is fraud and yet we are trying to save a measly two-tenths of 1 percent in terms of slowing the growth.

We haven't gone far enough. For somebody to reject this bill on the fact that we might not meet our obligations on Medicare and Medicaid—the obligation isn't being met in terms of the oversight of these programs.

I wish to spend a few moments talking about Medicaid fraud because it is important for people to know what a poor job we are doing in terms of oversight.

Investigators estimate that as much as $18 billion worth of fraud occurs every year in New York alone on Medicaid. That is 5 percent of the total national spending on Medicaid in one State. One New York dentist, Dr. Dolly Rosen, claimed to have performed 991 procedures a day in 2003—991 procedures a day. The New York Medicaid Program consumes $44.5 billion. It is the most costly and generous in the Nation. In the article that I mentioned, James Mehmet, the retired chief investigator of Medicaid fraud in New York City, says that at least 10 percent of that was spent on fraudulent claims.

We can, if we will do the oversight, accomplish what we need to in terms of doing the hard work, and the reductions in the expenditures won't have any impact on those who are truly needy for Medicare and Medicaid. What they will have an impact on is the criminals who are defrauding the American taxpayers by billing for services they have not performed.

Other examples: Schering-Plough agreed to pay $335.5 million back to Medicaid this last year on the basis of fraud and an elevated billing process.

The other thing estimated in New York, to build the case a little further, this same James Mehmet estimates as much as 30 percent of the budget—10 percent of it is fraud; 30 percent of it is abuse. If only half of that is inappropriate payments, we are up to 25 percent or up to $12 billion a year. Again, that is in one State. If we did the oversight, changed the rules, increased the punishment, held people accountable, every bit of savings in this bill could be paid for by Medicaid fraud in New York State alone.

The question is, are we going to do what we need to do as a Senate, in the future? This bill is a first good step. It does a lot of things in terms of Medicaid, of creating a new Medicaid task force to go after fraud.

We can do much more. To do less says we do not have the Christmas spirit, the spirit of giving, the spirit of sacrifice.

I close on this one note. Most everyone listening out there has children and grandchildren. When you think about your grandchildren, what do you think? What is it you desire for them? What is it you want for them? When we hear the rhetoric—whether it is from the AARP or other groups—discounting the fact that we are going to slow down the growth in Medicare and Medicaid, and doing it not by taking away benefits for those who are truly needy but by doing the job we should be doing, when we do that, we give a gift to our children and to our grandchildren.

I want opportunity for my grandchildren. I don't want them to be given anything. I want them to be given the gift of having an opportunity to attain it. I want to create an economic environment in the future that is sustainable. We are not sustainable today. I want every grandparent out there to think, do they want something for themselves today that is going to be paid for by their grandchildren 20 years from now?

That is the real issue. That is the whole center of the entire debate in Congress today as we debate these contentious issues on how we spend or do not spend money. It is a simple question. Take now and charge it to your grandchildren. Take now and take away their opportunity for homeownership. Don't do anything now because it might not be politically popular, but undermine any future your children and grandchildren have. That is described as selfishness. That is the exact opposite of the spirit of giving.

America is better than that. America's heritage is better than that. The American people are better than that. The problem is, we do not understand what is before the Senate, the obligations and the great responsibilities before us. We were sent here to make the hard choices. If you are listening today, listen to the rumble, the rumble that is out there in the American public. They want us to do the hard work of trimming the waste, of trimming the fraud, of trimming the abuse. They want us to eliminate our political earmarks to pay for the things that are necessary for this country—not pay for the things that get us reelected. There is a rumble. The rumble is real. The American people are paying attention that we should be doing the hard and heavy lifting of making the tough choices.

This bill is a start. It should go much further. It should be $100 to $200 billion of reduced spending through fraud. If there is truly $35 billion a year in wasteful, fraudulent, improper payments for Medicare and Medicaid, that is $18 billion for Medicaid, $19 billion for Medicare. That is $37 billion a year. In 10 years we can save $370 billion. This chart I had up will show a better future for our children and our grandchildren.

I ask the Members of the Senate to make sure we pass this bill. This is a start. It does not have anything to do with the tax cut. There is not going to be any tax cut unless we get spending under control. To not want to get spending under control means Members do not want to give an opportunity for advancement in the future for our children and grandchildren.

Grandparents, this is about our grandkids. I have four grandchildren. I wish I had 20. But more than that, I wish for them the same opportunities that have been there for us, the same opportunities that the great generation fought for and gave us such wonderful blessings. The same opportunities for every veteran we have had who has fought and died and been injured and the sacrifices they have made—are they in vain if we do not have the same type of courage, the same type of commitment that those who serve our country in our armed services have?

We can do no less than to start down the hard road of making difficult choices. This is the first one. They are going to get harder as we face the economic perils in front of us and the commitments we have made that right now we cannot keep. We either change them or the American people are going to change us.

Mr. McCAIN. Will the Senator yield?

Mr. COBURN. I am happy to yield.

Mr. McCAIN. I applaud the Senator from Oklahoma for not only his statement but also for his continued commitment to fiscal discipline here and in trying to identify much of the wasteful and unnecessary spending.

I wonder if the Senator from Oklahoma has had a chance to look at the Defense appropriations bill we are going to consider tomorrow and see some examples of the interesting earmarks out of a conference report. Is the Senator aware of $500,000 to teach science to grade school students in Pennsylvania or $3.85 million for the Intrepid Sea-Air-Space Foundation or $4.4 million for a Technology Center in Missouri or $1 million to a Civil War Center in Richmond, VA, or $850,000 for an education center and public park in Des Moines, Iowa, or $2 million for a public park in San Francisco or $500,000 for the Arctic Winter Games, an international athletic competition held this year in Alaska?

Museums are popular this year, including $1.5 million for an aviation museum in Seattle, $1.35 million for an aviation museum in Hawaii, $1 million for a museum in Pennsylvania, $3 million for a museum in Fort Belvoir.

There are more, I say to my friend from Oklahoma, and we are at war. I wonder how many MREs, flak vests, or bullets we could buy with all this money.

I appreciate the Senator's support for this budgetary measure, but how do we tell people we are going to cut food stamps and reduce eligibility for welfare while we are taking the money that is for defense, in the tens of millions of dollars on this Defense appropriations bill, put in a conference report that none of us ever saw or read until right now, I ask the Senator from Oklahoma.

Mr. COBURN. I am happy to respond. As the Senator knows, on the conference report I am unable to offer amendments to eliminate those things. As the Senator well knows, also, I have started down a track where I am going to confront earmarks in the Senate or we are going to change that.

With that, I offered on almost every appropriations bill what was called a sunshine amendment. That will be offered again in the House next year, and when we come to conferences, the ability to put in extraneous earmarks has got to be limited.

I would, however, answer the Senator. Having had an oversight hearing on food stamps, we spend $1.6 billion in giving food stamps to people who do not qualify, who have more than the capability to take care of themselves. That is at a rate of 6.9 percent of every person who comes to attest for food stamps.

So I believe the same thing can be said for the Food Stamp Program that we can say about Medicare and Medicaid, that we need to run a bill. We need to have better oversight. We need to check it so the fraud and abuse is out of it.

As the Senator knows, I do not like earmarks because I believe they compromise the operation of good government. I think they buy votes when votes would not be there. I think the Government has grown because of the force of earmarks.

So I am not aware of those specific things. I have not looked at it, to answer the Senator's question. But I am not happy they are there.

Mr. McCAIN. Will the Senator yield for one more question?

Mr. COBURN. I will.

Mr. McCAIN. Not only do we have the earmarks in outrageous and disgraceful pork-barreling on this bill—again, that none of us ever saw until my staff went through this bill—but there is also a great deal of legislation. Remember, this is the Department of Defense appropriations bill. So it is not just the money, it is also policies and major policy decisions.

There are avian flu vaccine limitation of liability provisions. I tell the Senator from Oklahoma, I do not know if that is worthwhile or not, but it has been jammed into a Department of Defense appropriations bill.

There is funding for farm conservation. There is a provision protecting jobs in—guess where—Hawaii and Alaska. And there is a provision that transfers, as a direct lump-sum payment to the University of Alaska, the unobligated and unexpended balances appropriated to the United States-Canada Railroad Commission.

Does the Senator from Oklahoma have a clue what that is all about?

Mr. COBURN. No, I do not.

Mr. MCCAIN. Here we are again, I say to my colleague from Oklahoma, when everybody wants to get out of town examining bils that have all kinds of things in them that we never saw or heard of.

In the Statement of Managers, there is $1.6 million for the Lewis and Clark bicentennial activities. The list goes on. There is $7 million for the Alaska Land Mobile Radio.

I ask my friend from Oklahoma, don't you think the American people are fed up with this kind of stuff? And don't you think it is time a group of us, who have been meeting and talking about eliminating some of these practices, get together and make things tough on the floor of this Senate next year to reign in this out-of-control, disgraceful, obscene conduct that goes on on these appropriation bills?

Mr. COBURN. As the Senator knows, I believe we do a disservice to our country in the way we manipulate appropriations. I have been very vocal on that. But I also know it requires courage to stand up. And the American people are expecting that. They are going to see that this next year on the floor of the Senate. They are going to see a process by which every earmark is challenged in the bills that come before us and in the bills that come out of conference.

What I do know—and I will finish my statement with this—is every economist and every elected official in this country, in this body, knows we are on an unsustainable course. Everybody knows that. Everybody is aware of that. Slowing the rate of growth of programs is compassionate. It is not lacking in compassion. If you do not slow the rate of growth, the very people you want to help will not be helped in the future. It is compassionate to keep your obligations. The way to keep your obligations is to change the programs so we pay for them out of the waste, fraud, and abuse that is involved.

Most people who oppose this bill do not have a good alternative. They do not have a good alternative. The plan of never-ending expansion, unsustainable commitments, is the surest way to deny benefits and coverage to the very people we want to help in the long run. It is the only way we are going to be able to do it. We cannot continue to avoid the tough choices, and we cannot continue to avoid prioritizing and to grow government as we like. We cannot do what we have done in the past. The economic conditions will not allow it. The American people are not going to allow it.

It is time, and it starts January first—it starts here with this bill, but it starts in the next session of Congress. It is going to be different. It is going to be difficult. But we are going to make the tough choices.

With that, I yield my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I just want to note that the exchange, which was very informative, between the Senator from Arizona and the Senator from Oklahoma was in relationship to the Defense bill, and we are on the deficit reduction bill. Those items which the Senator from Arizona raised—he certainly has a legitimate right to raise them—are not applicable to this bill but applicable to the Defense appropriations conference report. This bill actually reduces the deficit by $40 billion, which is a very positive event.

Mr. MCCAIN. If I may continue, Mr. President, America is at war. We all know that, and that is why the measure we are debating today, the conference report to H.R. 2863, the 2006 Defense appropriations bill, is so very important. This conference report provides critical financing for our fighting men and women, the brave individuals we sent to fight in our name. We must support them, and, for that reason, I will vote in favor of its passage. But I do so under protest.

The conference report appropriates nearly $408 billion, plus an additional $50 billion in emergency funding for operations in Iraq and Afghanistan. The non-emergency portion is approximately $4.5 billion under the administration's request, but is several billions higher than the Senate bill. As is the case with so many of the appropriations bills that come to the floor, this conference report and the joint explanatory statement contain earmarks and pork projects that were neither requested nor authorized.

War means sacrifice—any student of history knows that—and Americans have sacrificed throughout our efforts in Iraq and Afghanistan. Our soldiers and their families have sacrificed, and this year other costs have spread throughout the Nation. Whether it is the victims of Hurricane Katrina, or those that have come to their aid or simply all those Americans who are paying higher gasoline prices, we see sacrifices of many kinds. And so in these difficult times, the American people are right to expect their elected leaders to sacrifice as well.

But then we see a bill like the one on the floor today, and I am sure many Americans wonder if the spirit of sacrifice stops on the steps of the U.S. Capitol. During a war, in a measure designed to give our fighting men and women the funds they need, the Congress has given in to its worst pork-barrel instincts.

Let's take a look at some of the earmarks that are in this Defense appropriations conference report: $500,000 to teach science to grade school students in Pennsylvania; $3.85 million for the Intrepid Sea-Air-Space Foundation; $4.4 million for a technology center in Missouri; $1 million to an Civil War center in Richmond, VA; $850,000 for an education center and public park in Des Moines, IA; $2 million for a public park in San Francisco; and $500,000 for the Arctic Winter Games, an international athletic competition held this year in Alaska. And museums are popular this year. There is $1.5 million for an aviation museum in Seattle, $1.35 million for an aviation museum in Hawaii, $1 million for a museum in Pennsylvania, and $3 million for the museum at Fort Belvoir. There is also $1.5 million for restoring the battleship *Texas*.

We are at war. How many MREs, flak-vests, or bullets could we buy with all this money? How many dollars could we return to the taxpayers? I would note that these are just a small sampling of the many, many unrequested earmarks that fill this bill.

But perhaps we are being too hard on ourselves. After all, the conference report includes a number of provisions that will rescind unobligated balances in Federal accounts, so we are offsetting a small portion of some of these needless costs. But wait a minute. There is always a catch. While the conference report rescinds $10 million from the Natural Resources Conservation Service Operations account, it also includes language to prevent any cuts to the projects and activities identified on pages 84 to 87 of the House report that accompanies the Agriculture appropriations bill. And if you review that report, you will find 108 earmarked projects totaling more than $103 million. A few examples of the projects that the appropriators are committed to protecting from any reductions, even for the sake of fiscal responsibility, include:

$242,000 for a wildlife habitat education program in conjunction with the National Wild Turkey Federation in Illinois, which is dedicated to conserving wild turkeys and preserving our Nation's hunting heritage.

$100,000 for the Trees Forever Program in Iowa—an organization with a laudable mission statement—it claims to be an organization that not only plants and cares for trees, but also addresses the challenges facing our communities and the environment—but hardly one that should be funded in a Defense appropriations bill.

$400,000 for dairy waste remediation in Louisiana.

$600,000 for conservation related to cranberry production in Massachusetts and Wisconsin. Conservation related to cranberry production. Remarkable.

$200,000 for Weed It Now—Taconic Mountains—MA/NY/CT. Weed It Now, I am told, is an effort to remove invasive plants from the forest habitat of the Berkshire Taconic plateau. I am a strong supporter of the global war on weeds, Mr. President, but this earmark does not belong in this bill.

Clearly, such projects should not be asked to spare a dime.

Beyond the earmarks, Mr. President, it is a violation of Senate rules to legislate on an appropriation bill, unless, as is the case with several sections of the detainee provisions in title 10, they are added pursuant to a rule 16 defense of germaneness. And yet this rule is flouted far too often. This bill not only

contains numerous authorizing provisions, but it also features dozens of provisions, both authorizing and appropriating, that are wholly outside of the scope of defense policy. Some of these are included to pursue laudable policy objectives; some are not. A sampling of the non-germane provisions includes: the hurricane supplemental: $29 billion for hurricane victims; the Gulf Coast Recovery Fund; avian flu vaccine limitation of liability provisions; a provision that directs funds from the Digital Transition and Public Safety Fund that are in excess of $12 billion to be spent on, among other things, the Tucson, Arizona Border Patrol sector, $30 million, the San Diego sector fence, $20 million, and to carry out the North American Wetlands Conservation Act, $50 million; 1.5 billion for home heating energy assistance; funding for farm conservation; a provision protecting jobs in Hawaii and Alaska; a provision transferring as a direct lump sum payment to the University of Alaska the unobligated and unexpended balances appropriated to the United States-Canada Railroad Commission; and, of course, the ANWR provisions, which I will discuss in a moment.

Mr. President, some of these provisions are very important. Others clearly are not. But whether or not they are important, we should follow the standing rules of the Senate. We should debate these provisions and have the opportunity to offer amendments.

Division C of this conference report authorizes the exploration, leasing, development, production, and transportation of oil and gas in and from the Arctic National Wildlife Refuge, ANWR. This provision does not belong in an appropriations bill to fund our troops who are fighting the war on terror.

Drilling in ANWR is, of course, the reason we are here today. When conferees tried to add these provisions to the reconciliation measure, they could not get the votes to include it in the final agreement without putting passage of the whole package in jeopardy. So instead the conference managers have circumvented Senate rules and added this unrelated and controversial measure to the Defense conference report.

Thanks to this additional language, enactment of the Defense funding bill has been needlessly delayed and continues at this moment to be the target of a filibuster. I strongly oppose this inclusion of this language in the DOD appropriations conference report, and I am appalled by the tactics that have been used to arm-twist and pressure Senators to choose between a drilling provision that they know is wrong and providing desperately needed funding for our Nation's troops.

And the ANWR provisions didn't come free, of course. The proponents had to come up with a slew of sweeteners in an effort to win support for drilling in the Arctic. Let's look at a few of these.

Division D directs an additional $1.5 billion, designated as emergency spending, for Low-Income Home Energy Assistance. The same division establishes a Gulf Coast Recovery and Disaster Prevention and Assistance Fund, which would be funded largely through ANWR oil and gas revenues. Another set of provisions addresses the Digital Transition and Public Safety Fund, established by the budget reconciliation conference report. The CBO estimates that this ''spectrum fund'' will generate $10 billion, but the conference report we are debating today figures out how to spend revenues in excess of $10 billion. After $10 billion, the next $2 billion will be directed to the Gulf Coast Fund. Already planning how to spend money that exceeds the level the CBO projects we will have. Sound familiar, Mr. President?

So CBO says we can plan on $10 billion from the spectrum fund. If we somehow get to $12 billion in revenue, the excess goes to the Gulf Coast. So you think we would stop there. But, no, we go further, planning how to spend the next $4 billion on the chance that the spectrum fund generates still more money. The conference report directs that distributions over $12 billion be earmarked as: $900 million for conservation programs through the Department of Agriculture; $50 million to carry out the North American Wetlands Conservation Act; $50 million to protect grassland and wetland habitats; $1 billion for Interoperable Communications Equipment to assist State and local government preparation for a natural disaster or terrorist attack; $1 billion to assist State and local government preparation for a natural disaster or terrorist attack; $80 million to the Department of Homeland Security to replace and upgrade law enforcement communications; $30 million to replace Border Patrol vehicles; $490 million for Air and Marine Interdiction, Operations, Maintenance and Procurement to replace air assets, including $40 million for helicopter replacement; $372 million for Air and Marine Interdiction, Operations, Maintenance and Procurement to construct and renovate air facilities; $30 million for Tucson, AZ Border Patrol sector for tactical infrastructure; $20 million for San Diego, CA Border Patrol sector for the sector conference; $30 million for Immigration and Customs Enforcement to replace detention and removal vehicles; and $17.9 million for Federal Law Enforcement Training Center for construction of a language training facility.

While the border security projects I have just mentioned are important, will they come to fruition? Not until the spectrum revenues exceed the CBO's estimate—first by $2 billion, and then by $4 billion on top of that. So only when the fund hits $16 billion would all these funds actually be distributed. This entire scheme reminds me of the saying by Wimpy, the hamburger-obsessed character from the Popeye comic, ''I'll gladly pay you Tuesday for a hamburger today.''

In addition to everything I have described in the conference report, the statement of managers that accompanies it also includes hundreds of earmarks and questionable projects. Here are just a few examples: $1.6 million for Lewis and Clark Bicentennial Activities; $30 million for continued development of the Joint Common Missile—a program that DOD cancelled this year; $10 million to restructure the Advanced SEAL Delivery System—over half a billion dollars has been spent over the last 9 years, with no deployable vehicles yet fielded, U.S. Special Operations Command has cancelled plans for future boats; $3.2 million for Handheld High Intensity Searchlights; and $7 million for the Alaska Land Mobile Radio.

Mr. President, despite high gas prices, despite a swelling budget deficit, despite our military operations overseas, and despite our domestic emergencies, pork continues to thrive in good times and bad. The cumulative effect of these earmarks is the erosion of the integrity of the appropriations process, and by extension, our responsibility to the taxpayer. We must do better, for our soldiers and for the American people.

We have to fix this system, Mr. President. Our system is broken if we cannot pass a Defense bill in wartime without billions of dollars in pork. Our system is broken if we cannot fund our troops without tacking on legislation that opens ANWR to drilling. Our system is broken if our national security is at stake and we carry on spending for the special interests as if nothing were wrong. But there is something wrong, something very wrong. We want to have it all without making any sacrifices, so we simply borrow the money, pushing off the obligations to our children and our grandchildren. ANWR is a perfect example of that. We drill today in the false hope that doing so will solve our energy problems, but in doing so we leave future generations with a degraded environment and the same dependence on oil that we have today.

In his farewell address, President Dwight D. Eisenhower reflected on the spending he believed to be excessive. His words then are all the more powerful in today's out of control environment: ''As we peer into society's future,'' he said, ''we—you and I, and our government—must avoid the impulse to live only for today, plundering, for our own ease and convenience, the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow.''

And yet, I say to my colleagues, if we cannot change, if we will not change, we risk precisely that—becoming the insolvent phantom of tomorrow. I wonder what President Eisenhower would think of this mess. But, then, perhaps

others have contemplated the same question. After all, this bill includes a $1.7 million earmark for a memorial on the National Mall that would honor none other than Dwight D. Eisenhower.

Mr. GREGG. Mr. President, we are going back and forth. And I think there was a tacit understanding Senator SALAZAR would be next.

Mr. MCCAIN. Mr. President, will the Senator from Colorado yield me 30 seconds after he is recognized?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I yield 30 seconds to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent for the Senator from Colorado to yield me 30 seconds.

The PRESIDING OFFICER. He has yielded you 30 seconds.

Mr. MCCAIN. Mr. President, I have brought it up, I say to my friend from New Hampshire, because you cannot take away with one hand and give with the other. What we are doing in this very vital Defense appropriations bill, again, is larded down with unnecessary, unwanted, unessential, disgraceful spending that I find unacceptable. As the Senator from Oklahoma said, we are going to start doing something about it, and the sooner the better.

I thank my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, let me at the outset say to my friend from Arizona and my friend from Oklahoma that I think in the years ahead, hopefully, we can embark on programs such as pay-go to make sure that both on the revenue side and the expenditure side of the program we are able to bring our budget into balance. I look forward to working with them on those issues in the future.

Mr. President, I rise this afternoon to speak briefly, first, about the spending reconciliation conference report. The spending reconciliation conference report, from my point of view, falls short of making sure we are funding the most significant priorities of the American people.

Now, today, there will be debate about many of the points over which there is disagreement. I wish to focus, very briefly, on two things that, to me, are very essential in terms of what we prioritize and fund in this Government for the American people.

First, with respect to the forgotten America—with respect to agriculture, with respect to those counties and communities that are out there in every one of our States all across this great land of America, those communities that are mostly dependent on agriculture, where rural economic development means one job at a time and sometimes losing one or two jobs at a time, those communities that are withering on the vine—when I look at this reconciliation measure, what we have here is a $934 million cut for Conservation Programs. I do not think that is standing up for the farmers who are so dependent on these very important programs across America.

Secondly, we have a cut of roughly $400 million for rural development. We think about counties such as some counties in my State. In fact, my native county has an unemployment rate of close to 12 percent. We look at creating economic opportunities for those communities. It is, from my point of view, a step in the wrong direction to be taking money from rural development.

I think we, as a Senate, as a Congress, and the President of the United States, should be putting more of a focus on these communities that have been forgotten decade after decade. My hope is we are able to change course on the future agenda for rural America.

Secondly, I wish to briefly comment on student programs. Student programs in this budget we have before us are going to be cut $12 billion. Some of us understand the importance of what student programs have done for all of us. I come from a family where we have eight first-generation college graduates. Born, like some other Members of this Chamber, into humble circumstances, we did not have electricity and we did not have telephones when we were growing up. But we had parents who strongly believed in education, and we had an America that said: There is an America of opportunity for everyone regardless of your background. The result of that was that all eight of us became first-generation college graduates.

Yet when you look at this budget that is before us today, it will cut $12 billion from student programs. To me, that is a disinvestment in America's future. It is something that causes me to say I will vote against this reconciliation measure that is before us today.

Mr. President, in the time remaining, many comments have been made on the PATRIOT Act. I will make a few brief comments on that this afternoon. I see my great friend from Pennsylvania, Senator SPECTER, who has labored on this matter for a long time.

I step aside to no one in my own desire to fight the terrorist threat that we face in America and in my support for giving my brothers and sisters in law enforcement and our Federal agencies, including the FBI, all the authority they must have in order to keep America safe. We need to reauthorize the PATRIOT Act. That is my goal. I believe that is our responsibility as a Congress.

Mr. President, I believe that the political games surrounding the debate over the last several weeks are not worthy of this body, not worthy of America. Instead of a reasonable debate between patriots on how best to reauthorize the PATRIOT Act, we get political threats and our patriotism is questioned. The President of the United States says that Senators wanting to protect the Constitution are acting irresponsibly. These assertions, in my view, are wrong. The Constitution still matters today. Our liberties still matter. If someone does not believe these things, I believe they are wrong. There can be no greater patriot than the Republicans and Democrats who come together to fight for upholding principles of our Constitution and giving law enforcement the tools they need to protect our homeland.

Senator GREGG, one of the fiercest defenders of the second amendment in this Senate is a true patriot. Senator HAGEL, one of this body's distinguished military veterans, is a true patriot and I am proud of him. Senators MURKOWSKI, SUNUNU, FEINGOLD, and DURBIN are all good patriots. All of my colleagues who have been working to try to come to some resolution, I believe, are doing the right thing because they are standing up to protect America's freedoms as enshrined in our Constitution.

Mr. President, I believe we can do what is the responsible thing, and with the potential expiration of the PATRIOT Act at the end of 2005 under current law, the responsibility lays with the White House and with this body to make sure we extend the PATRIOT Act so we can continue to come to a conclusion with respect to a PATRIOT Act that both protects the civil liberties of Americans and at the same time gives law enforcement the tools they need.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has spoken for 7 minutes. The Senator has 3 minutes remaining.

Mr. SALAZAR. Let me point to two provisions that have been debated widely in this body on the PATRIOT Act. The first is section 215 of the PATRIOT Act, which deals with firearms, business records, and medical records. The conference report that came out basically set a standard that says it is the relevance. My view and legal reading of that provision of the statute is that it would allow for fishing expeditions into your private records, into your business records, into the records of gun owners and gunshops.

For example, in my State, I think about a business named The Rocky Mountain Gun and Ammo Shop. Well, if you have a business record by having conducted some transaction with that particular shop, then those business records become available to the Federal Government without you ever having any knowledge that in fact the Federal Government has gone after those records. In addition to that, besides having the opportunity to access those records——

Mr. SPECTER. Will the Senator from Colorado yield for a question?

Mr. SALAZAR. I only have 2 minutes left. Through the Chair, I will make my 2 remaining points and I will yield for a question.

That Rocky Mountain gun shop business would also be subjected to a permanent gag order, and there is jurisprudence in our case law that says that

those permanent gag orders in fact are violative of the first amendment.

I believe in the Senate legislation that we approved unanimously with 100 Senators, Republicans and Democrats, that moved those issues forward in a manner that would have protected the civil liberties of Americans under the section 215 provisions of the PATRIOT Act.

With respect to national security letters, I have the same concerns, and that is with respect to the 30,000 national security letters that go out—the question and the reality that there is currently no court review of those national security letters. Second of all, there is no avenue for relief with a permanent gag order that applies to the recipients of the permanent gag order.

With that, I yield to my friend from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I might be permitted to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, let me say, reserving the right to object, we had made a commitment to other Senators in terms of an order here. The next Senator to be recognized is Senator BYRD on our side. I am informed that he is on his way here. I would be constrained to object. I would be happy to work with the leader on that side to work out an order.

Mr. SPECTER. Mr. President, I ask unanimous consent to speak until Senator BYRD arrives.

Mr. CONRAD. I have no objection.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I had sought to discuss with the Senator from Colorado some of the provisions of the PATRIOT Act. In view of the limited time, I will make a few comments.

It is my hope that we can yet pass the conference report and the PATRIOT Act. When cloture was turned down on Friday, I reached out on Saturday to see if we could find some way to come to some agreements while the House was in town where we could have gotten some modifications on the conference report. That is not possible now; the House is out of session. There was no one in the House to have an extension of time. Senator FRIST has said publicly, again, within the hour, that he is not going to agree to an extension of time. The President said he is not going to sign an extension of time. So I think what we are faced with at the moment is that we can either sign the conference report, pass the conference report or the act is going to expire.

That is not my wish. I have made every effort to turn, twist, and go sideways and backward and forward to get it worked out. I think where we are now is that it is going to take this conference report or it is going to expire.

I talked to the majority leader about having another cloture vote. If there would be 7 more Senators who would join the 53 who voted for cloture, we could get it done. I don't disagree with the Senator from Colorado who says that what has gone on here is, in some respect, unworthy of the Senate. The matter has spiraled out of control to where we are.

I came to the Chamber to quote from Benjamin Franklin when he addressed the Constitutional Convention in 1787. We are about to have the 300th anniversary of his birth. America is very proud of Ben Franklin—Philadelphia especially. He came from Boston to Philadelphia. I came from Russell, Kansas, to Philadelphia. That is where the similarities end. We are both carpetbaggers who came to Philadelphia. Franklin had a message for the delegates to the Constitutional Convention, and I am going to read only part of it because I know Senator BYRD is on his way, and I am constrained to stop when he arrives.

This is what Benjamin Franklin said to the delegates at the Constitutional Convention, and it applies to the PATRIOT Act. His message is that it is not perfect, it hasn't satisfied everybody, but it is the best we can do, so let's do it. This is what he said:

> Mr. President, I confess that there are several parts of this Constitution which I do not at present approve. But I am not sure I shall never approve them; for having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.

Franklin goes on to say:

> I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble the number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does;

Then he concludes with this paragraph:

> On the whole, Sir, I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument.

It is not exactly the same. The Senator from Minnesota, who is presiding, is not George Washington, and I am not Benjamin Franklin. But these are very wise words. I would ask if there are any of our colleagues who are listening or any of our staff members of our colleagues who are listening who would be willing to take up the question of changing a vote. They might have to eat a little crow. They might have to lose a little face. Maybe it is worth it for the welfare of the country.

There can always be amendments to the act. I am not making any commitments to any changes, but the Judiciary Committee will consider them. This act will not be engraved in granite. There will be an opportunity for changes to be made—again, no commitments—but when we are faced with the alternative of either having the conference report or no act, I think it is pretty clear what the conclusion ought to be. I have talked to some of my colleagues earlier today who don't like where we stand now, who don't want the responsibility for not having an act. So it takes seven. I will be around all day, all day tomorrow. We could vote, as the majority leader has said, on a motion for reconsideration if the body is inclined to do so, if there is some opportunity to adopt the conference report.

Mr. President, I ask unanimous consent that the full text of Franklin's statement be printed in the RECORD.

BENJAMIN FRANKLIN: ON THE CONSTITUTION (1787)

Mr. President: I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them; for having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.

Most men indeed as well as most sects in Religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error. Steele a Protestant in a Dedication tells the Pope, that the only difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain French lady, who in a dispute with her sister, said "I don't know how it happens, Sister but I meet with no body but myself, that's always in the right. ''Je ne trouve que moi qui aie toujours raison.''

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other.

(I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does;) and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats.

Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from our real or apparent unanimity.

Much of the strength and efficiency of any Government in procuring and securing happiness to the people, depends, on opinion, on the general opinion of the goodness of the Government, as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress and confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

On the whole, Sir, I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument.

Mr. SPECTER. Mr. President, I see Senator BYRD entering the Chamber, so I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask for regular order, that we return to the bill. As I understand it, Senator SPECTER was speaking in morning business.

The PRESIDING OFFICER. Time was charged from the majority's time on the bill. There was no consent request to do otherwise.

Mr. GREGG. My understanding is that Senator SPECTER asked to speak as in morning business; am I incorrect in that?

Mr. SPECTER. That was my intention, Mr. President.

The PRESIDING OFFICER. The Senator asked to speak until Senator BYRD arrived.

Mr. SPECTER. I did ask to speak, and it was my intention to have it in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the time is charged in morning business.

Mr. GREGG. It is my understanding that we are now going to Senator BYRD, then Senator ENSIGN, and then going back to the other side.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, for the interest of colleagues, Senator BYRD will be speaking for 15 minutes. Then we will go back to the majority side. Then we will come back to this side with Senator LAUTENBERG for 10 minutes, and then Senator CLINTON for 10 minutes, and then Senator TALENT. This is not, I want to make clear, a unanimous consent request. This is an advisory to our colleagues so that we can manage this time efficiently.

Mr. GREGG. Mr. President, what is the time, if the Chair will advise the majority and the minority?

The PRESIDING OFFICER. The majority has 1 hour 21 minutes remaining. The minority has 1 hour 33 minutes remaining.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, last week, I was pleased to join a strong bipartisan majority of the Senate in support of a motion that instructed budget conferees to strike an ill-conceived House provision from the budget reconciliation bill. That provision sought to repeal the Continued Dumping and Subsidy Offset Act, also known as CDSOA. Last Thursday, the Senate voted overwhelmingly—overwhelmingly—by a vote of 71 to 20 to strike any repeal of CDSOA from the budget reconciliation bill.

The Senate supported CDSOA. Why? Because the Senate recognized that any repeal or attempt to abandon this trade law would be a travesty—a travesty—on justice. The House agreed, and last Friday the House passed a similar motion to instruct which contained, among other things, language to strike repeal of CDSOA from the House-passed bill.

The vote on that successful House motion to instruct was 246 to 175. What could be clearer than that? The House vote on that motion was 246 to 175. And yet—get this, hear me now—over the weekend—yes, over the weekend literally in the dead of night when all was still, nothing was stirring, in the dead of night—a small number of misguided House and Senate conferees decided to turn their backs—turn their backs, on the American worker.

Hear me out there, the American workers all over this country. Hear me, hear me out there on the Great Plains. Hear me out there in the river valleys. Hear me out there in the mountains of West Virginia. Hear me out there in the great Rocky Mountains. Hear me out there on the west coast, the American workers, the American workers.

So this small group decided to ignore the will—hear me—ignore the will of both Houses of Congress. That was blatant, was it not? They decided to repeal CDSOA after 2 years. What arrogance, what sheer, unmitigated, raw arrogance. Fie on you. Shame, shame, shame. CDSOA was enacted to save American manufacturing and our agricultural producers from wave after wave after wave of unfairly traded foreign imports. Let me say that again. Hear it again. Hear me again. CDSOA was enacted. Why? To save American manufacturing and American agricultural producers from wave after wave after wave of unfairly traded foreign imports. It is one of the most successful trade programs ever enacted. Alleluia. It enables small and medium-sized businesses and family-owned businesses to invest in their futures.

This law preserves an increasingly rare commodity in these United States, a vanishing breed, the American worker. Five years ago, a bipartisan majority of the Senate approved this provision to reimburse U.S. companies injured by unfair foreign trade. Let me say that again. Five years ago, a bipartisan majority, Republican and Democrat, of the Senate approved this provision to reimburse U.S. companies injured by unfair foreign trade.

Under the law, each year Customs distributes duties collected from unfair imports to American companies, to American workers, who can prove they have been materially injured by unfair trade. What could be better than that? What could be more fair? What could be more just than that? Under the law, each year Customs distributes duties collected from unfair imports to American companies and workers who can prove that they—these American companies and workers—have been materially injured by unfair trade.

CDSOA was enacted to restore conditions of fair trade so that jobs that should stay in the United States are not destroyed by unfair foreign competition. What is wrong with that? What is wrong with that? Hear me.

While the amounts distributed under the program are not large, from a budget perspective, approximately $226 million for fiscal year 2005, the law has been critically important—hear me—the law has been critically important to American companies and American workers hurt by dumped and unfairly subsidized imports. I am speaking on behalf of American companies and American workers who have been injured by these unfair imports, these subsidized imports.

To receive reimbursement under the law, companies certify in writing that they have made qualifying expenditures in support of their workers and their facilities. The law reimburses them only for those expenditures. I will say that again. The law reimburses them only for those expenditures in support of their workers and facilities. The Customs Service verifies any claims submitted to make certain that requests for reimbursement are valid. Consequently, there are stringent safeguards in place under the law to make certain that funds are distributed under the law legally, honestly, and fairly.

Critics of the law—yes, listen to them, critics of the law—argue that the WTO has ruled against it so we should abandon it. Shame. But the WTO had no legal authority to rule against this law.

This means that the WTO's ruling was beyond the scope of its legal mandate, and to this day, Tuesday, the 20th day of December in the year of our Lord 2005, the WTO has never articulated a legitimate argument justifying any need for the United States to repeal this law. They have not done it. They cannot do it. They cannot do it. They have not done it.

Nearly 800 American companies and workers in nearly every State of the Nation—not just in West Virginia, not just in the steel trade in West Virginia or Pennsylvania or Kentucky or Ohio, workers in nearly every State of the Nation receive distributions under this law's provisions. It is critical to family-owned businesses such as Warwood Tools in Wheeling, WV, and to Wheeling-Pittsburgh Steel and to Weirton, WV. It is equally important to the thousands of steelworkers in Alabama, Arkansas, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Michigan, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Utah, Washington, Wisconsin, and elsewhere across the Nation. They, and all hard-working Americans, deserve to continue to receive these funds so long as foreign traders keep on dumping illegally. Illegally. If our trading partners do not like this trade law, the solution is easy. The solution is not to repeal the law. If our trading partners are offended by the law, I have only two words for them. Hear me, only two words for them: Stop dumping. It is that simple: two little words: Stop dumping. If you, our trading partners, are offended by the law, bless your hearts, I have two words for you, our trading partners that are dumping: Stop dumping.

The United States is working to complete negotiations in the Doha Round of trade talks. What kind of leverage can we maintain over other countries in those talks if we meekly agree unilaterally to disarm, to repeal one of the strongest and most successful trade remedy laws ever enacted in the United States? What a foolhardy, what a simple-minded stunt.

Why don't we hand them a sharp stick to poke our eyes out?

That would make about as much sense as repealing our trade laws. Now is the time to hold foreign unfair traders more accountable, not less—more accountable, not less.

I urge my fellow Senators, I urge my colleagues in the Senate to join me in voting against this budget bill which contains language that would repeal this critical trade law.

While the drafters of the repeal of this law argue that it will permit certain duty distributions to continue—at least for the next 2 years—the text is not exactly clear on this point. So I ask my colleagues: Why tamper with a law that works? There is no reason to undermine the statute as it is now written. There is no need to repeal the law today. There is no need to repeal the law 2 years from now, or ever.

Therefore, with all my heart, I urge my colleagues to join me in voting against the budget reconciliation bill, to make certain that one of America's most successful trade laws stays on the books as it is currently written.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise to speak in favor of the deficit reduction bill that we have before us after many hours of people working together, compromising. You could go through the bill and pick out parts that you like and you don't like, so I want to put this in a bigger picture. I want to step back and look at what we are dealing with as a country.

Over the next 5 years, we were slated to spend, before this bill, and if this bill does not go into effect, we will spend $13.8 trillion. If we pass this bill, this deficit reduction bill, we will still spend $13.76 trillion. Those numbers are impossible to understand. Impossible. They are too big. Let's try to get our arms around a little bit of a number.

I always like to talk about $1 trillion with high school kids so they can understand it. I always ask them: Do you think a million dollars is a lot of money? And of course a lot of us think a million dollars is a lot of money. I ask them: If you spent a million dollars a day, do you think you would be spending a lot of money? And the unanimous answer of high school kids is: Of course that is a lot of money. I tell them that to get to $1 trillion, not $13.76 trillion but just $1 trillion, you would have to start spending a million dollars a day, start at the time Jesus was born, go until today and you still would not be at $1 trillion.

What we are trying to do is to shave and slow the rate of growth of spending a tiny bit. It is almost insignificant.

But what is significant in the bill is that we are starting to take on entitlement spending. Entitlement spending now is two-thirds of the Federal budget, and it is slated to grow into an ever-increasing share of the Federal budget in the future. We all know that. Republicans, Democrats, it doesn't matter who looks at the numbers, entitlements will gobble up the entire Federal budget.

If you study democratic forms of government—and I know Senator BYRD, who has spoken, has done a lot of this—if you study democratic forms of government, they always collapse due to two reasons, and they happen in a particular order. The first thing that happens is there is a moral collapse in the country, and it is always followed by an economic collapse.

If you think about it, it makes sense that it happens in that order. You see, if you have people who are not moral enough to think about the next generation, what they do is they elect people to office who will give them what they want by borrowing from the Treasury; in other words, borrowing from the next generations. When the debt gets too large, this debt gets so large the economy cannot handle it and you end up with all kinds of economic problems and finally an economic collapse.

We are headed for that if we do not get entitlements under control. That is why this bill, even though it is a small amount of money—if you listen to the other side, you would think the sky is falling, as far as spending is concerned.

This is a tiny, insignificant almost, amount of money. But it is significant in that we are finally starting to tackle entitlement spending. That is why this bill is so important.

So when we hear the debate on both sides, boil it down to this very simple thing. Are we going to care enough about the next generation to finally start saying no to some of this big Federal Government spending? I believe it is time this body stands up. Instead of being selfish, instead of giving our voters what they want so they keep sending us back here, let's stand up and do what is right and think about future generations.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, for the information of my colleagues, Senator WYDEN is next. We have been told he is on his way. We hope he will appear shortly. Then we will have Senator GRASSLEY at approximately 4 o'clock. He will go for 20 or 30 minutes, or something like that.

At this point, maybe it is an appropriate time to try to sum up some of the arguments we have tried to make with respect to this budget.

The matter before us reduces spending by $40 billion over a 5-year period. During that period, we will be spending $14.3 trillion.

In the first year, this package saves $5 billion. The tax cuts the House wants to apply in that same period are $21 billion. That doesn't reduce the deficit. It increases the deficit.

The thing that is I think most disturbing about this budget plan is, according to its advocates, the debt of the country increases by $600 billion or $700 billion a year, each and every year of the 5 years of this budget. That is unsustainable. We are not making any serious progress. In fact, this package makes things worse.

I see Senator WYDEN is here.

I yield up to 15 minutes to Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I thank the distinguished Senator from North Dakota.

I have come to the floor this afternoon to bring to the Senate's attention a new development with respect to the Arctic Refuge—a development that has taken place in the last 24 hours that I think has great implications for the budget work the Senate is doing here this week. It also speaks volumes about the lack of consumer protection we are seeing in our country generally.

We have heard a lot in the past few days——

Mr. GREGG. Mr. President, will the Senator yield for a question? I want the body to know, to the extent people are listening outside, the ANWR language is not in this bill. The Senator is speaking to another bill which will follow. Is that correct?

Mr. WYDEN. Mr. President, the distinguished Senator from New Hampshire is correct in a technical sense.

But I am going to discuss something that will have, in my view, great ramifications for the Federal budget generally, and I am going to outline that briefly this afternoon.

We have heard a lot during the past few days about the rights of Alaskans as an argument to justify drilling for oil in the Arctic National Wildlife Refuge. But yesterday, the Alaska Gasline Port Authority, an Alaska state-chartered agency, charged two of the companies that have drilling rights in the Arctic Refuge with conspiring to manipulate the State of Alaska's energy market. The Alaska Gasline lawsuit charges that ExxonMobil and BP withheld supplies of natural gas to gain market power over supply. This is a very significant development with, in my view, great implications for Arctic oil drilling.

If these allegations are correct—that ExxonMobil and BP withheld Alaskan gas supplies from the market—what would stop these companies from withholding oil from Arctic drilling from the market? If Alaskan oil supplies are withheld from the market, that does nothing to reduce our Nation's dependence on foreign oil. It also produces no revenue to the Federal Treasury that supporters of Arctic oil drilling claim fund hurricane relief and other programs.

These serious charges about oil company manipulation of Alaska's energy supplies are not made by some leftwing group but by an agency chartered by the State of Alaska.

An article in today's Wall Street Journal quotes Walter Hickel, a former Republican Governor of Alaska, as saying the lawsuit against these major oil companies ''reveals a story of extreme corporate greed that has abused Alaska and punished the American consumer.''

I ask unanimous consent that a copy of this article be printed in the RECORD.

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

An Alaska state authority charged that BP PLC and Exxon Mobil Corp., the world's largest publicly traded oil companies, are conspiring to withhold natural gas from U.S. markets and reinforce their market power over North Slope supplies.

In an antitrust suit filed late yesterday in federal court in Fairbanks, the Alaska Gasline Port Authority alleged that a series of illegal agreements and acquisitions by the companies has choked the flow of the state's vast gas reserves. It seeks to stop the companies' alleged collusion through a court injunction and unspecified damages.

Exxon and BP spokesman both denied the accusations that the companies were trying to delay exports of gas from Alaska. ''This is another sobering reminder of our litigation-crazed society. This suit is frivolous and it's totally without merit,'' says Exxon spokesman Russ Roberts.

The lawsuit is the latest twist in a 30-year effort to move the estimated 37 trillion cubic feet of natural gas within Alaska's sprawling oil field, enough to satisfy two year's worth of U.S. demand. There is currently no significant natural-gas production in the North Slope; gas now produced by oil wells is injected into underground reservoirs. The dispute comes at a time when U.S. natural-gas prices are soaring.

The port authority, created in 1999 to build a gas pipeline, says it has $18 billion in federal guarantees and the permits to build a pipeline from the North Slope to Valdez in the southern part of the state, where gas would be liquefied and loaded onto tankers. But BP and Exxon favor an alternative, longer pipeline through Canada, a pipeline over which they would have more control, the authority charges.

Talks between the state and producers on building the longer pipeline have stalled. BP and Exxon Mobil, which produced a combined 1.7 trillion cubic feet of gas last year in the U.S., about 9% of the domestic total, have balked at the state's terms; a third producer ConocoPhillips, agreed to the state's basic terms in October. The natural-gas pipeline disputes aren't related to the battle in Congress over opening the Arctic National Wildlife Refuge to oil and gas exploration.

The Alaska Gasline Port Authority said that BP's refusal to agree to ship its natural gas and Exxon Mobil's failure to develop its huge fields amounts to ''warehousing'' a desperately needed resource in an effort to drive up prices. ''Gas prices are at record highs, and big oil companies still won't move the gas to market,'' authority Chairman Jim Whitaker said in a statement.

BP and Exxon Mobil argue a pipeline through Canada to the Midwest would increase the value of the gas by delivering it directly to gas-hungry markets. They say that the alternative, shorter route to Valdez—which allows for a spur to send gas through Canada—would generate less revenue and expose the $20 billion project to greater risk. BP and Exxon also expect to have a bigger financial stake in the longer pipeline than the one favored by the Alaska Gasline Port Authority.

BP spokesman David MacDowell said, ''We are working as fast as we can to get a clear and durable fiscal contract with the state of Alaska so that this natural-gas project can move forward to the next stage.'' As for the Valdez option, he said, ''we've spent millions of dollars over the years trying to make an Alaskan LNG [liquefied natural gas] project work, but it doesn't work.''

He defended producers' ownership of pipelines, saying that ''no one else is as motivated as the resource owners to build the lowest cost, most efficient transportation system possible.''

Exxon says negotiations have been continuing for months and are in an advanced stage. ''This is one of the largest, most complex industrial projects ever considered by any industry,'' says Mr. Roberts, the Exxon spokesman, and negotiations over the voluminous details should run their course, rather than be litigated in the courts.

The delays in exploiting Alaska's natural gas have become a political issue from Alaska to Washington. Walter Hickel, a former Republican governor of Alaska and former U.S. Secretary of the Interior, said the authority's suit ''reveals a story of extreme corporate greed that has abused Alaska and punished the American consumer.''

Mr. Hickel, a longtime supporter of Alaska gas development, said that ''the producers have conspired for years to delay the export of Alaska liquefied natural gas.''

House Speaker Dennis Hastert has said he expected energy companies to ''do their part to help ease the pain'' of high oil and gas prices, and specifically cited BP and Exxon Mobil's failure to come to terms with Alaska over the proposed pipeline.

The authority's legal team includes David Boies, of Boies Schiller & Flexner in New York, and Charles Cole of Fairbanks, the former Alaska attorney general.

In a news conference last night, Mr. Boies said the two companies had illegally conspired to refuse to deal with the authority, as part of a broad effort ''to preserve the scarcity that has driven natural-gas prices to historic highs.''

Mr. WYDEN. Mr. President, the legislative rider attached to the Defense appropriations conference report that would open the Arctic Wildlife Refuge to drilling gives the same two companies the Alaska Gasline Port Authority charges with colluding to withhold Alaskan gas supplies a tremendous sweetheart economic deal.

In addition to being an abuse of the legislative process, attaching this rider to the Defense appropriations bill, in my view, is bad environmental policy, bad budget policy, and most particularly bad energy policy. As a result of this rider, the Defense spending bill, which contains money critical for our troops, is getting held hostage for special interest legislation for the oil industry. The rider that was grafted onto the Defense bill provides unprecedented waivers for Federal environmental and other laws, including the National Wildlife Refuge Act, the National Environmental Policy Act, and the Federal Mineral Leasing Act.

The Arctic drilling legislation also overrides current law to reduce the State of Alaska's share of the revenue produced by Arctic oil drilling.

Under current law, 90 percent of those receipts would be paid to the State of Alaska and the remaining 10 percent to the U.S. Treasury.

The rider that was plucked from the budget reconciliation spending bill and grafted onto the Defense appropriations conference report changes the allocation in current law to permit the Federal Government to retain 50 percent of the receipts. The State of Alaska has threatened to sue to get the full 90 percent of the revenues. If that lawsuit succeeds, then 40 percent of the revenues that the Defense spending bill assumes will be available for hurricane recovery, LIHEAP, and other purposes will not be there at all. If the State loses, then its rights will have successfully been overridden. One way or another, either the State of Alaska or the Federal taxpayer is going to end up getting shortchanged.

Most importantly, if the charges we have heard in the last 24 hours of withholding gas supply are true, there would be nothing to stop the same oil companies the Alaska Gasline Port Authority is charging with gas market manipulation from manipulating Alaskan oil markets. Nothing in the rider on the Defense bill would in any way prevent the companies from engaging in the same conduct they have been charged with by an Alaska-chartered agency with respect to oil drilling in the Arctic.

The actions of the Alaska Gasline Port Authority this week against ExxonMobil and BP, in my view, raise a host of fundamental questions. First, whose rights is the Arctic drilling rider

supposed to uphold? The State of Alaska? Or the major oil companies? How will drilling in the Arctic truly affect our Nation's energy security? What are the real budget revenues that Arctic drilling will produce?

The Congressional Budget Office's revenue estimates for Arctic oil drilling assume that the oil companies will move quickly to develop oilfields in the Arctic Refuge. These assumptions do not factor in the prospect of oil companies choking off the flow of oil, as the Alaska Gasline Port Authority alleged is being done by ExxonMobil and BP now with Alaskan gas supplies.

The other question that begs to be asked about the Alaska Gasline lawsuit is where in the world was the Federal Government, particularly the consumer protection regulators, who are supposed to be policing the kind of collusion that is alleged in the lawsuit of the Alaska Gasline Port Authority this week? What has the Federal Trade Commission, the so-called consumer watchdog agency, done to stop what former Alaska Governor Hickel has called ''extreme corporate greed that has abused Alaska and punished the American consumer.''

The response is, unfortunately, the same as what we have seen from the Federal Trade Commission over the last few years when it comes to oil company mega mergers, price gouging at the gas pump and other anticompetitive practices. The consumer watchdog seems to be taking a long winter nap when it comes to energy. This is yet another example of the Federal Trade Commission's perpetual hibernation when it comes to protecting the consumer who is getting clobbered by escalating energy costs.

If an agency of the State of Alaska, with no more than a handful of lawyers, is able to take action against collusion by the world's largest oil companies, why isn't the Federal Government's premier consumer protection agency, with scores of lawyers, able to protect consumers?

Last week I spoke at length on this issue. In fact, the distinguished Presiding Officer of the Senate was in the chair at that time. He is very much aware I intend to continue to raise my concerns about why the Federal Trade Commission keeps ducking this critical consumer protection issue.

This latest news about the Alaska Gasline Port Authority bringing an antitrust action against major oil company collusion in energy markets, in my view, is especially troubling. It calls out for further investigation by both the Congress and the Federal Trade Commission. In my view, it is the Congress's job to investigate whether the claims made by the advocates of Arctic oil drilling hold up, given what the Alaska Gasline Port Authority is alleging this week about two of the oil companies that hold Arctic drilling rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume but not more than 30 minutes.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I comment on the Senate Committee on Finance portion of the Deficit Reduction Act, I will go over some ground that has been covered by other Members on our side of the aisle through this chart or similar charts, to point out how three entitlement programs—Social Security, Medicare, and Medicaid—as a percentage of the gross domestic product are going to continue to grow and grow and grow until reaching a point where it squeezes out almost everything else in the Federal budget.

This is already legislated. The red on the chart, if we do nothing, is where we end up.

This bill is doing something about that problem. But we ought to be doing a lot more.

I start out by saying what we are doing in this entire deficit reduction package is reducing expenditures of the Federal Government over the next 5 years. Five years is the length of the budget reconciliation changes that we are making. During that 5-year period of time, the Federal Government will spend about $12.5 trillion. We are cutting out of that $12.5 trillion, a 5-year figure, about $10 billion as shown in the red part of the chart.

The reason I try to put that in perspective, one-quarter of 1 percent is at $40 billion, compared to the $12.5 trillion. That is a spit in the ocean compared to what the problem is.

I point out two things. We will hear from Members of this Senate, mostly from the other side of the aisle, that it is catastrophic we are making changes to one-quarter of 1 percent in all the money the Federal Government is going to spend over the next 5 years. It is catastrophic. The world is coming to an end, we will hear.

Then, from the other point of view, considering what these problems are that we know we face today—and no Republican or Democrat disagrees with that—for what we are doing we ought to be somewhat ashamed we cannot do more than one-quarter of 1 percent of all the money the Federal Government is going to spend in the next 5 years.

For the average American who votes and thinks that Washington, DC, is on some other land from the standpoint of what we do in the Congress, they would say to both sides of the argument that the world is coming to an end, that we are going to eliminate or reduce one-quarter of 1 percent or to those that are bragging—I will be in that category of bragging—about doing something about one-quarter of 1 percent, they are going to say, you guys have to be crazy if you cannot find in all the money that the Federal Government spends, some way of saving more than one-quarter of 1 percent of the $12.5 trillion that will be spent over the next 5 years. They would probably say you ought to go out and find some other work where you can accomplish something.

Those are the extreme points of view. That is what I think the public is probably going to say to us at our town meetings when we go back home if we are going to brag about this, or maybe to the people that are going to complain about it, asking if we are really doing much. It is similar to all the labor that an elephant will go through to give birth and then give birth to a mouse. That is what we have here, a mouse compared to the elephant of a problem.

I take an opportunity to explain what is in the Senate Committee on Finance portion of this bill. Senator GREGG needs to be complimented for getting us where we are today on this conference agreement. What I described, one-quarter of 1 percent of all money over the next 5 years, $12.5 trillion worth, this is the first time we have gone through this process in almost 10 years.

So we do not do this every year. And the public watching would say: Why don't you do it every year? I wish I had a responsible answer for that. But I think we ought to recognize Senator GREGG's involvement and the involvement of all the chairmen of the committees in putting together, over several months, this budget reconciliation package for spending to achieve this goal, and achieving this goal regardless of how small it might be.

It is important for the reason I have given you, that by all accounts, the growth in entitlement spending has monumental implications for our Nation's economic and financial strength.

The chart I just spoke about shows the Congressional Budget Office's projections for mandatory spending, including Social Security, Medicare, and Medicaid. According to this chart, by 2050 mandatory spending will approach 30 percent of the Nation's gross domestic product. That is 30 percent by 2050. This would push Federal spending well above the levels that it has been throughout much of the post-World War II period, as evidenced by that straight line that goes across that chart.

This might be, hopefully, a worst case scenario, but it is a plausible scenario. The agreement that we are going to be voting on, called the budget reconciliation package, begins to get at this situation—the red on this chart—by achieving nearly $40 billion in savings over the next 5 years. That includes $6.4 billion in net Medicare savings and $4.7 billion in net Medicaid savings.

I actually hesitate to mention those amounts because for many of our constituents it is hard to get past the numbers. To them, any reduction—any reduction—even if it is only one-fourth of 1 percent, is a bad reduction. But the policy—and we ought to be making decisions in this body based upon sound

policy—the policy behind these reductions is sound, just as the policy behind the numerous spending provisions in this entire package is sound.

Throughout this process I have sought to reduce wasteful spending, eliminate loopholes, and pay providers more accurately. I have sought to advance policies that will ensure the availability of important health care and social services, to update these programs to reflect our Nation's changing needs, and also to promote the delivery of high-quality health care services.

The agreement makes some important improvements in the Medicare Program, not the least of which is addressing a scheduled reduction in payments to physicians, which could have led to access problems for beneficiaries. The agreement builds on progress made 3 years ago that linked increases in Medicare payments to hospitals to the reporting of quality data.

I actually would have preferred to do more in the area of pay for performance, and I will continue to push further for changes because we just cannot sit back on this issue, as the private sector is moving much faster than Government, particularly the major corporations of America, in making sure they do their health care business with people in the health care profession and institutions in the health care profession that are going to deliver quality care. We have to be more concerned about this than we have in the past in the Federal Government.

Medicare is the single largest payer of health care in the Nation. Taxpayers and beneficiaries deserve to get the highest value for every Medicare dollar spent. Unfortunately, there is no question that today we are not getting the most value for the taxpayer dollar.

The bill also takes steps to ensure access to quality care in rural communities. It does this by reinstating special payment programs, such as a 5-percent add-on for rural home health providers, the Medicare dependent hospital program, and the hold-harmless payments for small rural hospitals.

The conference agreement also includes coverage of valuable preventive benefits not covered by Medicare. These preventive benefits are important to prevent illnesses and to keep beneficiaries healthy.

This bill also saves beneficiaries and Medicare money by changing the payment structure for durable medical equipment.

Now Medicare will only pay for DME services that are needed; that is, after we get this passed.

I would like to look at Medicaid changes.

In our efforts to reform the Medicaid Program, we take some very important steps, many of them recommended by a bipartisan group of our Nation's Governors. Eventually, all 50 Governors made suggestions to us in a unanimous agreement.

Let's just look at long-term care. In the very near future, a lot of older people are going to need long-term care. Right now, Medicaid is a primary payer for long-term care services. The Deficit Reduction Act expands the Long-Term Care Partnership Program and will promote awareness about long-term care insurance.

We combine that with a policy to tighten restrictions on seniors' ability to transfer or hide assets with the intention of qualifying for Medicaid. These policies protect the integrity of Medicaid and create an incentive for seniors to explore new long-term care options.

The agreement will ensure accurate payments to pharmacies for the cost of drugs, and it has little effect on the market.

We give States the ability to offer Medicaid beneficiaries coverage more consistent with coverage typically offered by employers, while at the same time guaranteeing that children do not lose any benefits currently provided under Medicaid.

We include protections for preventive services and treatment for children. This bill continues to require States which cover early, periodic, screening, diagnosis, and treatment services to continue to do that. The language of the bill is very clear.

Mr. President, on that very point, I ask unanimous consent to have printed in the RECORD a statement by Dr. McClellan, Administrator of CMS, supporting our interpretation of the provisions.

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

STATEMENT BY MARK B. MCCLELLAN, M.D., PH.D, ADMINISTRATOR, CENTERS FOR MEDICARE & MEDICAID SERVICES

Questions have been raised about the new section 1937 of the Social Security Act (SSA) (as added by the Deficit Reduction Act of 2005) that permits states to provide Medicaid benefits to children through benchmark coverage or benchmark equivalent coverage. If a state chooses to exercise this option, the specific issue has been raised as to whether children under 19 will still be entitled to receive EPSDT benefits in addition to the benefits provided by the benchmark coverage or benchmark equivalent coverage. The short answer is; children under 19 will receive EPSDT benefits.

After a careful review, including consultation with the Office of General Counsel, CMS has determined that children under 19 will still be entitled to receive EPSDT benefits if enrolled in benchmark coverage or benchmark equivalent coverage under the new section 1937. CMS will review each State plan amendment (SPA) submitted under the new section 1937 and will not approve any SPA that does not include the provision of EPSDT services for children under 19 as defined in section 1905(r) of the SSA.

In the case of children under the age of 19, new section 1937 (a)(1) is clear that a state may exercise the option to provide Medicaid benefits through enrollment in coverage that at a minimum has two parts. The first part of the coverage will be benchmark coverage or benchmark equivalent coverage, as required by subsection (a)(1)(A)(i), and the second part of the coverage will be wrap-around coverage of EPDST services as defined in section 1905(r) of the SSA, as required by subsection (a)(1)(A)(ii). A State cannot exercise the option under section 1937 with respect to children under 19 if EPSDT services are not included in the total coverage provided to such children.

Subparagraph (C) of section 1937 (a)(1) permits states to also add wrap-around or additional benefits. In the case of children under 19, wrap-around or additional benefits that a state could choose to provide under subparagraph (C) must be a benefit in addition to the benchmark coverage or benchmark equivalent coverage and the EPSDT services that the state is already required to provide under subparagraph (A) of that section. Subparagraph (C) does not in any way give a state the flexibility to fail to provide the EPSDT services required by subparagraph (A)(ii) of section I 937(a)(1).

Mr. GRASSLEY. We also include policies that give States the option of asking for a limited set of Medicaid beneficiaries to share in the cost of their care.

The cost-sharing policy excludes anyone under the Federal poverty level, mandatory children, adoption or foster care children, preventative care and immunizations for all children, pregnancy-related services, hospice residents, and women who qualify for Medicaid under the breast and cervical cancer eligibility group.

It is a reasonable, responsible policy that I encourage my colleagues to support. These are all modifications of what the House of Representatives did in their provisions in this area.

These are important, measured first steps that our Governors, in this communication to the Congress to which I previously referred, have asked for, on a bipartisan basis, to reform the Medicaid Program.

Now, the Medicaid Program is a Federal-State program. It is a big cost to the Governors. If we have Governors, 50 of them, of both political parties, coming to us and saying: We can tell you how to spend your taxpayers' dollars more wisely, and we will save some money at the State level, and we will be able to serve more people—they came to us and said that to us. And this document responds to that.

I don't know how 100 Senators can put their judgment—just in case they disagree with what we are trying to do. I suppose if they agree, this doesn't apply to them. I don't know how those Senators who disagree with what we are doing on a Federal-State program can put their judgment above that of 50 Governors who are almost equally divided between Republicans and Democrats.

This bill also dramatically increases funding to protect Medicaid from fraud and abuse. It does so by creating a Medicaid integrity program that mirrors a similar program already in place in the sister program of Medicare.

The agreement incorporates the Family Opportunity Act. This is a major improvement in Medicaid. This is a program that Senator KENNEDY and I have been working on for 7 years. These provisions will help families meet the needs of their children with disabilities. Right now, these parents,

if they have a child with disabilities, face difficult decisions. I can document this among my own constituents in Iowa, that time and time again, many parents of disabled children tell me of their struggles getting health care for their children with costly special needs.

Many parents have been effectively forced to quit their jobs, to take low-paying jobs so this child with costly medical care can qualify for Medicaid. Why? Because the services their child needs are not available with private health insurance. So they need the assistance of Medicaid.

This policy we presently have in place and in the Family Opportunity Act turns by 180 degrees; it is totally backward.

This agreement allows States to give these parents in this situation the option to buy into Medicaid while continuing to work and probably in most cases continuing to pay taxes. These are folks who want to work and can work, and we should not have a disincentive to productive employment in America just because some family has a child with special very expensive health needs.

Moving on, the agreement also fills shortfalls in funding of their State children's health insurance programs that States would have experienced just next year.

We also include $2 billion to assist Louisiana, Alabama, and Mississippi, as well as other States to meet health care needs of people whose lives were devastated by Katrina. It extends TANF Programs with a few minor improvements. It closes several loopholes in TANF and in child support, while providing funding for childcare, child welfare, and allowing more child support to go directly to families.

For nearly 4 years, I have tried to reauthorize TANF in the regular order. Without any help from Democrats, I reported a bill out of the last Congress on a partisan basis. That year, Senator FRIST devoted a week for the consideration of welfare. The first floor amendment offered on behalf of Senator SNOWE would have increased childcare spending by $6 billion—I voted for it—bringing the total childcare money to $7 billion. That passed with 78 votes. Unfortunately, even with that victory which they won, Democrats blocked it.

I kept trying, and this year I worked out a bipartisan bill with Senator BAUCUS that the committee reported out on a voice vote. But again, efforts to reauthorize welfare in regular order have stalled. If we don't pass the Deficit Reduction Act, we will have to extend TANF for a 12th time. That is an unconscionable way to legislate. States cannot continue operating their welfare programs unsure of what the next reauthorization will bring.

Advocates complain that the $1 billion is not enough childcare money. But I say to them, where were you over the past year when there was $6 billion on the table and I was committed to bringing that $6 billion out of conference or we would not have had a conference report on TANF?

There has never been enough childcare money to satisfy those on the far left—$5.5 billion wasn't enough; $7 billion wasn't enough. I don't even know if $20 billion would have been enough. The fact remains that there hasn't been an increase in childcare for 4 years, and if we persist in passing extension after extension, there won't be any new childcare money at all.

As I said in the beginning, it is difficult for many folks to get beyond the numbers. But as I laid out here, this agreement includes many provisions to provide services that better meet people's needs, and it does so by getting rid of waste and abuse in the programs.

These are dollars that right now we are simply throwing away. They get taxpayers and beneficiaries nothing. Without some changes, these important programs of Medicare, Medicaid, and TANF will be driven into the ground. That some folks don't support these changes—well, to me, I believe they cannot see the forest for the trees.

The agreement before us includes sound policies. It achieves savings by reducing wasteful spending, closing loopholes, and taking steps to pay providers more accurately. It improves oversight of Medicaid to crack down on fraud and wasteful spending. It establishes policies to help families and beneficiaries and to ensure long-term viability of these programs. I urge my colleagues to support it.

I yield the floor and reserve the remainder of the time for Senator GREGG.

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

Mrs. CLINTON. Mr. President, last week, I came to the floor to speak against the proposed reconciliation bill, and I used the analogy of the Grinch who stole Christmas. At that time, we did not have a conference report yet before us, and I hoped that we might make some significant changes in what would be sent to us after the House acted.

Unfortunately, although there were some changes, the overall impact of what has been sent to the Senate for action is disappointing and deeply disturbing. While the Grinch stole the gifts, the decorations, and even the Christmas tree, this budget slashes hope. It slashes opportunity. It slashes support that the least among us need in order to be as productive and healthy as possible. This Republican budget slashes child support enforcement, Medicaid benefits, student loans, and so much else.

Now, the story of the Grinch who stole Christmas actually has a happy ending, because the Grinch, seeing the error of his ways, returned what he had taken. Unfortunately, I fear the budget before the Senate today does not have a happy ending. It represents a monumental failure by the Republicans in Congress to recognize the real priorities that the people of America—working families, students, seniors, and particularly children—need.

The Republican priorities are crystal clear in this bill. The Republican majority chose $2.6 billion in new tax breaks for oil companies. I don't know how that is a priority. I don't even know how that is understandable. The oil companies could not be doing any better than they are doing, and we are still giving them more tax breaks from hard-working American taxes. We still prohibit the Government from negotiating for prescription drugs to lower the cost to Medicare beneficiaries, which could save $100 billion for taxpayers. The Republicans decided not to eliminate the $5.4 billion Medicare insurance company slush fund and, instead, chose to cut home health care, hospital quality improvements, imaging services, medical equipment, and hospital payments. And as usual, with the Republican majority, they decided against cracking down on abusive corporate tax shelters such as mailbox headquarters and other loopholes.

We have heard a lot of this from the eloquent, persuasive argumentation by the Democratic ranking member on the Budget Committee, the Senator from North Dakota. We have heard from others of our colleagues raising the alarm about this ill-conceived budget. But one issue that has not yet been raised that I would like to highlight is that I think this bill may very well increase the number of unintended pregnancies and abortions in our country.

Why, you might ask? Today contraception and other family planning services are provided as a matter of course under Medicaid. We do this because it is good for women to have access to such treatments and medications. It also prevents unintended pregnancies and, therefore, prevents abortions and, therefore, saves money. For every dollar Medicaid spends on family planning, the Government saves $3. But this bill eliminates the guarantee.

I don't understand this. We obviously have very strong opinions and deeply held convictions about abortion, but are we also divided about contraception and family planning? Are we not in this body committed to reducing the number of abortions?

Apparently, we are not because the provision in this reconciliation budget that eliminates family planning for Medicaid recipients makes it very clear that the majority opposes contraception and family planning, which reduces unwanted pregnancies and abortions.

It makes no sense to me. I thought we were working toward a bipartisan agreement that we would try to prevent unwanted pregnancies and, therefore, reduce the need for abortion. I sadly predict that if this measure stays in the bill, which apparently it is going to because we expect to vote on it in the next several hours, the number of abortions will go up, the human and financial costs will go up, and many women will really be out of luck.

The other piece that is so troubling to me is young people aging out of foster care. These are young people for whom we try to provide some support services by continuing their access to Medicaid. They, too, will not have access to family planning.

This is all about misplaced priorities, choices that do not serve our Nation's future and puts the burden of balancing the budget on the backs of working families, college students, seniors, single moms, and the middle class.

Consider who is bearing the costs because we know there are winners and there are losers. Certainly, the winners will be oil companies, drug companies, corporate freeloaders, and deadbeat parents. That is a wonderful list of whom we are helping in this Christmas season.

Despite rising medical expenses that burden middle-class and low-income Americans, this bill cuts $6.9 billion from Medicaid by slashing benefits and increasing costs to beneficiaries. We know there is a considerable body of research from RAND to the Urban Institute and many others that have found if you increase copays and premium costs, beneficiaries will skip needed care and may lose coverage entirely.

This bill also, for some reason, has it out for college students, the very people we should encourage to get their education, to become productive citizens, to have competitive jobs in a global economy. The bill cuts over $12.7 billion from student loan programs, resulting in higher payments for 472,000 New Yorkers today and millions more in the years to come.

The bill also undermines the Direct Loan Program which has been shown by every independent analysis to cost as much as 12 times less than the private loan program. So I guess we should put the banks on the list of winners along with the corporate freeloaders and the deadbeat parents and the oil companies.

As millions of seniors struggle with medical bills, this bill slashes $6.4 billion from Medicare over the next 5 years, including a $1.6 billion increase in Medicare Part B premiums, making it more expensive for their seniors to visit their doctor this year instead of last.

The thing I am still totally amazed by is cutting $4.9 billion in child enforcement, eliminating $343 million from foster care programs, undermining childcare for working families and TANF that rewards and enables work.

I don't know, Mr. President, I guess there are different priorities between us in this Chamber, and I am disappointed in that. Given that 1.1 million more Americans fell into poverty last year, and over 37 million Americans, including 13 million children, live in poverty today, we are headed in the wrong direction.

I guess the Republican majority can brag about $2.6 billion in new tax cuts for oil companies, $6.9 billion in Medicaid cuts, and cuts to foster children, the most vulnerable of all of our citizens. Corporate welfare was saved. Student loans were cut. I don't know how you can, with a straight face, say that is the kind of priorities we should be having at any time but particularly in the Christmas season. But I suppose the folks who find these great big tax breaks under their tree are going to be grateful.

The ultimate irony is that this bill is being called deficit reduction. We know how to do deficit reduction. We did it in the 1990s. We did it by making hard choices. We did it by making it clear that nobody was going to get off scot-free, that everybody would have to pay their fair share. Tough decisions would be made on both the revenue and the spending side.

This bill doesn't reduce the deficit at all. In fact, it worsens the deficit outlook by at least $30 billion. That is going to become even more clear when we come back after the first of the year and the Republicans give us $70 billion in additional tax cuts. Let's tell everybody those tax cuts are, once again, going to help people who have been helped already, quite substantially, over the last 5 years.

It is not doing much for the average American, it is not doing anything for some of the poorest of Americans, other than telling them they are on their own.

In a time of war, with the third largest budget shortfall in our Nation's history, when we have rising poverty again, the call for financial sacrifice by the White House and the Republican Congress falls only on families struggling to make ends meet. It falls on our children particularly, the poorest of our children, foster care children, children whose parents are not providing support for them. It doesn't fall on oil companies reaping record profits, not on the drug companies, not on the corporate freeloaders, not on the deadbeat parents.

This bill is not in keeping with the spirit of this season or the priorities of the American people. I hope that we will do better next year. I hope that people will realize, as the Grinch did, that we don't need to act in a way that is playing to the lowest common denominator, that takes care of the privileged at the expense of everybody else. I do think it is fair to say that this bill is unprecedented. Never has so much been done for so few who need it so little.

This is a very sad day in the Senate. I hope we can do better in the future on a bipartisan basis, and I hope that the real values of America once again are put into action in the Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I understand that we would go to Senator ROCKEFELLER next, but in an aside, I simply want to address one or two of the points made by the Senator from New York, who always makes excellent points and is a very constructive member of the HELP Committee. When I was chairman, I enjoyed working with her and I have enjoyed working with her ever since. In fact, as I recall, she actually voted for the language which was reported from the HELP Committee which essentially accomplished what it appears she is concerned about now, which was to take the corporate subsidy that lenders get today under the student loan program and reduce it.

As I have discussed before and discussed with Senator KENNEDY, and I think he appreciates this issue, and some of the other folks who brought this issue up, there is no student loan reduction in this bill. Student loans are expanded. We create a whole new program for low-income students who are interested in math and science and we expand the money going into Pell grants. Where there is a reduction in this bill is in the corporate subsidy area for lenders. If we do not pass this bill, as I said earlier, there would be a windfall to corporate lenders of about $7 billion. That is why I said my staff corrected me. They estimate the windfall to lenders would be closer to $18 billion if we do not pass this bill this year and that is a function of the fact that the lenders are getting an artificially high interest rate. We are taking that down. With the money we receive from that—and it comes out of the corporate lenders, not out of the students—we are taking part of this and we are putting it into helping more students, especially low-income students, be able to go to college.

If a teacher teaches special needs kids under IDEA, they can have $17,500 of their loans forgiven under this bill—$17,500 will be forgiven if they go into teaching special needs students because we think that is important. If one is a low-income individual who has done well in high school in math and science and they decide when they go to college that they want to pursue math and science on top of their Pell grant, on top of their student loans, they are going to get a $4,000-a-year grant for the last 2 years they are in college, a big boost for low-income students who pursue math and science. That is where the money has been directed. I think it is the right priority. I suspect that is why the Senator from New York voted for the bill when it passed out of the committee.

What is the order now? Do we go to Senator TALENT and then Senator ROCKEFELLER, or Senator ROCKEFELLER and then Senator TALENT?

Mr. CONRAD. Senator TALENT is up.

Mr. GREGG. If Senator ROCKEFELLER is ready, why not have the Senator proceed and then we will go to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. GREGG. The Senator from West Virginia is recognized on Democratic time.

The PRESIDING OFFICER. The Senator from North Dakota will yield time on his side to the Senator from West Virginia when he is recognized.

Mr. CONRAD. If we could have Mr. TALENT go first, we have a bit of a logjam we need to work out on this side. I ask Senator ROCKEFELLER to withhold for one moment. The problem is there are multiple Members who wish to speak on a matter unrelated to the budget at this moment on this side. We have to work that out, so it will take a moment.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield to the Senator from Missouri 10 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. TALENT. Mr. President, as we debate the very important issue of deficit reduction, I want to take a few minutes to discuss a provision included in the Deficit Reduction Act. It is an issue of great importance and one that many Senators have been working on for more than 3 years, the reauthorization of TANF, the Temporary Assistance for Needy Families Program.

As a freshman Member of the House, I introduced the welfare reform legislation that subsequently became the basis for the historic bipartisan welfare reform bill, the Personal Responsibility Act of 1996. Since that time I have viewed welfare reform as a priority issue, an issue of great significance to millions of Americans.

Welfare reform has been one of the most successful social policy reforms in U.S. history. The 1996 welfare reform legislation made remarkable headway in helping welfare dependents move toward self-sufficiency. It dramatically reduced State welfare caseloads and child poverty, and it increased welfare recipient employment.

Welfare reform is based on the understanding that the two best anti-poverty programs are work and marriage. The old welfare system seduced millions of people into poverty by offering assistance on the condition that they not get a job, not get married, and have children anyway. It measured success by how many people it was able to get on welfare. The new system measures success by how many people get off welfare, or never have to go on welfare.

The welfare reform bill has been an astounding success. Since 1996, cash welfare caseloads have fallen by more than 50 percent nationwide. The caseload in the former Aid to Families with Dependent Children program, AFDC, now TANF, has fallen from 4.3 million families in August 1996 to fewer than 2 million in March 2005.

States have overhauled their welfare programs to stress work, as required by the reform, and as a result the percentage of working welfare recipients has more than doubled since 1996. The poorest 20 percent of single mother families reported a 67 percent increase in their earnings between 1995 and 2002, after adjusting for inflation, and the next quintile of single mothers saw their average earnings grow by more than $4,000 between 1995 and 2002. The Urban Institute reported earlier this year that single mothers' real wages continued to increase during the 2000–2004 period despite the 2001 recession and terrorist attacks. It is better from every perspective for able bodied people to bring home a paycheck rather than a welfare check.

If we fail to pass welfare reauthorization and are forced to extend the 1996 law for the 12th time, millions of families will remain on the welfare rolls rather than engaged in productive and self-sufficient jobs. Because most States have met the targets of the 1996 law, they now have no incentive to extend the benefits of work to able bodied people still on the rolls. This reauthorization increases the effective welfare work rate target from zero percent to 50 percent in fiscal year 2007 through fiscal year 2010. It achieves this by rebasing the caseload reduction credit to provide credit only for future caseload declines.

The reauthorization also contains important provisions encouraging health marriages. Marriage is the cornerstone of the family. The decline of marriage since the 1960's has been accompanied by a rise in a number of serious social problems. Children born out-of-wedlock are more likely to experience poverty, abuse, and behavioral and emotional problems, to have lower academic achievement, and to use drugs more often. Single mother are much more likely to be victims of domestic violence. On the other hand, children whose parents choose marriage, and learn how to form and sustain healthy marriages, are less likely to be depressed, repeat a grade in school, and have fewer developmental problems. Not only are healthy marriages good for the family, they are good for society and our economy.

Supporting healthy marriage is essential to continuing the success of the original welfare reform. This reauthorization provides $500 million for healthy marriage promotion over the next 5 years. These dollars will be used to fund community-based programs to counsel young women about the benefits of healthy marriage and help them and their children's father build relationship, parenting and communications skills. This program will not just seek to increase marriage rates among target couples, but also will provide ongoing support to help at-risk couples maintain healthy marriages over time and reduce the likelihood of divorce.

Although the welfare reauthorization included in the Deficit Reduction Act does not include every provision I had hoped would be included in the reauthorization of the 1996 law, it has a number of important provisions. Welfare reauthorization has been a long time coming. We are rapidly approaching the end of the eleventh extension to the welfare bill on December 31, 2005, and will need to pass a twelfth extension before we leave for the year if we fail to pass the Deficit Reduction Act. This reauthorization contains many of the provisions I included in S. 105, the sonal Responsibility, Work, and Family Promotion Act of 2005. Most importantly it strengthens the work and marriage provisions, the two best anti-poverty programs. I hope my colleagues will support this measure which will provide many Americans with the resources they need to go from welfare dependency to self-sufficiency.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. GREGG. Mr. President, is the time running against both sides?

The PRESIDING OFFICER. If time is not yielded, it will be charged equally against both sides.

Mr. GREGG. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. Not at the moment.

Mr. GREGG. I make a point of order a quorum is not present.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Will the Chair inform us, before we go into the quorum call, how much time is left on both sides?

The PRESIDING OFFICER. The majority controls 46 minutes and the minority 49 minutes.

Mr. GREGG. Mr. President, I ask during the quorum call the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, I ask unanimous consent that we permit the Senator from West Virginia to speak as if in morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. At the end of that time, I further ask unanimous consent that the Senator from West Virginia offer a quorum call to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, time will be equally divided.

The Senator from West Virginia.

Mr. ROCKEFELLER. Thank you, Mr. President. I thank the distinguished Senator from North Dakota.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. ROCKEFELLER. Mr. President, I have asked to address the Senate on a national security matter of great concern to me. I call my colleagues' attention to the Senate's inexplicable failure to pass the fiscal year 2006 Intelligence authorization bill.

The bill was approved and reported by the Intelligence Committee on September 29, and it has been available for Senate action since November 16. This legislation is too important to be allowed to languish in legislative limbo. That is where it is. I am at a loss to understand why the Senate cannot complete action before we adjourn on a matter of national security that is this important.

As I understand the current parliamentary situation, the Intelligence authorization bill cannot be brought up or be passed under unanimous consent because of Republican objection, and the majority leader has decided that it does not merit the minimal amount of floor time needed to approve the bill, which would pass quickly.

I am informed that one or more Republican Senators object to the inclusion of amendments offered by Democratic Senators even though Chairman ROBERTS has accepted those amendments—and those amendments were agreed to by the full committee. If there is opposition to these provisions, I urge the majority leader to allow us to bring up the bill, debate, and vote on the amendments. Our side is willing to agree to very short time agreements to each of the three amendments.

The unwillingness to consider this bill is more puzzling because of the bipartisan effort that has gone into the development of this bill.

The Republican objection is preventing us from considering this critical national security legislation. The Intelligence Committee is, after all, an exceedingly important committee which is burdened with heavy responsibilities and which needs to have an authorizing piece of legislation underneath it. I hope, whatever the objection is, the majority leader and Senator ROBERTS can find a way to overcome it before we finish our business for this session.

The recent revelations related to surveillance and intelligence collection within the United States and the lack of effective congressional oversight of that program make passage of this legislation even more critical. One of the important themes of the bill is the improvement of oversight, both within the intelligence community and by Congress itself. That would include the Intelligence Committee, which needs to be having intelligence oversight hearings on a number of matters, which it is not now doing. This theme is embodied in several sections of the legislation—in the classified annex and specifically amendments offered specifically by Senators KENNEDY and KERRY.

In both the public text of our bill and the associated classified annex, the committee also has included language requiring the provision of information to the Intelligence Committees, specifically about something called detention and interrogation, which has a fair share of public attention. Additionally, the amendments offered by Senators KENNEDY and KERRY, each of which has been agreed to, as I have indicated, by Chairman ROBERTS and the full committee, also will require additional information Congress needs in order to oversee detention and interrogation programs, something the Intelligence Committee should be doing.

The Kerry amendment, my colleagues will recall, was added to the Defense authorization bill without objection, only to be dropped in conference.

Finally, an amendment offered by Senator KENNEDY and accepted by Chairman ROBERTS will require the Director of National Intelligence to provide the congressional Intelligence Committee all Presidential daily briefs, or portions of them, from the beginning of President Clinton's second term in January of 1997 until March 19, 2003, when our troops actually crossed into Iraq on that day, which refer to Iraq or otherwise address Iraq in any way, shape, or form. This information will fill an important gap in the Intelligence Committee's access to all intelligence available prior to the war in Iraq.

If we do not act on this legislation, it will be an unprecedented failure.

Since the Intelligence Committee was created, we have had an unblemished record of 27 years of completing work with this critical authorizing legislation. Never once have we failed. The annual Intelligence authorization bill has rightly been considered ''must pass'' legislation. That is exactly how we should view it.

I call upon the President to weigh in and break this impasse. The President has been critical of bipartisan concerns voiced about the PATRIOT Act conference report but has been curiously silent about the Republican roadblocks preventing passage of this critical piece of national security legislation.

If the Republican objection to the unanimous consent agreement cannot be overcome, I hope the majority leader will change his mind and allow the Senate to consider the bill under a short time agreement with votes on any issues in contention.

Mr. KENNEDY. Mr. President, many of us had hoped the Senate would take up the Intelligence authorization bill and allow us to offer an amendment to require the Director of National Intelligence to make the presidential daily briefs on Iraq available to the Intelligence Committees of the Senate and House, beginning with the last term of the Clinton administration and ending on the first day of the war in Iraq in 2003.

Unfortunately, an unidentified Republican has a hold on the bill to prevent Senate action unless the amendment is withdrawn along with two other amendments on secret detention facilities.

It is obvious that some of our Republican colleagues are bent on avoiding the truth about the war. To prevent debate on this all-important issue, the Republican majority is apparently willing to let the whole intelligence bill fail. I don't agree with that tactic. It is a blatant coverup.

President Bush has repeatedly claimed in recent weeks that Congress had access to the same intelligence he did in deciding to go to war in Iraq. As President Bush specifically stated in his Veterans Day address in Pennsylvania last month, ''. . . more than a hundred Democrats in the House and Senate—who had access to the same intelligence—voted to support removing Saddam Hussein from power.''

He repeated the claim on November 14, November 17, and again in his December 14 address to the Nation on the war in Iraq. In fact, he had made the same statement 98 times between March and October 2004, when his decision to go to war was under serious challenge in the presidential election that year. It is hardly surprising, therefore, that the President is now dusting off the same talking points today, when his decision to go to war is again under serious challenge.

Vice President CHENEY and National Security Advisor Hadley have made similar claims.

How they could all make such an obvious false claim is beyond belief. It is bad enough that they distorted the intelligence on the need for the war. Now they are blatantly distorting the facts about how much access Congress had to the intelligence.

Someone on the White House staff obviously needs to correct the President's talking points before he parrots them in another speech.

President Bush should have taken a close and comprehensive look at the intelligence, rather than building a case for war based on cherry-picked intelligence It is not enough to recognize now that the intelligence was not accurate. Whatever flaws existed in the intelligence were far outweighed by the devious way the administration manipulated the intelligence to support its preconceived desire for war and ignored the serious doubts that we now know undermined the intelligence.

The administration claims the intelligence wasn't deliberately distorted to justify the war. But how can they possibly pretend that Congress had access to that intelligence?

The White House has access to thousands of intelligence documents that Congress never sees. According to a December 14 report by the Congressional Research Service, ''The President, and a small number of presidentially-designated Cabinet-level officials, including the Vice President—in contrast to Members of Congress—have access to a far greater overall volume of intelligence and to more sensitive intelligence information, including information regarding intelligence sources and methods. They, unlike Members of Congress, also have the authority to more extensively task the intelligence community, and its extensive cadre of analysts for follow-up information.''

But, the principal document that Congress doesn't see is the presidential daily brief, the so-called PDB, which is prepared specifically for the President. It contains very important classified intelligence, and equally important information about the credibility of the intelligence. It is therefore an extremely valuable document.

President Bush receives the PDB every morning and is given an oral briefing on it by top intelligence officials. The practice began in the Johnson administration and is intended to give each President a detailed overall view of national security concerns, including terrorist threats against the United States.

As the administration well knows, Members of Congress certainly do not receive this daily briefing document. In fact, when Congress has sought copies of PDBs, the requests have been denied.

In the case of Iraq, as part of its investigation of the pre-war intelligence, the Senate Intelligence Committee specifically asked to review the PDBs relevant to the key issues of Iraq's weapons of mass destruction and Saddam Hussein's links to terrorists. The White House flatly denied the request.

The committee is now working on the second phase of its investigation, which is whether the administration distorted the intelligence on Iraq in order to strengthen the case for war.

So far, however, instead of providing the PDBs as part of an effort to find the truth, the White House continues to hide behind a veil of secrecy by refusing to disclose these briefs. It is difficult to believe that there is any sound national security reason for the administration to continue stonewalling Congress by denying access to these PDBs. The obvious explanation is coverup.

Members of the Silberman-Robb Commission appointed by the President to examine pre-war intelligence were given access to articles within PDBs on Iraq's weapons of mass destruction programs. Four of the 10 members of the 9–11 Commission were given PDB articles they requested. If these commissioners were given access, Congress should have been given access as well for its own investigation of the all-important questions about why we went to war and the way we went to war.

The administration's drumbeat for war in Iraq began at the end of the summer in 2002. It was carefully staged. As White House Chief of Staff Andrew Card said on September that year about the plan for war, ''From a marketing point of view, you don't introduce new products in August.''

Hardly by coincidence, the timing of the war also coincided with the final phase of the congressional election campaigns that year.

One further point deserves mention. Initially, in the run-up to the war in 2002, the Administration did not produce and give Congress a National Intelligence Estimate—a document summarizing the collective expert wisdom of the intelligence community—to support its claims about Iraq's involvement with al-Qaida and its development of nuclear, chemical, and biological weapons of mass destruction. When Democrats on the Senate Intelligence Committee insisted that an estimate be produced, it was finally provided on October 1, 2002, 2 days before the congressional resolution authorizing the war was brought before the Senate for debate. The estimate itself buried important dissenting views in the footnotes.

The Senate adopted the war resolution on October 11, the day after it passed the House of Representatives—and after 6 weeks of an aggressive White House campaign replete with images of mushroom clouds over America, in a brazen attempt to pressure Congress to give the President the blank check he wanted for the war, and to do so before adjourning for the November elections.

As we now know all too well, Saddam had no weapons of mass destruction and no ties to al-Qaida; 150,000 American troops are bogged down in a quagmire in Iraq in a war that America never should have fought, that has seriously undermined our respect in the world, and that has made the real war on terrorism far harder to win.

It is time for the administration to come clean and provide the PDBs to the Congress.

This is not a meaningless debate about documents. The issue is the quality and quantity of intelligence the President was looking at when he made the decision to go to war.

It's essential to get to the bottom of the rush to war—not only to get the truth, but also because there are other threats on the horizon as well—in Iran, North Korea and elsewhere. America must get it right next time, and access to the PDBs is an essential part of doing so.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate go into a quorum and that the time be equally divided between both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent the Senator from Massachusetts be recognized as in morning business for up to 15 minutes. I ask at the end of the Senator's remarks, a quorum call be put in, and the quorum call be charged equally.

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

The quorum call will be charged equally.

Mr. CONRAD. What would occur if there was an objection to the quorum call?

Mr. GREGG. Mr. President, I ask to amend the unanimous consent request that Senator STEVENS be allowed to proceed, as Senator KERRY, in morning business, and not charged to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, with the understanding then a quorum call be put in, and the quorum be charged equally.

The PRESIDING OFFICER. If a quorum call is entered, at that point it will be charged equally, without objection.

Mr. CONRAD. I thank the Chair. We will proceed with Senator KERRY for up to 15 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair, and I thank the managers.

CLANDESTINE PRISON FACILITIES

Mr. President, more than a month ago we learned of the possible existence of clandestine prison facilities operated around the world by the Central Intelligence Agency. This revelation caused serious problems with some of our most important allies in the war on terror, and it raised important questions about the Congress's ability and willingness to perform oversight.

Before the Thanksgiving break, the Senate came together in a bipartisan fashion to pass an amendment to the Defense Authorization Act which would have required a report on alleged clandestine detention facilities operated by our own Government. I was glad to be able to work with Senator ROBERTS and Senator ROCKEFELLER to craft language that would make it possible for Congress to do this job. It was a successful effort. It was a remarkably bipartisan effort.

On November 10, 2005, the Senate voted 82 to 9 for the amendment we worked out. That amendment required the Director of National Intelligence to provide a classified report to the members of the Intelligence Committees of both the House and the Senate which would set forth basic information, including the location and size of such facilities, the number of detainees held, and the explanation of what we intend to do with those detainees. For example, will they face military tribunals? What will be the consequences and manner of their detention?

Finally, consistent with the McCain antitorture amendment, my amendment would require a description of the interrogation procedures used on detainees in such facilities and a determination of whether those procedures were in compliance with America's obligations under the Geneva Conventions and the Convention Against Torture. The House endorsed that amendment with a bipartisan vote just last week.

Now, not surprisingly, given that this was an intelligence provision on a DOD bill, the amendment to the Defense authorization bill fell out in the conference—not on the merits, on procedure. We anticipated that, and we

worked with the Intelligence Committee in order to attach it to the intelligence authorization bill.

Here we are, and the intelligence authorization bill is stalled in the Senate. This important amendment is in limbo because an extreme minority objects to an amendment with strong bipartisan support from Members in both Chambers of the Congress. More than 80 Senators voted for this amendment about a month ago. The chairman of the Senate Select Committee on Intelligence supports it. The vice chairman supports it. But the bill and this amendment will not move.

All here believe in what we are trying to do to win the war on terror. Everyone here accepts this is a war we need to win. We do not underestimate, any of us, the depravity and viciousness of our enemies or of what is at stake. We have absolute confidence in the desire and the determination of the American people to join in doing anything necessary in order to win. But we also believe the informed consent of the American public is crucial to that success.

As I said more than a month ago when we first debated this issue, in an issue as sensitive as this, one which challenges the basic value systems by which we operate, the informed consent that allows you to do what you need to do will only come through the Congress itself, through our active understanding and involvement in these issues. That requires information. It requires cooperation from the administration so we in Congress can provide effective and informed oversight.

I find it very difficult to understand why anyone would hold up legislation as important as the Intelligence Authorization Act, to object to an amendment that has such strong bipartisan support in the Senate, to delay an amendment that does not pass any judgment on the merits or the value of those facilities but simply informs the Senate about where, what, and how those facilities may or may not be operated.

To frustrate an effort that seeks only to help Congress have information with which to do its job seems to be an extreme position, indeed. In this case, our job is oversight. Our job is to make sure we are not violating laws. Our job is to make sure we are living up to our standards and our values.

I thank Senator ROBERTS, and I thank Senator ROCKEFELLER for their hard work and their diligence on this issue. I hope we can find a resolution and pass the Intelligence Authorization Act this week. This is an important bill. At a time when a lot of the debate in the Senate is involved with matters of urgency for troops and urgency for national security, and where the President is holding press conferences and attacking individual Senators for their interference in the war on terror, and so on and so forth, it seems to me to not move forward on the intelligence authorization bill is to, in a concrete way, be standing in the way of doing the very things the President is talking about. I hope we can find a way to move that.

Under the rule, I see the Senator from Kansas wants to speak. But if I recall, there is an understanding that Senator STEVENS was going to speak.

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I don't yield the floor yet. I am happy to yield for a question.

Mr. BROWNBACK. If I could ask the Senator from Massachusetts a question, as I understand, under the previous agreement, Senator STEVENS was to go next and is not ready. I ask if I could get the floor to ask unanimous consent to proceed ahead of Senator STEVENS.

Mr. KERRY. Reserving the right to object, I will not object, providing that the same agreement stands with respect to the quorum call that the Senator from North Dakota put into place with respect to my agreement and the agreement for Senator STEVENS.

Mr. GREGG. Mr. President, all we are trying to do is get people to have time to speak. Senator BROWNBACK was to go next, and Senator STEVENS, and when we go into a quorum call the time comes off the bill in an equal way, equal time. That is my understanding.

Mr. CONRAD. Reserving the right to object, could I be advised of what the unanimous consent request was?

Mr. GREGG. That Senator BROWNBACK be allowed to speak.

Mr. BROWNBACK. I was requesting unanimous consent to be able to speak at this point in time on the discussion. As I understood, it was locked in for Senator STEVENS to speak at this point. I was asking for that.

Mr. CONRAD. How long will the Senator seek to speak?

Mr. BROWNBACK. I anticipate under 15 minutes.

Mr. CONRAD. And Senator STEVENS would like to go after that.

Mr. STEVENS. I thought I had time, but I am happy to yield to anyone.

Mr. CONRAD. We are happy to have you go, Senator. We are just trying to make certain we know the times.

Could we modify the unanimous consent request in this respect: the Senator from Kansas be recognized for up to 15 minutes off the bill?

Mr. BROWNBACK. On the bill.

Mr. CONRAD. On the bill on the majority side.

Mr. GREGG. The Senator is going to speak as if in morning business, I believe, but on the bill.

Mr. CONRAD. You would like him to speak in morning business rather than—all right. So the Senator will speak as in morning business for up to 15 minutes, and then the Senator from Alaska, Mr. STEVENS, will be recognized for up to 15 minutes, again as in morning business, and then at that time a quorum call will be put in that is equally charged.

The PRESIDING OFFICER. The Senator cannot enter a quorum call at this time by unanimous consent. If a quorum call is later entered, it will be charged equally.

Mr. CONRAD. Mr. President, I would like to further modify my request because I understand there are other Senators who also would like to speak as in morning business.

I ask Senator DURBIN, how much time would you like?

Mr. DURBIN. Fifteen minutes.

Mr. CONRAD. Fifteen minutes. I ask that Senator DURBIN be recognized for 15 minutes as in morning business. And for Senator BOXER, how much time? She would like up to 30 minutes as in morning business. Could we get those agreed to as well, with the additional understanding that we go into a quorum call at that point and that it be equally charged.

Mr. GREGG. Mr. President, reserving the right to object, I would presume they would be speaking after Senator STEVENS.

Mr. CONRAD. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. I thank very much the Chair. I thank also the chairman of the committee for continuing to work in this cooperative way to use the time efficiently. And we thank all of our colleagues for their patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Thank you very much, Mr. President. I thank my colleagues for allowing me this opportunity to speak as if in morning business on the bill. I think it is important in morning business to be able to talk about the bill. This is an important bill, and it is a key piece of legislation. I think it is an important thing for us to move forward.

On the basic facts on the federal budget, which have been covered a lot, we are hearing a lot about this across the country. We are spending too much money, and we are driving the deficit up too big. It is just the basic facts.

We have a $319 billion budget deficit for fiscal year 2005. It is time—past time—that we start addressing this issue. I came to the House of Representatives with the class of 1994. The lead issue we were talking about at that point in time was balancing the budget. We had not had a balanced budget since Dwight Eisenhower was President of the United States in the 1950s. It was past time. We were in trillions of dollars of debt. Now we are at over $8 trillion of debt.

So we pushed and we pushed and we pushed, and we, in that class, with many others working with us, got together to balance the budget. We did it with a simple formula. You have to get the economy growing rapidly. It has to be moving forward, churning out for the economy and churning out a number of tax receipts. Then you have to restrain your growth of Federal spending so your growth in the country and

its economy exceeds the growth rate of your Federal spending. That is how we got to a balanced budget for 3 years, for the first time since Eisenhower. It was a big push by that class, by many people at that point in time, to get us to a balanced budget. And we did it.

And while the President—at that time President Clinton—may have taken a lot of credit for it, the credit belongs to the Congress. The Congress is the one that spends the money, the one that authorizes the spending of money. We are the ones who restrained that growth of Federal spending, where it was slower than the overall growth rate of the economy. That got us to a balance. We have to do the same now.

The economy is growing. Last quarter, it grew at about a 4.4-percent annual growth rate. It was good, solid growth taking place. Now we have to restrain the growth of Federal spending so we can get to a balance. This effort, this reconciliation package, starts us down that road. We need to get to balance, I think, in 5 years. We need to have a balance in the budget in a 5-year time frame. This starts with us. It certainly does not get us there, but it does start us in the process of restraining that growth of Federal spending. It is absolutely essential that we do this.

We have to reach across the board at all places of Federal spending to be able to get that sort of reduction to take place.

I want to put forward, too, in front of my colleagues, a chart. I don't know if people follow these charts very well. The Government actually scores the effectiveness of Government spending. We look to see whether a program is meeting its targeted goals. These are scored by the Office of Management and Budget. It is a set review. It is an objective set of standards. Then the Department, the agency, the entity, or the particular program is actually given a letter grade score on its effectiveness for doing what it was targeted to do.

I want to show my colleagues some of these program reviews that have taken place. Under the heading ''Department/Agency,'' Transportation gets the highest score for effectiveness in hitting the target of the program. I don't think anyone wants wasteful spending. They want the spending to be something that is going to real programs and helping real people. The Department of Transportation had 10 programs reviewed, had a median score of 78.1, and got a C+ grade average. Now, if my kids came home from school with a C+, I would say: Well, OK, you tried hard, but we need to get that up. We need to work harder to have a higher level of effectiveness score for you.

The problem is, the Department of Transportation had the high score. That was the high score in the class. It was at a C+ level. You can look down here: The State Department had a C; a C- for Energy, Treasury; D+ for NASA, Commerce, Defense, USAID; D for the Small Business Administration. Then you go on down to a number of programs that actually received a failing score for effectiveness in hitting this objective set target.

The reason I point this out is to say that we have to do more to review our agencies to make sure hard-earned taxpayer dollars are being well spent.

One of the things we put forward that I think is needed is a systems change on how we spend money. We are making a cut here, a reduction in the growth rate, that is taking place overall. We are making that cut here. But what we need to do is go through the full set of Federal programs and ask: Which ones are effective and which ones are not? Which ones maybe have been effective in the past, but the programs have actually accomplished their mission? Which ones duplicate other programs that already exist in the Federal Government? Frankly, there are many. But we have not found ways or systems to change this, so we keep on spending. The spending continues to grow.

So we put forward a bill called the Commission on the Accountability and Review of Federal Agencies, CARFA, on the process of a system-wide review of effectiveness and eliminating those programs that are not effective.

We have 25 Senate cosponsors. The program roughly works similar to the BRAC commission, the Base Realignment and Closure Commission. It works along the lines of saying: OK, let's look at all of Government, every bit of Government. If a program is duplicative, if a program has accomplished its purpose, if a program is scoring very low on its effectiveness, then it is put into a group of programs by the Commission. There could be 50—it might be 500—submitted to the President. He or she then either approves, disapproves, and sends it to the Congress. Then the Congress has to vote on whether to keep the whole package of programs or to eliminate the whole package of programs. It is a systems review, a process of pulling out programs, which we have not been able to find a way to do.

This model is along what we do with base closings because we, prior to the base-closing commission process, did not have an effective base closing process and were not able to close a military base. Any time one would get challenged, Senators, Congressmen, Congresswomen in that particular State would defend that base, no matter how irrelevant it may have grown to the current mission of the military. They were defending it for their home team and home turf, and we could not eliminate a single program.

Through BRAC we closed or realigned nearly 100 military bases. The rest of Government needs a ''BRAC.'' We need it desperately. I think we need it not only to control the spending but also to be able to put spending in higher priority areas: to reduce the deficit and to regain the credibility of the American people, showing that we are actually monitoring and working to make sure Federal spending is in priority areas and is not wasted.

It drives people crazy that money is wasted in Federal programs. It drives me crazy. People tell me time and again: I am willing to spend the money, but don't waste it. Don't shoot it somewhere.

That irritates people and it irritates me. Yet, we have not found an effective way to get at Government spending. Here is the process. It has been approved by Congress, used by Congress, and it has been effective in eliminating the marginal military bases. It needs to be employed for the rest of Government now.

I put this forward here because we are talking now about trying to get Federal spending under control, to get back to a balanced budget, which we need to do. Let's change the system. At the end of the process here or next year, let's start changing the system so we can effectively get at this. We have to do this. It is inappropriate for us to leave these kinds of deficits for our children. It is wrong. I campaigned on this when I first came into the Congress, and I have consistently said we need to balance the budget. It is wrong to leave a bigger mortgage on the farm for your children than the one you had. That is philosophically wrong. That is putting your burden on future generations when you should have taken care of it yourself. We can do better, but the system has to change in the process.

I am pleased we are moving forward on this particular bill. I strongly support it. I think it is important for the country, and I think it is an important statement. Having said that, I think this is a step in a process that we have got to use to get this spending under control. We can do better and we can have more effective Federal spending, and that will build support among people, not diminish it. When people see us actually prioritizing spending and eliminating wasteful spending taking place, it will build more confidence in the governmental system and the way things should be and the way things need to move on forward. I think that is important.

On a separate issue that will come up shortly, I think it is very important for us to get our energy security needs addressed. We are not in an energy-secure position now. We are very dependent upon a number of places overseas that are volatile. We are dependent, as we have seen ourselves in places in our country where severe weather patterns could be harmful, such as the oil production shutdown during Katrina. A number of us are working on a bipartisan bill to get more and more of our fleet of cars off of gasoline, by using hybrids and plug-in technology to move our car fleet into electric. A fact a lot of people don't know about is that half of Americans actually drive about 20 miles a day. If we can get those 20 miles from electric instead of gasoline, our demand and dependency on foreign oil plummets.

This is a bipartisan bill. Senator LIEBERMAN and I are leading on this. I hope we can move forward on this next year. In the meantime, we have to get more oil domestically, and the place for us to do that is ANWR. We can do it effectively and in an environmentally sound way. It is important that we do it for our own people and our own security. We cannot afford to continue this energy vulnerability that we have. I think our conscience and soul were shaken when we saw the prices get to where they did, at $3 a gallon and above—saying this situation is not sustainable. We need to address this. I know it is a difficult topic for a number of people, but we need to do this for our own energy security and for the security of this Nation. It is an important thing for us to do. That is why I strongly support the ANWR provision. Doing this in an environmentally sound fashion, yet reducing our dependency level and increasing our energy security in a minor way, but doing it and moving forward with that. I think it is important to do that.

We are here late in the year and I think everybody would much rather be at home with family or doing things in other places than here. But these are important pieces of legislation. Balancing the budget is very important for our future and our children, and a good Christmas present. Energy security is important for our Nation and for our children, an important Christmas present we can give them as well—to build a more secure future for this Nation.

I thank the Chair. With that, I yield the remainder of my time and yield the floor. I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I have asked for this time to share with the Senate the letters of support I have received as chairman of the Defense Subcommittee in support of the Department of Defense appropriations conference report. These groups include public safety groups, including: Association of Public Safety Communications Officials International, called APCO; Congressional Fire Services Institute; International Association of Chiefs of Police; International Association of Fire Chiefs; Major Cities Chiefs Association; Major Counties Sheriffs' Association; National League of Cities; and National Association of Counties.

In addition to that list, there are letters from labor: Veterans of Foreign War; Naval Reserve Association; American Legion; American Petroleum Institute; Competitive Enterprise Institute; Ducks Unlimited; National Association of Manufacturers; Campaign for Home Energy Assistance; National Defense Council; Edison Electric Institute; Reserve Officers Association; and Chamber of Commerce.

Also in support are the Air Transport Association and the American Gas Association.

Having read that list, I want to read from some of those letters, which I consider to be very significant. Before getting to that, however, I have just received an announcement from the chairman of the House Appropriations Committee that if this conference report is not approved, the House believes that a continuing resolution should fund the Government. I do believe we ought to listen to the voices from the House concerning what is going to happen if this conference report is not approved.

The Association of Public Safety Communications Officials International, which includes all of these people I have talked about now, in terms of all of the associations with regard to public safety, has said they support this measure, that it can provide $1 billion for the Department of Homeland Security. There is $1 billion in State and local governments preparedness grants.

I have the letter from American Legion which specifically points out that they have reviewed the conference report and support its enactment. It states specifically:

> The American Legion continues to support the further development of domestic sources of energy to include increasing petroleum exploration and production in an environmentally sensible manner so as to reduce America's reliance on foreign petroleum.

That is a very positive statement concerning the ANWR provisions.

Veterans of Foreign War have written to me saying they believe this conference report should be approved as quickly as possible. I will ask to have their letter printed in the RECORD.

The Competitive Enterprise Institute says that, yes, there should be a vote now on this conference report. They specifically applaud the provision that will provide for initiating exploration and development of the Arctic plain and states that environmental groups have spread misinformation about ANWR for years. I will ask for that to be printed in the RECORD. It points out the legislation passed by the House will limit oil and gas drilling only to involve 2,000 acres of the 1.5 million acres of the Coastal Plain and states there is strong support for this provision.

I have a memo from Unions Responsible for ANWR Development. It specifically urges support of this legislation because ANWR will create thousands of jobs to the members of America's union organizations. It is signed by the International Union of Operating Engineers, AFL–CIO; the Seafarers International Union, AFL–CIO; the International Brotherhood of Teamsters, Change to Win Federation; the United Association of Plumbers & Pipefitters, AFL–CIO; Laborers' International Union of North America, AFL–CIO; United Brotherhood of Carpenters and Joiners of America, Change to Win Federation; and the Building & Construction Trades Department, AFL–CIO.

It specifically includes a letter from John Engler, who is the head of the Nation's largest industrial trade association representing large and small manufacturers in every industrial sector. It specifically says:

> We simply cannot afford to pass up this opportunity. The NAM will consider as possible Key Manufacturing Votes in the 109th Congress NAM voting record all votes—including points of order, cloture and/or other procedure votes—

on this bill.

The Naval Reserve Association has written to me indicating that they, too, would like to have this spending bill to provide assistance for Guard and Reserve members passed as soon as possible.

The American Legion, as I said, has indicated their support for this bill.

Ducks Unlimited has sent out a release that indicates that $1 billion for conservation funding will be dedicated to voluntary, private, landowner-friendly programs administered by the U.S. Fish and Wildlife Service, and they ask for the immediate approval of this bill. They sent a similar release to the House of Representatives expressing their overwhelming support for this bill. I think this is one of the great organizations of the United States with over a million supporters that ought to be listened to.

The Edison Electronic Institute also supports this bill. They state:

> [This] conference report that was approved in the House earlier this week provides a total of $2.5 billion in base funding and $1.7 billion in emergency assistance funding for a total of $4.2 billion for the LIHEAP . . . double the highest funding level ever achieved—

for this program, and it is due to the ever-increasing cost of energy. This assistance is necessary. Particularly, this assistance is necessary for the States and local governments affected by Hurricanes Katrina, Rita, and Wilma.

There is also a letter from the Campaign for Home Energy Assistance. This is really a copy of their release. It says:

> The Defense appropriations bill appears to be our best and possibly last opportunity for an increase for this vital program.

They have issued a call to action.

> The Campaign for Home Energy Assistance urges you to call your Senators today and ask them to vote for this Defense appropriations bill. . . .

The National Defense Council likewise has written to us urging that after decades of debate concerning energy resource issues, this bill be passed. They have a fairly long statement on their position. Unquestionably, this is very important support for the bill from the National Defense Council Foundation.

The Reserve Officers Association of America issued a call to action asking for support for this bill, for passage of this conference report. I urge Members to consider their support.

I have a letter from the American Gas Association written to us, sent out as a release urging support of this legislation to finally approve the provisions that have been passed not only by the House but by the Senate in this calendar year.

There is almost an unlimited number of letters that have been coming into our office urging support. As I indicated in my opening comments, the Air Transport Association sent a letter also. They sent a copy of that letter to me urging that the enactment of this bill be swift. I think it is very interesting that the Air Transport Association, representing the U.S. airline industry which has taken such a hard hit on the increase in gas prices, should show overwhelming support for this bill.

I have sent every Member a letter outlining what is coming with regard to the rule XXVIII point of order. I wish to put that letter in the RECORD so there is no mistake about what I have told the Members concerning our position on this potential rule XXVIII point of order.

My chief of staff points out to me the items in Congressman JERRY LEWIS's release. As I understand, it is not proper under the rules to announce the vote in the House; therefore, I will not disclose it. I am sure it is proper to say the House overwhelmingly passed this bill. It urges a vote now on the conference report and wants this conference report to be passed. It does not want to be forced to rely on a continuing resolution to support the Department of Defense.

Mr. President, I have tried to outline some of these items. I will be bringing more before the Senate as they are received.

I again repeat my request that the letters I read be printed in the RECORD.

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

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
December 20, 2005.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: On behalf of the men and women of the Veterans of Foreign Wars of the U.S., I would like to offer our strong support for the Conference Agreement for the Defense Appropriations Bill. The bill honors this Nation's commitment to taking care of those in uniform, and greatly improves the quality of life for our Nation's fighting forces. We urge passage of this bill, and the pay and benefits it bestows on our service members.

The bill includes a 3.1% across-the-board pay increase and helps to eliminate the out-of-pocket housing expense for military personnel. It also provides increased funding for body armor, personal protection equipment, as well as increased armor for vehicles—all which greatly improve the personal safety of those fighting in this Nation's vital yet dangerous war on terrorism.

This important legislation lets our brave men and women know that this Nation will be there for them, giving them every advantage they need to win the war and suffer as few casualties as possible. These brave men and women have our strong, undivided and unwavering support. It is for this reason that we thank you for your efforts in shepherding the legislation to this point, and we urge the entire Senate to quickly approve this bill for the good of all who serve.

Sincerely,

ROBERT E. WALLACE,
Executive Director.

COMPETITIVE ENTERPRISE INSTITUTE

VOTE YES ON ANWR NOW

As gas prices remain above two dollars a gallon and most Americans are looking at sky-high heating bills this winter, the Competitive Enterprise Institute urges the U.S. Senate to pass legislation that would open a small portion of the Arctic National Wildlife Refuge (ANWR) in Alaska to oil and gas exploration.

''The ANWR provision in the defense appropriations bill is the only legislation currently before the Senate that would address America's long-term energy needs. Authorization for opening ANWR has already passed both the House and the Senate this year,'' said Myron Ebell, Director of Global Warming & International Environmental Policy at CEI.

''Senate Majority Leader Frist should keep the Senate in session as long as it takes to gain cloture on the defense appropriations bill and enact the ANWR provision,'' Ebell continued. ''If Senator Frist is unwilling to disrupt Senators'' holiday plans, then President Bush should use his constitutional authority to call them back into session.''

''The American people are looking for long-term policies that will increase our energy supplies and make energy more affordable,'' said Ebell. ''The Senate should stop listening to an obstructionist minority who think that energy prices are not high enough and vote to open ANWR now.''

''Environmental groups have spread misinformation about ANWR for years. Their latest soundbite is to claim that this is a payoff to big oil companies. That is the exact opposite of the truth. Any oil produced will be subject to a 12½% royalty paid to the federal Treasury and the State of Alaska,'' Ebell continued. ''Compare those royalty payments to the vast array of federal subsidies paid by tax dollars for alternative energy sources favored by the environmental movement.''

The legislation already passed by the House will limit oil and gas drilling to disturbing 2000 acres in the 1.5 million acre Coastal Plain, which is not a Wilderness Area. No drilling will be permitted in the vast areas of the 19 million acre refuge that have been designated as Wilderness Areas. According to estimates by the U.S. Geological Survey, the amount of economically recoverable oil in ANWR will increase America's proven reserves by approximately fifty percent, which is equivalent to thirty years of current imports from Saudi Arabia, one of the nation's biggest foreign suppliers.

There is strong support among Alaskans for opening ANWR. Polls consistently show three quarters of Alaskans in support. The Inuit village of Kaktovik, in Alaska's Coastal Plain, also officially supports oil and gas exploration. ''Alaskans put a high value on protecting the natural splendors of their State, and they support opening the Coastal Plain because they know that the advanced technology now being used to produce oil will not harm the caribou herds or damage the environment. Oil has been pumped at Prudhoe Bay west of ANWR for three decades using 1970s technology and the caribou herd there has increased from 6,000 to 32,000,'' said CEI Adjunct Scholar R.J. Smith.

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS—INTERNATIONAL, CONGRESSIONAL FIRE SERVICES INSTITUTE, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, MAJOR CITIES CHIEFS ASSOCIATION, MAJOR COUNTY SHERIFFS' ASSOCIATION, NATIONAL SHERIFFS' ASSOCIATION, NATIONAL LEAGUE OF CITIES, NATIONAL ASSOCIATION OF COUNTIES,
December 19, 2005.

Re Support of Funding for Public Safety in Defense Appropriation Conference Report

Hon. TED STEVENS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

We applaud you for including a measure in the Department of Defense Appropriations Act of 2006 to fund state and local government efforts to prepare for natural disaster and/or terrorist attacks. The measure provides $1 billion to the Department of Homeland Security's Office for Domestic Preparedness to make grants to state and local governments for interoperable communications equipment. The measure also provides an additional $1 billion for state and local government preparedness grants that can be used for training, evacuation plans, and the acquisition of equipment and medical supplies.

State and local governments desperately need additional funding to improve their radio communications equipment and to plan, train and prepare for natural disasters and terrorist attacks. Public safety fully supports these measures.

MEMO: UNIONS SUPPORTING RESPONSIBLE ANWR DEVELOPMENT

DECEMBER 17, 2005.

Within the next few days, you will be asked to vote on legislation making appropriations for the Department of Defense and other vital government programs. One of these important policies is the authority to develop vast oil resources in the Arctic National Wildlife Refuge, popularly known as ANWR. This is a jobs issue for our unions and our members.

On December 7, 2005 the Congressional Budget Office wrote Senator TED STEVENS and responded to the Senator's inquiry that ANWR bonus bid receipts ''might total at least $10 billion—roughly double CBO's official estimate.'' That means it also increases the Federal revenue to a total of $5 billion, as the state of Alaska and the Federal Government will share bonus bid receipts on a 50/50 basis. In the Defense appropriations legislation, the conferees have dedicated a significant portion of those additional revenues for funding future Federal disaster relief programs. As we understand it, these sums will also be used as collateral for immediate relief for damage caused in the Katrina, Rita and Wilma disaster areas.

We also see all of this as an affirmation of the progressive jobs policies generated by ANWR production.

Again, we urge you to support this legislation, because ANWR will create thousands of jobs for our members for many years. The bill assures ANWR work is protected by a project labor agreement. You will hear strident calls from opponents who claim opening

ANWR will degrade the environment. We have heard their arguments, discussed them and made reasonable adjustments. They remain unyielding. Their baseless slogans can no longer be used as impediments to creating jobs or frustrating reasonable energy development.

When the question is called on the Defense Appropriations bill, it will be framed as one of process—to invoke cloture on the bill.

For us, process is policy.

The choice is clear. We can either continue to be hamstrung by the exaggerations of obstructionists, or be guided by policies that create jobs and assure a secure energy future.

Please support the Conference Report and oppose procedural devices that would delay this important legislation.

Thank you for your consideration.

International Union of Operating Engineers, AFL–CIO.

Seafarers International Union, AFL–CIO.

International Brotherhood of Teamsters, Change to Win Federation.

United Association of Plumbers & Pipefitters, AFL–CIO.

Laborers' International Union of North America, AFL–CIO.

United Brotherhood of Carpenters and Joiners of America, Change to Win Federation.

Building & Construction Trades Department, AFL–CIO.

KEEP ANWR PROVISIONS IN DEFENSE SPENDING BILL

DECEMBER 19, 2005.

DEAR SENATOR: On behalf of the National Association of Manufacturers (NAM), I urge you to support final passage of the conference report to H.R. 2963, the Defense appropriations bill, and oppose all efforts to remove provisions related to oil and natural gas development in ANWR. Our Nation's economic and national security depend, in part, on adequate, affordable, and reliable energy supplies. U.S. manufacturing—which uses one-third of our nation's energy—is facing the most severe energy price spikes in history due in large part to government policy decisions and a fundamental imbalance in our domestic energy supply. This is serious enough to have the potential to cause an economic downturn and the loss of thousands of high-paying manufacturing jobs.

Opening such a small portion of ANWR would have a powerful effect on our economy, creating thousands of new high-paying jobs, preserving thousands of U.S. manufacturing jobs and reducing our dependence on foreign energy sources. Estimates from both the U.S. Geological Survey and the U.S. Energy Information Administration state that ANWR development would generate 70 trillion cubic feet (TCF) of natural gas and roughly 10 billion barrels of oil or 1 million barrels of oil per day for 30 years.

We simply cannot afford to pass up this opportunity. The NAM will consider as possible Key Manufacturing Votes in the 109th Congress NAM voting record all votes including points of order, cloture and/or other procedural votes—that attempt to weaken or delete provisions related to ANWR in the conference report to H.R. 2863.

Sincerely,

JOHN ENGLER,
President.

NAVAL RESERVE ASSOCIATION
Alexandria, VA, December 20, 2005.

Hon. TED STEVENS,
Defense Appropriations Committee, Washington, DC.
Hon. DANIEL INOUYE,
Defense Appropriations Committee, Washington, DC.

DEAR CHAIRMAN STEVENS AND SENATOR INOUYE: I am writing you on behalf of the members of the Naval Reserve Association, members of the Navy Reserve, their families, and survivors. I'm writing to express our strongest support for passage of the FY 2006 Defense Appropriations Bill as soon as possible.

Members of the Guard and Reserve comprise over 45 percent of all U.S. personnel in Afghanistan and Iraq. Since September 11, 2001, our nation has deployed over 500,000 Guard and Reserve members for operational missions all over the world. Additionally, during any month, approximately 25 percent of the Navy Reserve force is doing some type of operational support to the fleet for operational mission requirements. Our nation is using our Guard and Reserve Force at increasing rates.

Unfortunately many of the Navy Reserve members have endured a shrinking Naval Reserve Force over the last few years. Nevertheless, our country owes it to those that serve to provide them with the operational, training funds, and benefits required to maintain them fully ready for our national needs, including Guard and Reserve Equipment. We urge you to fund Navy Reserve equipment in the same manner that you fund other Reserve Components. This bill contains critical funding for important issues for the Global War on Terror, and our Naval Reserve members are fully engaged in providing the support our nation needs at this time.

Today's guardsmen and reservists are professionals. They are the best that we have had and they are answering the call on a routine basis not envisioned during the Cold War. We need to ensure that political rhetoric does not get in their way in fighting the war on terrorism and providing homeland security. Passing the FY 2006 Defense Spending Bill will provide Guard and Reserve members an important tool to bolster recruitment, retention, family morale and overall readiness. We urge you to pass this bill as soon as possible. I look forward to working together in support of a strong and viable Navy Reserve, Naval Reserve equipment, and all reserve components. Thank you for all your hard work on their behalf.

Respectfully,

CASEY W. COANE,
RADM USN (Ret), *Executive Director.*

THE AMERICAN LEGION,
Washington DC, December 20, 2005.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, 119 Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you and your colleagues debate final passage of the Department of Defense (DoD) appropriations bill for FY 2006, The American Legion continues its steadfast commitment to assure a strong national defense as well as the fulfillment of promises made to America's veterans on behalf of a grateful Nation.

The American Legion has reviewed the Conference Report and supports its enactment. As a nation at war, it is imperative that the men and women of the armed forces know defense spending is indeed a national priority. This funding measure provides $453.3 billion to meet the fundamental needs of DoD its military components and several domestic needs outside the scope of national defense, such as disaster recovery efforts and avian flu protection.

The American Legion continues to support the further development of domestic sources of energy to include increasing petroleum exploration and production in an environmentally sensible manner so as to reduce America's reliance on foreign petroleum. The nation's continued reliance on foreign sources of energy places its national security and economic well-being at risk during times of crisis. The War on Terrorism and the continuing conflict in the volatile Middle East has brought into sharp focus the nation's heavy reliance on imported foreign oil that necessitates a re-evaluation of current and long-range energy policies.

Thank you for your continued leadership and support of America' s service members, veterans, and their families.

Sincerely,

STEVE ROBERTSON, DIRECTOR,
National Legislative Commission.

DUCKS UNLIMITED,
Memphis, TN.

$1 BILLION IN CONSERVATION FUNDING APPROVED BY U.S. HOUSE OF REPRESENTATIVES FUNDING BILL AWAITS A VOTE IN THE U.S. SENATE

WASHINGTON, DC, DEC. 19, 2005.—The U.S. House of Representatives overwhelmingly approved $1 billion for conservation programs in the Defense Appropriations bill today. A number of conservation provisions were added to the bill. Ducks Unlimited (DU) worked with Congressional leaders to include funding for several critical programs that benefit waterfowl, other wildlife and people. A vote on the bill by the U.S. Senate is expected soon.

The $1 billion in conservation funding would be dedicated to voluntary, private landowner friendly programs administered by the U.S. Fish and Wildlife Service and the U.S. Department of Agriculture (USDA). The increased funding for these programs is important for America's farmers, ranchers, sportsmen and for waterfowl, wetlands and the environment.

''Congress is right to recognize the value and importance of results-oriented and cost effective conservation programs,'' said DU's Director of Governmental Affairs Scott Sutherland. ''This funding will help farmers and other private landowners conserve wildlife habitat and improve water quality and quantity while providing aesthetic, recreational and other economic benefits to their local communities.''

Key agricultural conservation programs such as the Conservation Reserve Program (CRP) and Wetlands Reserve Program (WRP) will share $900 million. CRP is credited with increasing waterfowl populations by 46 percent. It plays a critical role in landscape level conservation of soil, water and wildlife on marginal farmland while offering producers a significant and stable source of income.

WRP is the most successful USDA program for wetlands conservation, providing a way for farmers and ranchers to transition marginally productive or flood-prone lands into more appropriate uses. WRP lands provide wintering habitat in the Lower Mississippi Alluvial Valley for more than 5 million ducks and geese annually.

The Grassland Reserve Program, Environmental Quality Incentives Program and Conservation Security Program will also receive a share of the $900 million.

The bill includes $50 million for the North American Wetlands Conservation Act (NAWCA). NAWCA fosters public-private partnerships to restore, conserve and protect wetlands associated habitats for waterfowl and other migratory birds. Another $50 million would go toward wetland and grassland protection programs administered by the U.S. Fish and Wildlife Service.

Among many other provisions included in the legislation are separate requirements that would provide heating assistance to low income Americans and allow exploratory oil drilling in a portion of the Arctic National Wildlife Refuge.

With more than a million supporters, Ducks Unlimited is the world's largest and most effective wetland and waterfowl conservation organization. The United States alone has lost more than half of its original wetlands—nature's most productive ecosystem—and continues to lose more than 100,000 wetland acres each year.

EDISON ELECTRIC INSTITUTE,
Washington, DC, December 20, 2005.

TO MEMBERS OF THE UNITED STATES SENATE: On behalf of the Edison Electric Institute (EEI), the association of United States sbareholder-owned electric companies, international affiliates, and industry associates worldwide, I urge you to support the FY06 Defense Appropriations bill, which includes several provisions that are of critical importance to our members and their customers.

Our U.S. members serve 97 percent of the ultimate customers in the shareholder owned segment of the industry, and 71 percent of all electric utility ultimate customers in the nation. They generate almost 60 percent of the electricity produced by U.S. electric generators. Our member companies are working closely with the states to help those who need assistance with their energy bills this winter; however, even with unprecedented private/public partnerships around the country, the federally funded LIHEAP Program has been inundated with requests for assistance. State energy assistance directors are reporting that their funds for this vital but under-funded program are likely to run out in February. At a time when applications for assistance have increased up to 40 percent in many states, thousands of elderly, fixed income and working-poor families with small children will be turned away, receiving no assistance at all.

The FY06 Defense Appropriations Conference report that was approved in the House earlier this week provides a total of $2.5 billion in base funding, and $ 1.7 billion in emergency assistance funding for a total $4.2 billion for LIHEAP in FY06—double the highest funding level ever achieved. Importantly, base funding for the program is above the $1.975 billion trigger for the first time since 1986 (at $2.5 billion), which provides funding for both heating and cooling assistance in the months ahead. Furthermore, the ANWR provision provides a mechanism for LIHEAP funding in the future.

In addition, the FY06 Defense Appropriations bill creates a Gulf Coast Recovery Fund which dedicates 80% of initial bonus bids (lease sales) and rentals to the Fund for states and local governments affected by Hurricanes Katrina, Rita and Wilma. The bill also dedicates 20% royalties to the Fund states and local governments affected by Hurricanes Katrina, Rita and Wilma beginning in FY15. This funding will be critical to the rebuilding and future prosperity of the cities and states that were decimated by these storms last summer.

Given the critical need for LIHEAP funding and hurricane recovery assistance in the months ahead, the Edison Electric Institute considers this to be a key vote in the United States Senate. We urge you to support all efforts to pass legislation that will provide an unprecedented level of aid and support to those most in need in our country.

Sincerely,

THOMAS R. KUHN,
President.

TO MEMBERS AND SUPPORTERS OF THE CAMPAIGN FOR HOME ENERGY ASSISTANCE: The Senate is expected to vote early tomorrow (Wednesday) morning on the Defense appropriations bill, which includes a provision that would increase funding for the Low Income Home Energy Assistance Program by $2 billion for Fiscal Year 2006.

The most recent short-term forecast from the Energy Information Administration states that heating costs are likely to be 7 to 38 percent higher this winter: a 38 percent increase for natural gas, 21 percent for heating oil, 15 percent for propane and 7 percent for electricity. It is urgent, therefore, for Congress to provide additional funding for LIHEAP.

The Defense appropriations bill appears to be our best and possibly last opportunity to provide an increase for this vital program. The measure would add $500 million to the LIHEAP state block grant program and provide $1.5 billion in contingency funds. When combined with the LIHEAP allocations provided in the Labor/Health & Human Services/Education appropriations bill ($2 billion for the block grant program and $183 million in contingency funds), the program would be funded at its highest total ever: $4.141 billion.

URGENT! Call to Action: The Campaign for Home Energy Assistance urges you to call your senators today and ask them to vote for the Defense appropriations bill when it is considered tomorrow morning.

DAVID FOX,
Executive Director,
Campaign for Home Energy Assistance.

DECEMBER 20, 2005.

Hon. TED STEVENS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STEVENS: I am writing you concerning the importance of developing the oil resources of Alaska's Arctic National Wildlife Refuge for national defense.

As you may be aware, our organization has been actively involved in issues related to energy security and national defense for more than two decades. We have conducted more than 120 studies on this subject, including a substantial number specifically concerned with Alaskan natural resources. I should also note that our work has enjoyed broad bi-partisan support, and has been cited by private groups as diverse as the Energy and Environmental Study Institute, the Clean Fuels Vehicles Coalition and the Institute for the Analysis of Global Security; and by government institutions including the United States Department of Energy and House Resources Committee.

After more than three decades of considering energy security issues and almost a quarter century of studying the role of Alaskan oil, we find that we can come to only one conclusion:

The development of ANWR is a vital national defense priority. There are a number of reasons why this is the case.

First, energy, and specifically energy from petroleum is among the most critical defense commodities.

At the time of Operation Desert Storm, the first Persian Gulf War, a U.S. Army Heavy Division, comprised of 17,500 soldiers, used as much oil as four World War II Field Armies which would have comprised over 400,000 troops. To illustrate this point further, the 528,000 U.S. troops that participated in Operation Desert Storm used more than four times as much oil on a daily basis as the entire 2–million man Allied Expeditionary Force that liberated Europe during World War II.

But even these stunning comparisons do not tell the full story.

The petroleum requirement per deployed soldier has increased by roughly 20% between Operation Desert Storm, the first Persian Gulf War and Operation Iraqi Freedom.

Moreover, as the process of ''Defense Transformation'' proceeds and a greater emphasis is placed on fuel-intensive units such as the Stryker Brigade Combat Teams, the fuel per deployed soldier required for military operations will increase even more.

Second, our access to petroleum on the world market will become increasingly constrained. The competition for oil on the world market has greatly intensified over the past decade and in the future will become even more intense.

According to the IMF the Chinese economy has been growing at an average of 9% since 1978, and has exceeded 13% in some years. Most recently China's economic growth has averaged between 9% and 10%, fueled in large part by a massive program of industrial modernization. Included among its stated economic goals is the addition of some 120 million automobiles to its domestic fleet over the next decade. This change alone will increase China's oil import requirements by more than 9 million barrels per day. India, too, has experienced extremely high growth rates, as have some of the newly independent states that formerly comprised the Soviet Union. What all of this means is that global demand for oil is going to rise sharply at a time when the addition of new global supplies simply cannot keep pace.

We cannot, therefore, be sure that we will enjoy access to foreign oil supplies to provide essential petroleum in time of conflict.

A third factor is the insecurity of foreign sources of oil.

Even if the amount of oil available on the world market were sufficient to meet our needs, there is no guarantee that it would be available for our use. Of the top ten sources of U.S. oil imports, at least four are of questionable security. Venezuela, our third ranking supplier, provides 11.1% of U.S. oil imports, constituting 6.7% of total supply. It is ruled by an individual who is openly hostile to the United States and who has threatened to cut off oil exports to the U.S. Saudi Arabia, our second largest source of imports, contributing 6.8% of total supplies and a little more than 11.1% of imports, has had its oil infrastructure targeted in a recent fatwa from al-Qaeda. Nigeria, which provides 8.6% of imports and accounts for 5.2% of domestic oil supplies, is fraught with civil unrest and banditry. It loses 135,000 b/d of crude oil to theft. Iraq, which accounts for 3.7% of our imports and 2.3% of domestic supplies, has an ongoing insurgency that has attacked oil pipelines more than 100 times in the past year and is also targeted in the al-Qaeda fatwa.

Moreover. even relatively secure suppliers such as Canada and Mexico are being approached by China with investment proposals that might earmark segments of their production for exclusive Chinese use.

Fourth, even domestic sources may be vulnerable to disruption.

The recent experience with hurricanes Katrina and Rita underscored the vulnerability of domestic production in the Gulf of Mexico. We are entering a long-term weather pattern that will be characterized by increased hurricane activity. Therefore, the potential for disruption of Gulf of Mexico production, as occurred this fall, is substantial.

When all of the factors are taken into account, it becomes evident that the development of ANWR's oil and gas resources is an urgent defense priority. Failure to do so can only serve to undermine the ability of America's armed forces to operate.

Sincerely,

MILTON R. COPULOS,
President,
National Defense Council Foundation.

[From the Weekly E. Newsletter, Dec. 20, 2005]

THE DEFENSE APPROPRIATIONS BILL OF 2006—CALL FOR ACTION

The Anti-Lobbying Act prohibits military and civilian government workers from using federal assets to lobby Congress. Any action taken on this Call to Action should not be done during duty hours. Please use your home computer or phone to contact Congress.

ROA wants you to call your U.S. Senators TODAY! Ask them to pass the Defense Spending Appropriations Bill (H.R. 2863) now! In a time of war, the goal should be passage.

The House has voted its support of the Defense Spending Appropriations Bill, but the Senate vote could be delayed. This is one of the last remaining appropriations bills.

Don't let a filibuster stop the needed action. The debate and vote could be today or tomorrow. Make your voice heard now!

Key elements of the Defense spending bill includes money to:

Fund TRICARE Reserve Select.

Provide $1 billion for equipment for shortfalls in the Army/Air National Guard and Army Reserve.

Fully fund acquisition of 15 C–17 transports and approves multiyear procurement authority.

Add $180 million for the National Guard and Reserve Equipment Allowance.

Provide pay and allowances for Reserve and Guard personnel mobilized in support of the Global War on Terror (GWOT).

Include $681.5 million to support additional recruiting and retention incentives.

Provide $50 billion for contingency operations related to the GWOT.

Realign C–130J/ KC–130 to support program sustainment.

Provide $8.8 billion for shipbuilding programs.

Add $473 million for Army medical research.

Support incremental wartime costs for military personnel.

Increase pay by 3.1 percent.

We need maximum, immediate effort to call, e-mail, or fax your senators (too late for ''snail mail'') urging them to bring the Defense spending bill to the floor and vote yes as the bill is scheduled for debate and vote today or tomorrow.

Contact: Call, fax, or e-mail.

Use ROA's toll-free hotline to call your senator on Capitol Hill. The toll-free number to call your legislator in Washington is (888) 762–8760. Please call! When you reach the Capitol switchboard, just ask for the office of your senator. The Grassroots Advocacy page under legislative affairs/grassroots on the ROA Web site can help identify your elected official.

When you contact your senator's office, you can say: ''I am calling to encourage my senator to vote yes on H.R. 2863, the Defense Spending Appropriations Bill''

Or, you can fax or e-mail your elected official. See a sample letter on the ROA Web Site.

E-mails should use the subject line: Subject: Vote Yes on H.R. 2863, the Defense Spending Appropriations Bill''

If not passed, the National Defense Authorization Act (NDAA) H.R. 1815 could go unfunded.

The NDAA includes:

Enhanced TRICARE for drilling Reservists.

Elimination of BAH II for those mobilized on orders over 30 days.

Civilian pay differential for Reservists with over 18 months of deployment.

Retention and recruitment bonuses.

Tactical wheeled vehicle recapitalization.

Continued Humvee uparmoring.

$114.7 million for enhanced body armor.

Improvised Explosive Device (IED) jammers.

Increases of 10,000 Army and 1,000 Marine active duty end-strengths.

Increased hardship pay from $300 to $750.

A permanent death gratuity pay of $100,000.

The NDAA, H.R. 1815, will go to the Senate for a vote on Wednesday and is expected to pass without controversy. But if the Defense Spending Appropriations bill isn't passed, the NOAA is hollowed out, as it doesn't provide funds.

The National Defense Authorization Act (NDAA) authorizes benefits, equipment and programs. The Defense Spending Appropriations Bill provides the money to pay for this equipment and these programs.

AMERICAN GAS ASSOCIATION,
December 16, 2005.

DEAR MEMBERS OF CONGRESS: On behalf of the 195 local energy utility members of the American Gas Association, which deliver natural gas to more than 56 million homes, businesses and industries throughout the United States, I urge you to support legislation that would open the Alaska Arctic National Wildlife Refuge (ANWR) to energy production, which will be included in the FY–06 defense appropriations bill scheduled to be voted on by Congress this weekend.

Allowing energy production in ANWR is a vital component to addressing one of our nation's more urgent public policy issues, namely the imbalance between energy demand and available supply, and the resulting high and volatile energy prices that America is experiencing. Increasing our access to domestic energy supplies is critical to enhancing America's energy security, sustaining America's economy and providing the American consumer with relief from ever spiraling energy costs.

AGA speaks on this matter not only as the representative of natural gas utility companies, but also as a voice for their customers who have been hit so hard financially because of higher natural gas prices. Whether it's a homeowner struggling to pay the heating bill, a small business facing significantly increased energy-related business costs or an industry being forced to move overseas in order to compete in the global marketplace, soaring energy prices have been a severe detriment to America's quality of life.

Thanks to new technological developments energy can now be produced without undue harm to the surrounding environment. Hopefully, this vote will be the beginning of a trend that recognizes America's energy needs can be met with adequate environmental protections.

Again, we urge you to support passage of legislation containing the provisions to finally open ANWR.

Sincerely,

DAVID N. PARKER
President and CEO.

AIR TRANSPORT ASSOCIATION,
Washington, DC, December 9, 2005.

DEAR: Airlines are one of the primary and most significant purchasers of refined crude oil. We anticipate that U.S. airlines alone will consume approximately 19 billion gallons of fuel in their worldwide operations this year. Maintaining existing oil production and developing new resources to supply our nation's increasing need for refined product is indispensable to the economic health of the U.S. airline industry and our ability to provide the frequency and reliability of air service that passengers and shippers demand.

The airline industry has taken extraordinary conservation measures since the early 1970s and has improved fuel efficiency threefold. In addition to the introduction of more fuel-efficient aircraft, the industry has initiated a number of new operational practices to conserve fuel and has gone as far as considering how much additional weight magazines and silverware add to an aircraft.

The intensity and pace of these measures have further accelerated during the recent run-up in oil prices. Nevertheless, conservation and efficiency efforts in such a fuel-intensive industry as ours have their limitations. New sources of petroleum must be found.

The Air Transport Association of America, Inc., strongly supports the enactment of a federal energy policy that allows for greater access to domestic sources of oil for environmentally responsible production, particularly within ''Area 1002'' of the Arctic National Wildlife Refuge (ANWR). Area 1002 was recognized in 1980 by Congress and President Carter as a potentially significant oil and natural gas reserve, and was distinguished by law from the rest of the refuge as a site for possible future energy production.

The Air Transport Association believes that the time has come to open Area 1002 to environmentally responsible energy production, and we ask for your full support of legislation to accomplish this goal. While not a magic fix to the problem of high oil prices that have added billions of dollars of unbearable costs to an already ailing airline industry, opening Area 1002 is an important component in a comprehensive national energy policy that utilizes not only efficiency and conservation, but also the strength of our precious domestic resources.

Thank you for your consideration of this important matter and please feel free to call on me with any questions or concerns.

Sincerely,

JAMES C. MAY,
President and CEO.

U.S. SENATE,
Washington, DC, December 19, 2005.

DEAR MEMBER: A Rule 28 point of order against the Defense Appropriations Conference Report may be raised. I ask you to think very carefully about your position on this issue because vital funding and programs are at stake in this decision.

A Rule 28 point of order will apply to *all* provisions in the bill that are beyond the authority of the conferees. These provisions include:

The Hurricane Supplemental, which contains $29 billion for hurricane victims. Included in this supplemental is funding for education expenses, housing, and reconstruction efforts in the disaster areas.

The Gulf Coast Recovery Fund provides short and long-term disaster relief funding for Louisiana, Mississippi, Alabama, Texas, and Florida.

Avian Flu Liability language included with funding that will encourage the vaccine industry to return to the United States, so that we may be able to create Avian Flu vaccines here at home.

The Low Income Home Energy Assistance Program (LIHEAP) is funded on an emergency basis in FY06 with $2 billion for home heating assistance.

$3.1 billion is included in the bill for homeland security. Included is funding for Interoperable Communications Equipment Grants to state and local governments, which will help first responders communicate in the event of a natural disaster or terrorist attack.

Emergency Preparedness Grants to state and local governments. All states are assured a certain level of funding. Funds will be allocated based on threat and risk levels.

Funds for increased border security, helicopter replacement, and security infrastructure, which is funded on an emergency basis.

An additional $1 billion for farm bill conservation programs, which will help farmers and ranchers meet current challenges and ensure the productivity of their land for future generations.

If a Rule 28 point of order is sustained, the entire Defense Appropriations Conference Report will fall. Rule 28 does not allow us to strike specific provisions from a conference report; it kills the conference report altogether. Since the House has voted, it will be necessary to appoint new conferees in the House and the Senate, and we will have to start over.

Some Members have suggested that we could simply return to conference with the House, strip the provision regarding development on the Arctic Coastal Plain, and pass the bill with the provisions listed above. This is simply not possible. A portion of the funding for these initiatives and programs comes from the revenue ANWR will provide.

We tried to pass bills that funded these priorities, but we could not find an agreement to do so on an emergency basis. These provisions were included in this bill because we were able to generate additional federal revenues, including revenue generated by development on the Arctic Coastal Plain, which will provide the funds we need and repay emergency spending. If a Rule 28 point of order is sustained, forcing us to begin a new conference, many of the items listed above will need to be stripped from the bill as well. We cannot pay for them without the additional revenue ANWR will provide.

With best wishes,

Cordially,

TED STEVENS.

APPROPRIATIONS CHAIRMAN JERRY LEWIS URGES SENATE PASSAGE OF DEFENSE SPENDING BILL

WASHINGTON.—The Hurricane Katrina recovery, increased funding for low-income heating needs, protection against avian flu and many other programs that were added to the Defense Appropriations Bill are at risk if the Senate does not approve the package this week, House Appropriations Chairman Jerry Lewis said Tuesday.

''If the Senate will not approve this bill, we will be forced to rely on a continuing resolution to fund the Department of Defense, which will mean all of the additional spending the House approved last week will be lost,'' Lewis said. ''Continuing resolutions will fund the government, but only at last year's level and with none of these programs that are so urgently needed.''

''Clearly, the Senate does not want to do that, and I'm sure they don't want to jeopardize the funding for our troops during time of war,'' Lewis said. ''It is time to stop the partisan debates and approve the final two appropriations bills.''

The House last week passed the Defense Appropriations bill for Fiscal Year 2006 by a resounding 308–106 vote, with 106 Democrats supporting the bill and only 89 opposed, Lewis noted. It is strongly supported by President Bush, and contains many new Pentagon spending levels that would not be funded under a continuing resolution.

''This was not even close to being a party-line vote in the House, which should be a message to the Senate that it is time to finish our work and put funding in place for the new fiscal year,'' Lewis said. ''It is irresponsible for a minority of Senators to impede the will of the President, the House and the American people and put all of these urgently needed programs at risk.''

Mr. STEVENS. Mr. President, I don't know how many more times I will be before the Senate before this matter comes up tomorrow. I do hope it will come to the floor early tomorrow because we need time to consider the points of order that will lie against the conference report.

To me, approval of the conference report really means we are putting aside the debate that might take place on the individual items that may be raised here. The conference report is not subject to amendment, but it is possible to have almost unending delay on the points of order. They are debatable and, therefore, the reason for the cloture motion is primarily to reduce debate on these various points of order we will have and find some way to assure there will be an early passage of the conference report.

This is a conference report providing enormous assistance to the Department of Defense, particularly the $50 billion in emergency funding that is primarily required to support those who are in our uniform defending the Nation in terms of their activities in the war on terror. I urge the Senate to vote cloture to limit that debate. We will have the points of order. We will have the points of order under the Budget Act under rule XXVIII, but there is no reason to have unlimited debate on those points or order.

The cloture motion is for the best interest of the Department of Defense to get this bill to the Department of Defense as quickly as possible. If those points of order are sustained, obviously, we will have to go back to conference, have a new conference, and we will have to appoint new conferees. The House is spread all over the country. How quickly we can do that, I don't know.

I do believe that it is in the best interest of the Nation to adopt this conference report. It does not contain items, as far as this subject, ANWR, is concerned, that have not passed before. We have approved ANWR before in this Reconciliation Act, and the House has passed the act before. We have added provisions I described dealing with the funding that will come in from ANWR. But otherwise it was considered before and passed by the House of Representatives previously.

I don't know how much more time I have. Has my time expired?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. STEVENS. Mr. President, I yield the floor. I don't know who is to come next. I don't want to charge any time to the pending measure. That was the understanding. So I will just let the time run for a minute.

I will again remind the Senate that the money that is in the bill that is before us, the conference report that is before us, that its emergency funding will not survive another conference. It will only survive this conference because the money that was predicted to be available from income from the sale of oil and gas leases in ANWR—and the OMB did increase its estimate from $2.5 billion to $5 billion. However, they did not increase that for budget purposes. They confirmed the fact that it would come in. So we have allocated that money under this bill, particularly to LIHEAP, to low-income housing assistance. That cannot survive another conference if ANWR is deleted.

So for those people who want that money, and it has been pointed out that is an enormous increase due to the situation that exists because of the fantastic increase in home heating costs, it does not have to be spent. It is there in reserve to be spent. We do not mandate that they spend that money. We make it available to them on an emergency basis if it is necessary, and it may well be necessary through the balance of this winter.

So I do urge the Members of the Senate to vote for the conference report, vote for cloture on the conference report, and help us prepare for the points of order that may be raised after the cloture motion has been approved. I am getting tired, and I apologize.

Now is my time expired?

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

Mr. STEVENS. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEFENSE APPROPRIATIONS

Mr. DURBIN. Mr. President, tomorrow we are going to have some significant votes in the Senate on issues of great importance, not the least of which is the Defense appropriations bill, one of the most important bills we consider in the course of our calendar year. This is the bill to provide the resources for our troops—literally, their pay, the equipment they need, the training they need, new weapons they need, the fundamentals we need to keep our Nation safe.

This has usually been a very bipartisan bill. Having served on the Appropriations Committee, I have seen it in the past with strong support from both sides of the aisle and rarely a real partisan issue. This time, however, this bill has been modified and changed. Added to this bill are provisions which have nothing to do with our Nation's defense. They are provisions that have been debated at length for many years in the Senate relative to controversial issues on many fronts. The most controversial, the lead issue, the one that has been spoken to time and again on the Senate floor over the last several days, is the authorization for drilling for oil in the Arctic National Wildlife Refuge. Some may remember that at the time of the invasion of Iraq, then Republican House whip TOM DELAY gave a speech in which he said, ''Nothing is more important in the face of a war than cutting taxes.'' That is what

he said. Tens of thousands of American troops were gathered in the Kuwait desert waiting for the command to go to war, being warned they might face weapons of mass destruction, and the then majority leader of the House of Representatives TOM DELAY said, ''Nothing is more important in the face of a war than cutting taxes.''

Here we are a thousand days later still at war. We have lost over 2,150 American soldiers, over 15,000 have been seriously wounded, and 150,000-plus soldiers now risk their lives in Iraq today as we stand in the safety of this Chamber and in this country.

As we consider this important bill to fund this war and to stand behind our troops, it turns out we learned nothing is more important to some Members of the Senate than to make sure that we take care of the oil and gas companies before we take care of the troops. How else can one explain it? How else can we have reached the point where the Arctic National Wildlife Refuge oil drilling is so critically important to America that we would jeopardize the passage of the Department of Defense appropriations bill in order to pass it? This is the kind of thing that gives the Senate a bad name.

How many times have we heard people ask—I have heard it many times—why do you let this happen? Why would you let a bill be amended at the end to contain things which have nothing to do with it?

We have some 4,000 pages of bills before us today, almost 1,000 pages in this Defense appropriations bill. In it are critically important items for our troops, but also in it is this permission to go into an Arctic National Wildlife Refuge to drill for oil. Who wants this? Well, there are two groups that certainly want it. First, the oil companies. They are going to make money on this, as if they had not made enough. This year, with their kiting of gasoline and energy prices across America they have already had $100 billion in new profits. Well, here they come again. They want more and more. Some believe their profit margin is at least as important as providing the basic funds for our troops. That is why they would put that amendment in this bill.

How can it have reached this point, where the Senate will have walked away from its basic obligation to our men and women in uniform and said we are going to allow the use of an appropriations bill for this drilling for oil in the Arctic National Wildlife Refuge? Well, the people who crafted this brought in a number of Senators and Congressmen to support them by promising that some of the revenue from the drilling in Alaska would go to fund other programs and purposes. Relief for victims of Hurricane Katrina was one of the things that was also being promised. There are many other elements that are being talked about—LIHEAP, the low-income home energy assistance program. It is promised that they will have some money as a result of this. So many people have decided they can look at this positively because there is something in it for them.

How important is this bill and this vote to the Bush administration? So important that Vice President CHENEY cut short his trip overseas to make sure that he is here tomorrow, if necessary, to cast the deciding vote for the drilling for oil in the Arctic National Wildlife Refuge and the passage of this bill.

I think it tells us why it is important. Threatening to withhold funding for American troops during wartime and for Katrina victims in order to push through ANWR drilling has to rank as one of the lowest moments in the history of the Senate.

Let us put aside for a minute whether the ANWR language ought to be in this bill. Let us look at the language itself. This language has never been examined or closely debated by any committee, neither the House nor the Senate. According to the Congressional Budget Office, the specific ANWR language in this bill is different in several critical ways from any other ANWR drilling proposal considered by Congress, and one of the most important elements is the inclusion of a provision known as severability. One would have to go searching long and hard, but they will find on page 406 of the electronic version of this Department of Defense appropriations bill this severability provision. Here is what it means: If the State of Alaska decides to sue to have the 50/50 split of ANWR revenues called for in this bill declared illegal, then money this bill seems to promise for Katrina relief and low-income heating energy assistance and many other worthy causes could simply disappear.

It is a bait and switch. The proponents of this amendment lured supporters by saying, come on along for the ride. We are going to drill in ANWR and we are going to give you some money. We will give it to the Katrina victims and we will also give it to the poor people in America trying to heat their homes. So stick with us. Then they put in this provision. The money that would have gone primarily for those purposes could be removed almost entirely. How could it happen? It could happen by the State of Alaska asserting that instead of 50 percent, they want 90 percent of the revenues that come out of this bill.

Think about that for a moment. The big oil companies make their profits, the State of Alaska takes away virtually all the money, and all these other good causes find themselves with little or nothing to show for it.

You see, the Alaska Statehood Act already provides that any revenue from Alaska oil sales must be split 90–10, 90 percent to Alaska and 10 percent to the Federal Government. And what did the lone Congressman from Alaska, Don Young, say today in the Anchorage Daily News?

As for the revenue split, Young said he thinks the Governor (of Alaska) would sue to get the 90/10 split promised by the Alaska Statehood Act.

So in order to get extra votes for this provision, the sponsors offered to others in Congress this lure of money from the drilling that they can use for their purposes. It turns out, as soon as it is passed, we have the State's Alaskan Congressman saying the Governor is going to take away the money, virtually all of it.

In addition, Alaska State officials have made it clear that they intend to fight for 90 percent of the ANWR revenues. They passed a resolution signed by their Governor that said just that, they are not going to take anything less than 90 percent.

So the big winners from this ANWR provision in the bill will be the oil companies and the State of Alaska. They are prepared to jeopardize the passage of the Department of Defense appropriations bill because there is so much money on the table, so much to be made from the revenues from the drilling for this oil. Whoever drafted this language knew what they were doing by putting in this severability clause, which basically says we can switch after we baited you into this trap, and you can't do a darned thing about it. This could end up being one of the biggest bait-and-switch deals in the history of the Senate.

There is another reason to be skeptical about Katrina relief in this bill and other promises that are being made around the Capitol. According to the nonpartisan Congressional Research Service, the revenues this bill assumes from ANWR drilling are wildly inflated. For example, this bill assumes lease bonus revenue from ANWR will total $10 billion. For that amount of money to be raised, every single one of ANWR's 1.5 million acres would have to produce an average of $6,666 in lease income. Since 1980, the average that has been produced is $60 an acre, less than one-hundredth of what has been promised.

Moreover, between 2001 and 2005, that average dropped to $45 per leased acre, despite record increases during that time in the price of oil.

Now look at the estimated royalties. The bill says 20 percent of these estimated royalties will be used to help Hurricane Katrina victims. To generate the $40 billion ANWR supporters are promising for the Katrina relief fund, oil prices would have to average $89 a barrel between 2015 and 2044. The U.S. Energy Information Administration's annual energy outlook projects a 1.3-percent annual increase in the price of oil between now and 2025. They can never reach the numbers that they are projecting to come up with this money.

The revenues in this bill supposedly promised for LIHEAP will also fall short for the same reasons.

The conclusion is this: For reasons I cannot explain, the Republican leadership in the Senate today has departed from the accepted practice of the Senate. There was a time when this bill

was considered something special, a bill to appropriate money for our men and women in uniform and for our Department of Defense. It was the first priority in appropriations, the first passed, and the first to be signed by the President year after year after year. But this year, in order to accommodate the political agenda of some Members of the Senate, it is the last bill—second to the last bill that we will consider. Why did we wait so long? So that this bill could be a vehicle for a political agenda for the drilling in the Arctic National Wildlife Refuge.

To think that we would in any way jeopardize this bill for our men and women in uniform for this political deal at the close of the session is just something that the Senate cannot be proud of.

I urge my colleagues, stand up for the men and women in uniform. But stand up for the integrity of the Senate. It is about time that we made it clear that this kind of political horse trading that goes on at the close of the session, for an issue that has been debated for years on Capitol Hill, has to come to an end. This bill, the Department of Defense bill, should be a bill that is not the proving grounds or testing grounds for great political ideas. Let's focus on the men and women in uniform.

I urge my colleagues to do two things. First, defeat cloture. Let the Senator from Alaska know that this is not appropriate on this bill.

Second, hold him to his word that once we defeat cloture, he will move to strike this provision from the bill on ANWR, and we can move forward to funding our troops. The senior Senator from Alaska has said, both in his State and on the Senate floor, that if he can't clear this procedurally, that will be the end of the debate. We will then go to the Defense appropriations bill, as we should. Then let's pass this with a strong bipartisan rollcall, having taken out this politically unacceptable provision on ANWR.

This is one of the biggest bait-and-switch deals we have seen on the floor of the Senate. Back-room promises have brought this today to the Senate for a vote which we will face in the morning. Enough is enough. The Senate should reject this. The Senate should demand that ANWR be voted on the merits, and we should immediately pass a bill that does the right thing not only for our troops but for the Katrina victims and also to protect Americans from the threat of avian flu.

This Defense appropriations bill is a test. It is a test of whether this Senate has lost its way entirely; whether one Senator from one State can dominate a major piece of legislation, can put in a provision totally unrelated to our troops and their welfare, and can push a provision which provides greater profits for oil companies and great revenues for his home State of Alaska at the expense of taxpayers in the United States and at the expense of a wildlife refuge created over 50 years ago by President Eisenhower.

I urge my colleagues tomorrow, when we vote, vote against the motion for cloture. Let this Senator know, and others who are pushing this proposal, that we have reached the end of our rope in terms of allowing this kind of political back-room deal to come forward. It is unacceptable, and it should be rejected by the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, my understanding is I am now recognized for 30 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I ask unanimous consent that following my remarks, Senator KYL be recognized for up to 15 minutes, to be followed by Senator BOND for up to 15 minutes, Senator FEINSTEIN for up to 20 minutes as in morning business, and that the time not be charged against the bill.

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

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. At that point, that a quorum call be entered and that the quorum call be evenly charged.

Mrs. BOXER. I would add that.

The PRESIDING OFFICER. A quorum call cannot be requested now. It has to be requested at that time.

Mr. CONRAD. It is very important that we go back to this formulation, I say to the Chair. That when all of these speeches have been given, there will be a request for a quorum call, and that quorum call will be equally charged.

The PRESIDING OFFICER. The Senator cannot lock in at this time a unanimous consent for a quorum call at a future time.

Mr. CONRAD. That is not what I am seeking to do. I am seeking to do what we have done repeatedly here. I don't understand why all of sudden this is a difficult thing. We have done this repeatedly.

When the last speaker is concluded, that if they ask to go into a quorum call, the quorum call be equally charged. We have done this repeatedly, and this is important to our understanding, so we have to get this right. We have done this repeatedly throughout the afternoon.

Mrs. BOXER. Mr. President, I believe my unanimous consent is pending, and it does include the request of the Senator from North Dakota.

The PRESIDING OFFICER. It is provided that any quorum call will be divided equally.

Mrs. BOXER. Thank you very much.

Mr. SESSIONS. Reserving the right to object.

Mrs. BOXER. Mr. President, I would like to go back to the order, if we can. I was about to speak for 30 minutes as was already agreed to by the Senate. I would like to proceed.

Mr. SESSIONS. I understand the Senator is recognized?

Mrs. BOXER. Does the Senator want me to yield for purposes of a parliamentary inquiry? I yield, without losing my right to the floor, for a parliamentary inquiry.

Mr. SESSIONS. I was just curious about what the unanimous consent agreement was that was just entered. I was not on the floor at that time and would be interested in having an opportunity to speak later. Was there unanimous consent on procedure?

Mrs. BOXER. Mr. President, I am happy to tell the Senator. I asked for time, on the completion of my 30 minutes, for Senator KYL to speak for up to 15 minutes, followed by Senator BOND for up to 15 minutes, followed by Senator FEINSTEIN for up to 20 minutes as in morning business, and that the time not be charged against the bill, and at that time the time would be charged equally.

Mr. SESSIONS. I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. SESSIONS. I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President.

PATRIOT ACT

Mr. President, folks are watching us so close to Christmas, so close to Hanukkah time and wondering why we are here so late in the year. It is very unusual for this to happen. I would like to say that we are here, in my view, because there is a disinclination on the part of the Republican leadership to sit down with the Democrats on the PATRIOT Act, fix two provisions of that act, fix it so our constituents don't have to worry that their library records will be sought, if there is no reason to do that, or their bookstore records or their health records or their financial records without a check and balance on that power; and that if their home is searched they would be so advised within a 7-day period.

But Senator FRIST, at this point, seems to keep this issue alive. I hope we can resolve that by a short-term extension of the act.

Every single Member who voted to stop the final vote voted with the understanding that we would, in fact, extend the PATRIOT Act for 3 months. I am hoping that will happen so we can get done with that without a vote, as far as I understand it. Everyone wants to continue the PATRIOT Act, but there is a majority, I believe, who wants to fix these two provisions out of the many provisions.

We are also here because one Senator has gotten drilling in the Arctic National Wildlife Refuge in the conference report on the military bill, on the Defense appropriations bill. That bill funds our troops. It is very important. Instead of allowing that to just go forward—and again that would go

forward probably without even a minute's debate, and we could finish that up quickly—instead, this Senator wants to give a very special gift this Christmas season to the oil companies. We know, if anything, they don't deserve a gift. They are laughing all the way to the bank. But this one Senator wants to give them another gift, a really special one with an enormous bow on top.

I hope that will happen. But that is another reason we are here.

We are here because this is a budget-cutting bill that is so onerous—it is on the floor right now—that the Republicans aren't even sure they have the votes to pass it because of what it does to student loans, to Medicare, to things that our people need. They have to fly the Vice President back in order to have him in the Chair because it might be that close. And he may have to cast the deciding vote to cut student loans, to cut Medicare, to cut Medicaid, to cut health to our middle-class families, as well as our working poor families. If that happens, that will be an image all American families will see, the Vice President in the Chair. They couldn't even get their own party to vote for this bill, and it will say more than I ever could on the subject.

IRAQ

Mrs. BOXER. Mr. President, today, I had hoped to be in California working in the State. I had a very important speech to give on Iraq to a very important group in Los Angeles. Instead I am going to give that talk here for the next few minutes so that my constituents will get the views that I have at this moment in time on that war.

In 1968, Martin Luther King told us:

> If we do not act, we shall surely be dragged down the long, dark and shameful corridors of time reserved for those who possess . . . strength without sight.

Dr. King was talking about ending the Vietnam war. But 40 years later his warning is increasingly relevant to the Iraq war.

Strength without sight has now led us into a war based on mistaken intelligence, and down a thorny path of pain for far too long. None of us can afford to be silent.

Again, I want to quote Martin Luther King who said:

> Our lives begin to end the day we become silent about things that matter.

Martin Luther King said:

> Our lives begin to end the day we become silent about things that matter.

We must have the courage to speak out about things that matter, and, if we disagree about things that matter, that is part of the process. But let us heed Dr. King's words. It matters that 2,158 service men and women have given their lives in Iraq, leaving their families grieving. It matters that 16,155 have been wounded, many with scars that will last a lifetime.

It matters that the majority of the American people are demanding a new strategy so that we do not have a war without an end.

We saw 79 Senators from both political parties recently back an amendment saying that it is the Iraqis who should take the lead in providing their own security next year. Next year is a few days away.

I think it matters if 79 Senators vote for that amendment.

I see Senator LEVIN on the Senate floor. I thank him for that work he put into that amendment because it says very clearly that next year the Iraqis have to take charge of their own destiny.

We heard Congressman JACK MURTHA's brave statement against this war, calling it a ''flawed policy wrapped in illusion.''

JACK MURTHA is a decorated marine, a war hero who bled on the battlefield, the military's best friend.

Now he advocates redeploying U.S. forces at the earliest possible date—not tomorrow, not in 2 weeks. Estimates are that it will take 6 months to a year—while maintaining a quick-reaction force in the region to be called upon when necessary.

How did the administration and its supporters respond to this hero, JACK MURTHA's thoughtful proposal? Congressman MURTHA, with his two Purple Hearts and his Bronze Star, was insulted by the White House Press Secretary and branded a coward by the newest Republican Member of the House; branded a coward by the newest Republican Member of the House, a shameful display of partisanship.

People who never bled on the battlefield tried to demean a war hero. That is what we see again and again in this debate.

Instead of thoughtful dialogue about the life-and-death issues in Iraq, the administration lashes out at those who dare disagree with them.

Recently, the Republican National Committee issued a video news release attacking Democrats, including me. I want to thank Senators on the other side of the aisle who said that was wrong. I am used to being attacked, and I normally just ignore these attacks. As a matter of fact, I wear them as badge of honor. But this one was so incendiary that I have to respond.

The ad said Democrats were waving a white flag of surrender in Iraq. And their evidence? One of their pieces of evidence was my statement that we should start reducing our troop strength in Iraq after the Iraqi election.

Guess who else said that very same thing this last weekend: the U.S. Ambassador to Iraq, Zalmay Khalilzad, appointed by President Bush. Listen to what he said. President Bush's Ambassador in Iraq said:

> We can begin to draw down our forces in the aftermath of the elections.

That is exactly what I said. Are they going to run an ad against George Bush's hand-picked Ambassador to Iraq who said the same thing that Senator BOXER said?

Democrats aren't waving any white flags, and neither is the Ambassador waving a white flag. We are doing the job that we were elected to do. We have a right and a responsibility to tell the truth, whether the topic is Iraq or any other policy. We have a right—and a responsibility—to wave a warning flag about a war that is making our Nation less secure.

Regardless of how many times I am attacked, I will continue to speak out just as I am doing today.

I have four points to make: First, we must restore our credibility. Our credibility is at almost an all-time low in the world.

If we want the American people to be optimistic, and if we want the nations of the world to consider us a leader to be trusted, our motives must be clear, always; our justifications must be sound; and our policies must reflect our ideals. Our policies must reflect our ideals.

During the Cuban missile crisis, Secretary of State Dean Acheson offered to show Charles de Gaulle of France satellite images of Soviet missiles in Cuba as proof of their existence. President de Gaulle responded by saying:

> The word of the President of the United States is good enough to me.

Today, the word of this President and his administration has been called into question. Frankly, it is hard to believe those words myself when the President or the Secretary of State or the Vice President start to tell their expectations about Iraq. It is very hard for me to believe them. Why is that? I want to believe them. I have served with four Presidents, three of them Republican Presidents. I have never felt like this. I never felt I had to doubt what they were saying when it came to foreign policy.

Here is the reason. Remember all the false expectations the Bush administration pedals? Remember when Secretary Rumsfeld said that the war ''could last six days, six weeks, I doubt six months''? . . . Or that we knew exactly where to find the weapons of mass destruction.

I was sitting 10 feet from the Secretary of Defense when he said: I know exactly where those weapons are. I know the streets they are on. They are right there in Baghdad.

Remember when Vice President CHENEY predicted:

> . . . my belief is we will, in fact, be greeted as liberators.

Remember when White House Budget Director Mitch Daniels said Iraq will be ''an affordable endeavor'' and it ''will not require sustained aid''?

Remember when the case for weapons of mass destruction was called a ''slam dunk''? Remember Vice President CHENEY's now famous assessment that the insurgency was in its ''last throes''? Remember when the President told us about the yellow cake from Niger in a State of the Union Address? Remember when we were told ''mission accomplished''? We weren't told it; it was scrawled on a banner behind the President of the United States as he stood in

his Air Force gear. Who can ever forget that moment?

Remember when we were told that Iraqi oil would pay for the war? And when Secretary Rice said she didn't want the smoking gun to be a mushroom cloud? And when Colin Powell made his forceful presentation before the U.N. Security Council proving the case to the world, proving the case that Saddam Hussein had chemical weapons? He now calls that moment a blot on his record.

I gave you what the members of this administration have told the American people to expect in Iraq. They are zero for 10. I have not even gone through the entire list.

Yet even today, in the light of all this history, the Bush administration refuses to do more than a perfunctory mea culpa. In his last speech, the President took responsibility for going into the war on false intelligence. It took him 2 years to say that. He is 2 years behind the American people who figured that out a long time ago. But I will take it. I will take it.

The President keeps repeating the false statement that Congress saw the same intelligence that he did, even though the CRS, the Congressional Research Service, did a very important study on this matter. They said that is not true. It is a false statement to say that Congress saw the same intelligence he did. The report found that the administration had access to more information than was shared by us.

And the President still does not answer the central question, was the intelligence cherry-picked? In other words, did he pick out the parts of the intelligence that made the case for war? And he hasn't answered whether any of that intelligence was manipulated.

Democrats are insisting we complete the Senate investigation into this matter. Senator REID actually put the Senate into closed session to insist the Senate Intelligence Committee complete the investigation into whether the President actually misused intelligence or cherry-picked intelligence.

It is important we complete this investigation. It is not about politics. If the intelligence was cherry-picked by this President or manipulated, the American people deserve to know. The Congress will need to act. Why? Because the next time we need to convince the world of an imminent threat, it will be far more difficult unless we clear the air and restore our credibility.

America is more than an economic and a military power. Our ideals have made us a shining light throughout the world for all of those seeking freedom, democracy, and human rights. I believe that moral standing is at risk today. We all saw the horrific photos of Abu Ghraib, which were at odds with everything for which this country stands. I went up to that room to look at those pictures to bear witness. It was one of the most painful experiences I have never had.

We all know what we saw there—and the American people haven't seen half of what we saw; they have only seen a fraction of what we saw. The abuse was disgusting and was at odds with everything for which this country stands. We all know that torture does not produce accurate intelligence or make us more safe. Listen to Senator MCCAIN, who is an expert on this issue. He says torture ''is killing us.'' Amazingly, banning torture was extremely controversial for this administration. DICK CHENEY even worked nonstop to exempt the CIA from the torture ban passed by the Congress. Fortunately, we won this one. Again, I say to my Senate colleagues, thank you for standing up, for standing behind Senator MCCAIN on this.

However, we still do not know everything about the secret prisons or secret spying on Americans, all of which chips away at our reputation as a great beacon of freedom and gives us an eerie sense of a secret government. We must not have a secret government. We must not walk away from checks and balances. We now face this issue of our Government spying on Americans without a warrant. This is serious. It must be investigated to restore our credibility.

The other day I was at a forum with John Dean, the former White House counsel to President Nixon during Watergate. When we were asked a question as to whether we believe this President investigating and wiretapping American citizens without a warrant was legal, my remark was: I'm not sure about that. I'm very worried about that. I don't think it is. But I want a hearing. I applauded ARLEN SPECTER, chairman of the Judiciary Committee, for saying we would have it.

This is what John Dean said on videotape and he has since confirmed it: This was the first time he ever heard a President admit to an impeachable offense. That comment by John Dean, who knows more than any other lawyer in this country about an excessive abuse of power by the Executive is very serious. I sent a letter to four scholars, asking them to please tell me if they think John Dean is on the right track or on the wrong track.

Clearly, we must restore our credibility. Second and third, we must reverse the strain on our military and get our budget priorities straight.

This administration says dissent hurts our military. Let me tell you what hurts our military. Our military is fighting so that the Iraqi people have the right to dissent. So to say that our military gets hurt when we dissent makes no sense at all. How proud they must be that they come from a country where people who love the troops on both sides of the aisle are in a rigorous debate. That is what our military wants. They do not want to see a country where we all dance to the same tune.

And they must think it is interesting that even within the parties there are disagreements, that a Joe Lieberman disagrees with a Barbara Boxer, or a Chuck Hagel disagrees with an Orrin Hatch. That is what life in America is about. So when the President or his allies right here say, How dare people dissent, I say, How dare we not, if we believe the path we are on is wrong.

Let me tell you what hurts our military: sending men and women to war without a plan for victory and without the necessary armor and equipment. What hurts our military is stretching it to the breaking point and deploying our soldiers for third and fourth tours of duty. What hurts our military is a lack of candor.

Our men and women in the military serve bravely and skillfully in Iraq. They have sacrificed so much since this war began. We need to honor their sacrifices, not with words but with actions. That means treating their caskets and their families with the respect they deserve.

I want to publicly thank my staff in San Diego who stopped a horrible situation from happening, when a military man in a coffin, slain in Iraq, arrived in San Diego aboard a civilian aircraft, a commercial aircraft. When the plane landed, he was not going to be greeted by his unit. No one was going to be there. And the airline was going to keep him with the cargo, off-loaded with no ceremony, no greeting.

Thank God, his parents—military people—saw this and called us. We stopped it from happening, and we made sure that casket was greeted by his unit.

That is what we need to do. We need to honor our military. It means opening up our eyes to their injuries and getting them the help they need. Medical studies reveal that 17 percent of soldiers returning from Iraq are suffering from mental health problems, including depression, anxiety, and post-traumatic stress disorder. The VA says that 17,000 Iraq and Afghanistan vets have been diagnosed with mental disorders through February.

I have heard from military people who tell me their loved ones were sent back on to the field of battle when they were diagnosed with post-traumatic stress, and the doctor said: Don't send them back.

Now, 17,000 Iraq and Afghanistan vets have been diagnosed with mental disorders, just through last February. But despite this huge problem, the American Legion—the American Legion—says that mental health programs are being underfunded by $500 million a year.

I offered an amendment to provide these critical resources by canceling future tax cuts for millionaires who have already gotten back tens of thousands of dollars in tax cuts. It sounds reasonable that we would ask a millionaire to help give a veteran the assistance that he or she needs because of mental problems.

Well, my amendment failed. The President says he loves our military,

but he loves tax cuts for millionaires as much or more. They did not weigh in. They did not help us. We could not get it passed.

Let's be clear. To finance a war that has already cost $251 billion, this administration did not ask the wealthiest to do one thing to sacrifice. Under the Bush tax cuts, millionaires got—and listen to this number—$242 billion back. They have gotten it back over the past 5 years.

In the first 2 years of the Iraq war, the average millionaire received $112,000 in tax cuts. And we cannot afford to give a soldier treatment when he comes home, and he is so sick that he might even turn on his own family and hurt them?

This makes me sick, Mr. President. This makes me sick.

The President did not secure enough real financial commitments from other countries. Instead, our needs are being sacrificed and our children and seniors are paying the price.

Talk about waving the white flag of surrender. I want to talk about it. The Republican Congress and this administration are waving a white flag over our children, cutting their afterschool programs, No Child Left Behind. They have underfunded their own program by $13 billion.

They are waving a white flag of surrender over our seniors, causing them anxiety and threatening their Social Security.

They are waving a white flag over fiscal responsibility, by creating a debt that is more than $8 trillion. That means that approximately $92 billion is leaving this country every year to pay off the interest on the debt that foreign countries own.

And they are waving a white flag over our homeland security. The administration says all the right things about the terror threat. But they shortchange homeland defense.

It has been 4 years since 9/11. We are getting failing grades. We need $555 million this year to better secure our ports, $14 billion so that our first responders can communicate with one another. It is a disgrace that firefighters cannot talk to police officers and health care providers in our communities. Oh, no, oh, we couldn't ask the people who make over $1 million a year to help us.

And we are waving the white flag—we are—this Congress and this administration.

Fourth, and finally, we need to change course in Iraq. The President presents a false choice between leaving immediately and staying indefinitely. He says: Stay the course, stay the course. The course has to be changed. Frankly, the President, in every speech, connects this war in Iraq to 9/11, even though the 9/11 Commission said there was no connection and the President's own documents show there is no connection. As a matter of fact, it was a diversion from our fight against al-Qaida and bin Laden.

Do you know what? We are not any safer. Worldwide terrorism is up and increased by more than 1,200 terror attacks last year.

Even the President's own Director of Central Intelligence, Porter Goss, says:

> Those jihadists who survive will leave Iraq experienced in and focused on acts of urban terrorism.

Now, I agree with the President about importing democracy. But as Robert Pape of the University of Chicago has written:

> . . . spreading democracy at the barrel of a gun in the Persian Gulf is not likely to lead to a lasting solution against suicide terrorism.

Last week's election in Iraq was an important step forward. And I pray that country will put together the kind of coalition that is necessary. But either way, it is time for the Iraqis to control their own destiny. Each election they have had, it seems to me, should be a step in our recognizing their right to run their own country. Their running their own country is a sign of success, not failure. Our long-term presence is viewed as open-ended, and it is fueling the insurgency.

Too many Iraqis believe that the United States has no intention to leave Iraq and with good reason. Every time the President is asked for benchmarks, he says we will be there as long as it takes, even though general Casey made it clear to me, when I was in Iraq, again, that our long-term presence is counterproductive.

And two-thirds of Iraqis oppose the presence of U.S. troops, at least two-thirds. In some polls, it is 80 percent. They do not want us there. They want to run their own country. That is not failure. That is not a white flag. That is not defeat. That is success, when we can redeploy our troops, so if the government there needs us, we are nearby.

We must accelerate the training of the Iraqi troops. I am glad the President admitted it has gone far too slowly. But enough with the excuses. They have to get out there and defend themselves. And we need to take the help that is being offered from around the world, around the region. The Egyptian Ambassador lamented the fact that so few troops have been trained in his country. He has offered to help, and we have not taken it.

Mr. President, in conclusion, it does not matter if you voted for the war or against the war at this point. We need now to take action. None of us can remain silent.

As a Senator, I feel obligated to tell the people of my State how I feel. It is time for a new policy. It is time for a new strategy that makes us safer and more secure. It is time to put to rest the notion that to speak out for a new strategy in Iraq is unpatriotic. It is time to realize that turning Iraq over to the Iraqis is what they expect and what we should do. That is what success is. It is time for a real strategy to stop the spread of terrorism and prevent the proliferation of WMDs, not go forward with preemptive wars that isolate America.

It is time for a real strategy to stop the spread of terrorism. It is time to remember that a strong America begins at home and that we can't have real security if we abandon our children and our families, our fiscal responsibility, or if we cannot prepare for a terrorist strike or an emergency such as Katrina. It is time for America to once again be a shining example for the rest of the world. We can do it.

Again, let's be honest about the past and restore our credibility. Let's honor our military with a clear plan. Let's get our priorities straight. Let's get Iraq right by working in a bipartisan way, not running ugly 30-second commercials while our soldiers die and get wounded. We can do better. We must do better. With the wisdom of the American people, we will do better.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). Under the previous agreement, the Senator from Arizona is recognized for 15 minutes.

PATRIOT ACT REAUTHORIZATION

Mr. KYL. Mr. President, one of the key items of business that we have to do before Christmas is to reauthorize the PATRIOT Act. I know there is some confusion about exactly where we stand on that. Let me clarify that right now.

First, where are we with respect to the reauthorization of the PATRIOT Act? Why? And what can we do to move forward? I think most folks by now appreciate the fact that after September 11, we understood there were significant problems with our law and we needed to make some changes to fill in some loopholes and to make changes that would give our law enforcement and intelligence agencies the tools they needed to fight this new enemy, the terrorists. As a result, we passed the PATRIOT Act. But we said we wanted to sunset provisions of the PATRIOT Act so that we would have to revisit them before they would become permanent law. We are now at that point. The law will expire on December 31 unless we reauthorize it.

So the Senate worked on it for about 8 months. We passed a version of the PATRIOT Act to be reauthorized. The House of Representatives did the same thing. There were some modest differences between the two bodies. We created a conference committee to iron out the differences, and I served on that committee. The Senate got most of its way in the conference committee. Most people have said about 80 percent of the compromising was done by the House. Nonetheless, the version we have before us is a version that I support. It is a good version, as the House of Representatives found when it passed overwhelmingly before the House recessed and left Washington, DC. In fact, I believe 44 Democrats supported the reauthorization of the PATRIOT Act in the House. Now it is up to us to approve it as well and then

send it on to the President for signature.

Once a conference report is completed, it is no longer amendable. We all understand that. But some Members of the Senate decided they wanted to amend it, even though there is no procedure for amending it. So they decided to filibuster the bill. When we took a vote on it, it had majority support. There were over 50 Senators who wanted to reauthorize the PATRIOT Act, but the minority of Senators wouldn't let us vote on it. They successfully filibustered it. They said: We are not going to let you vote on reauthorizing the PATRIOT Act because we would like to make some more changes.

The time for making changes is up. You can't make any more changes once a conference report has been filed. They know that. So it is a little curious to me why they keep saying, we want to extend it so we can make some more changes. That is not the procedure of the Senate, and it can't be done. The conference has been discharged. The House of Representatives has gone home. Even if we wanted to go back into the conference and make changes, we couldn't do it.

There is a way we can accommodate those who wish to make further changes to the PATRIOT Act, but it is not by filibustering. It is by allowing us to have the vote, pass the PATRIOT Act reauthorization, and then introduce those changes you would like to make in it, and we will deal with those in the regular process of hearings and presenting the matter to the floor. As a matter of fact, I would like to do that myself. There are some things I would like to add to the PATRIOT Act, and I fully intend, after we reauthorize it, to introduce that either as an amendment to a bill next year or as a separate bill, and to seek hearings in the Judiciary Committee so we can try to move the additional things I would like to see in the act.

My colleagues are certainly welcome to do the exact same thing. We might even get together and try to have one hearing at which that is done. That is the regular order. That is the way we could make the changes they are talking about, if a majority of Senators agree. But I think that is the rub. I suspect they can't get a majority of the Senators to agree to the changes they would like to make. They couldn't get a majority of the conference committee in the House or the Senate to agree. So they would now like to try to use pure force rather than logic to get their changes.

If they have the confidence that their changes make sense, then why wouldn't they want to simply offer them next year and let's vote on them? If they have 51 votes, they become law. Instead, they want to somehow pressure us at this point into letting the PATRIOT Act expire, and then everyone feels we have to do something so we accept their unreasonable demands.

That is not the way to legislate, and it is not a responsible action. We should defeat the filibuster, not allow the PATRIOT Act to expire but to extend it for the period of time that the conference agreed, which is a period of 4 years. And if additional changes are to be made, they can be made starting as soon as we come back here next January. That is the way to do business.

There are those who have said: Let's extend it for a few months. As I said, you can't extend it for a few months. There is no legislative way to do that. It expires December 31. The conference committee is closed down. The House has gone home. We are going to finish up in another day or two here. So you simply can't snap your fingers and extend a law. You have to pass it. It has to be signed into law by the President. He said, no, we are not going to have any short-term extension. We have a long-term extension right in front of us. It is called reauthorization. Allow the Senate to vote. If you do, they will vote with a majority vote to reauthorize the act. Then it is done. If you then want to make changes, you are welcome to do that.

What are these big changes that have been talked about? The only ones I have heard about are two that were mentioned by the Senator from California who spoke before I did. I don't understand either one of them. She said we have to make changes, some checks and balances, with regard to these library records or bookstore records. Secondly, if you have your house searched, you need notice within 30 days.

That is what the compromise provides. The conference committee provided a 30-day notice if your house is searched, so that instead of the reasonable standard, which is what exists today, you would have to be notified in 30 days. By the way, why aren't you notified immediately? In most cases, you are. But there are some cases where you are not notified of a warrant that has been issued. Why is that so? Suppose you are a couple of gangsters and the prosecutor wants to tap your telephone to find out if you are making illegal deals about drug running. He goes to the court and gets a warrant to tap your phone. Are you told about that? No, of course not. Sometimes a warrant is obtained and you are not told about it. You are not told if your house is searched or if your telephone is tapped because to do so would allow a witness to be compromised or a party of interest to escape the country or the information not to be obtained because you know that you are under the watchful eye of the prosecutor at the time. So sometimes you are not told about a warrant. But there is always a limit on that timewise.

In the PATRIOT Act, the House had something like, I believe, 150 days or 180 days. The compromise was 30 days, which is exactly what the Senator from California said we needed. I don't understand what the problem is there.

With respect to libraries, this is the section 215 we have talked about forever and ever. This is simply the business records administrative subpoena for which 335 examples exist in our books on the law today. If you are investigating somebody for Medicare fraud, you can get one of these subpoenas. A subpoena is not a warrant. A subpoena is a request for information. If you suspect somebody of fraud on the IRS, the IRS can get one of these administrative subpoenas. It is a request for information. Do you have to have a judge authorize that request? Not for 335 of these. There is only one that you have to have a judge for, and that is if you are investigating terrorism. The one that ought to be the easiest is the hardest because we are so concerned about protecting civil liberties that we say under the PATRIOT Act, you have to go to a judge first, even for a subpoena—not just a warrant, for a subpoena.

So it has all the protection I think one would want. But we say we need a standard. So what is the standard the courts have applied? A relevancy standard. We will put that in, too. That is still not enough. We want a three-part test that ties it into international terrorism. Fine, we put that in. And one more thing; we want to make sure any records are destroyed within a reasonable time and that people are not told of this information. We said the Justice Department has to set that up. That is still not good enough. We want to make sure it is not abused. Fine. We will have a report from the executive branch every 6 months to Congress explaining in great detail how many subpoenas were issued, what the problems were with them, if any, and anything else that Congress wants to know about the use of these so we can have oversight.

There is not much more you could do and still have an effective section 215. Why is section 215 used? As we know, two of the hijackers, al-Mihdhar and al-Hazmi, the two who were on the plane that came into the Pentagon and killed 125 people there, as well as the people on that flight from Dulles Airport, their airline reservations for September 11 were checked on August 31 on a computer at a library, and had we had the PATRIOT Act library record ability to check that out, and had we known of those two people who I am talking about here, we could possibly have known they were checking reservations for September 11 and intercepted them and prevented them from getting on that airplane.

The bottom line is there are circumstances in which you want business records. Libraries have business records the same as any other kinds of entities. There is nothing wrong.

This has been the law forever. We have built in a lot of protections. I don't know what more anybody would want with respect to protections for these particular records.

So even if you assume that there is more to be done, my question is, how

much more? The differences have been characterized from the other side as minuscule. They have said let's extend this and a couple of other changes we want to make. If that is the case, then why is the other side willing to let the entire act expire? We don't have the protections of the PATRIOT Act over provisions that are not that important, especially since they could be offered next year in an amendment to any bill. We could have hearings for them in the Judiciary Committee. There would be no problem considering these kinds of requests.

If it expires, the PATRIOT Act's provisions no longer protect us. One of those is to allow the FBI and the CIA to talk to each other. Let me explain why this is important. This wall that used to exist was torn down by the PATRIOT Act. Patrick Fitzgerald, who is the U.S. attorney who is currently a special prosecutor, as we know, looking into another matter, testified how the wall worked in practice.

He said:

> I was on a prosecution team in New York that began a criminal investigation of Osama bin Laden in early 1996. The team . . . had access to a number of sources. We can talk to citizens. We could talk to local police officers. We could talk to other U.S. Government agencies. We could talk to foreign police officers. Even foreign intelligence personnel. And foreign citizens. . . . We could even talk to al-Qaida members—and we did. But there was one group of people we were not permitted to talk to. Who? The FBI agents across the street from us in lower Manhattan assigned to a parallel intelligence investigation of Osama bin Laden and al-Qaida. We could not learn what information they had fathered. That was ''the wall.''

The ''wall'' had deadly consequences. The 9/11 Commission report contained detailed examples of how the wall prevented them from cooperating, the FBI and CIA, prior to 9/11—and perhaps the biggest example is the one I cited in which Khalid al-Midhdar and Nawaf al-Hazmi, two of the hijackers, were known to the CIA and that they were connected to terrorism. They had been connected to the Cole bombing and they were in the United States. The CIA refused to give the FBI the information because of this wall.

I mentioned the fact that we later learned they had actually checked their September 11 airline reservations on a library computer. The FBI agent working on the case in Washington, DC, after being unable to communicate with the CIA, said this:

> Whatever has happened to this—some day someone will die—and wall or not—the public will not understand why we were not more effective in throwing every resource we had at certain ''problems.''

That agent was right, and thousands did die. That wall is going to go back up if the PATRIOT Act is not reauthorized. So those people who have filibustered the PATRIOT Act and prevented us from voting on it, prevented the will of the majority from prevailing in this body. Since a majority of both House of Representatives and the Senate favors reauthorization of the PATRIOT Act, those people will have prevented us from having in place the PATRIOT Act to protect us from the terrorists. They will have allowed this wall to be resurrected to prevent the FBI and the CIA from talking to each other and we are going to be right back where we were before September 11.

Again, I say, as the FBI agent did, what happens if some terrorists should strike us and we could have prevented that had the PATRIOT Act been in effect? Those who filibuster this act had better ask themselves that question. They have a very simple way to get around the answer; that is, allow us to have our vote. It will take 20 minutes. We can reauthorize the PATRIOT Act and it is back in force and then any other little changes you want to make to it, we will consider them next January, next February. What is wrong with that offer, considering what is at stake.

I urge my colleagues again that the PATRIOT Act needs to be reauthorized. All it takes is for the other side to stop its filibuster, allow us to take the vote and, by a majority vote, we will reauthorize it, thus giving the American people the protection we deserve from the law enforcement and intelligence agencies who need this vital tool.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

MEASURES BEFORE THE SENATE

Mr. BOND. Mr. President, there are a number of subjects I want to address tonight. I appreciate the time. First, the Defense appropriations bill that is before us that is going to have to be clotured is very important. I want to make sure everybody understands what we are talking about. There are some very important things in there, including relief for the Katrina victims, and all of the victims of the hurricanes in the gulf coast over to Florida. These are important funds that need to be provided.

It also includes the opening up of ANWR, which will provide revenues that will help us meet the needs of LIHEAP and also of the hurricane victims. Beyond that, it is going to help us meet needs that all Americans have for an adequate energy supply. Nine hundred thousand barrels of oil would have been coming out of the coastal regions of northern Alaska above the Arctic Circle had the previous approval of this bill by the Congress in 1995 not been vetoed. So ANWR is necessary if we are going to bring supply up to help meet the demand for energy.

But most important, this provides $50 billion to support our troops in the war on terror. We have heard remarks recently on the floor about what our troops want. I can tell you one thing our troops want is to have the bullets, the supplies, the reinforcements, and the assistance they need to conduct the war. Our troops, by and large, are very enthusiastic about continuing to finish the job. What bothers them is to hear people in this body and in the media say that the President has failed and we ought to impeach him. Their Commander in Chief, they believe, has done the right thing in helping us clean out the murderous tyrant Saddam Hussein and carry the war on terror to the hotbed of terrorism that was and would be Iraq if we left. They are concerned that if we try to pull out the troops before they finish the job, it is going to be a disaster. I am going to talk more about that later on, but the people who claim to be supporting the troops should not be filibustering the Defense appropriations bill.

Speaking of the related subject, let me turn now to electronic surveillance of suspected terrorists' conversations with al-Qaida abroad. That is a vitally important area that has been substantially mischaracterized by recent remarks on the floor. The National Security Act of 1947 requires the President to keep Congress fully and currently informed on U.S. intelligence activities to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods.

This statutory requirement recognizes that some of the programs or activities may be so sensitive that the information is provided only to a few Members of Congress.

Regrettably, a very effective program that the President authorized has now been fully exposed. I hope there will be a full investigation by the Department of Justice and appropriate prosecutions of those found to have leaked that information.

Recognizing the need to protect sensitive programs and activities, Congress created the Intelligence Committee and worked with the President to balance the Congress's constitutional need for information and the President's constitutional responsibility to protect national security.

Before we start calling the President's efforts illegal or unconstitutional, maybe people ought to take a look at the law and the Constitution. The President has the constitutional authority to conduct warrantless electronic surveillance for foreign intelligence purposes. This is what the President stated he has done. It was for foreign intelligence purposes.

In the most recent definitive case addressing this issue, the 1980 Truong case from the Fourth Circuit, the Court upheld the Executive's warrantless electronic surveillance of U.S. persons for foreign intelligence purposes. The Court explicitly recognized a foreign intelligence exception to the warrant requirement based on the President's constitutional authority and responsibility to protect national security.

Incidentally, the President, under whose authority that warrantless search—eavesdropping—was conducted was Jimmy Carter.

The FISA statute that has been passed works with the President's constitutional authorities. It is one way to conduct foreign intelligence surveillance, but it is not the only way. You see, Congress cannot get rid of a President's constitutional authority by passing a law. The President can conduct warrantless foreign intelligence surveillance because he is charged under the Constitution with protecting our Nation and conducting foreign relations.

Under the fourth amendment, the surveillance still has to be reasonable; it just doesn't require a warrant. In the context of the war against al-Qaida and worldwide terrorism, the constitutional resolution authorizing the use of all necessary and appropriate force to prevent future attacks makes it clear that the President's determination of what is and isn't reasonable is entitled to some deference. When you are fighting a war, you have to be able to move quickly to respond to threats. The President has said he exercised the authority to maintain speed and flexibility to target terrorists when they are about to harm our country. If the Constitution provides for that agility, the President should use it.

As the 9/11 Commission has pointed out, it was clear that enemy communications were made from the United States prior to the September 11 attacks. The Commission criticized our inability to link things happening in the United States with things that were happening elsewhere. We know, for example, that Nawaf al Hazmi and Khalid al Midhar, two terrorists who flew a jet into the Pentagon, communicated overseas to other members of al-Qaida while they were in the United States. We knew they were terrorists, but we did not know they were here until it was too late. Reflecting his constitutional responsibilities and authorities, the activities authorized by the President make it far more likely that such killers can be identified and located in time in the future to prevent that tragic occurrence from recurring.

The lawful activity conducted under this authorization has given the United States a proven ability to detect and prevent terrorist attacks. It enables us to learn more about those who have a link to al-Qaida in a way that is agile and timely enough to prevent and detect further attacks.

The program has been successful, but continuing public discussion of the nature and use of the capability simply will arm our enemies with the knowledge they need to prevent detection and will increase the danger to our country, our citizens, and our values.

Speaking of giving the necessary tools to our law enforcement and intelligence agencies, there is the PATRIOT Act, which, again, is being filibustered by those on the other side. Over the past few days, opponents have raised a number of arguments and charges against two controversial provisions from the original PATRIOT Act—FISA business records and national security letters. Unfortunately, many of the arguments have been inaccurate and misleading, particularly the allegations that the conference report does not fix alleged problems with these investigative tools.

Let me be clear, as my colleague from Arizona just pointed out, if the USA PATRIOT Act is not reauthorized, we will have done a grave disservice to our Nation's security. That is your and my safety, Mr. President, and the safety of our families, of our communities, of our country. We will be sending the wrong message to terrorists and spies who threaten our national security that we will not use every constitutional tool available. I don't want to send that message.

It is far too easy 4 years after September 11 to put restrictions on the intelligence community that are not necessary or appropriate. When we needlessly restrict intelligence investigations, we increase the possibility that the next attack will succeed.

The arguments of those who seek further to restrict the PATRIOT Act tools are not based on any factual allegations of abuse but, rather, on unsubstantiated allegations, inaccurate and misleading press accounts, and hypotheticals. To adopt their position and to reject the conference report is to legislate to the possible rogue FBI agent, the one-tenth of 1 percent who might go beyond the law and should be prosecuted if he or she does. If we take that step, we will deprive the other 99.9 percent of FBI agents of lawful investigative tools.

Rather than basing their votes on inaccurate media reports or hypotheticals, I urge my colleagues to base their position on this important legislation on facts: the fact that terrorists continue to seek to kill Americans; the fact they continue to plot attacks; the fact they are determined to continue the war against us; the fact that this conference report provides significant increased protections for privacy and civil liberties; and the fact that our national security investigations have not abused the authorities provided under the original act.

This bill is a compromise. Over the past days, many who have opposed the conference report have suggested we can quickly solve the matter by simply adopting the original Senate bill. They pointed to the Senate passage of this bill by unanimous consent. We did not object to the bill because it needed to proceed to conference quickly. If the Senate bill had been submitted to the conferees for signature, there are some who would not have signed it. That bill went too far, in my view. This conference report strikes the appropriate balance, and just barely.

That said, the conferees considered the bill adopted by the Senate and the Senate position on NSLs and FISA business records. All of that has been debated and negotiated. In short, the legislative process resulted in the conference report presented to us.

Many opposed to the conference report have made a great deal about what this bill is not. Well, I have a list of thing the bill is not as well. This bill does not place national security investigators on a par with their counterparts investigating criminal cases, regrettably, and it doesn't give them the same access criminal investigators have to our records. Unfortunately, we could not get that done. But neither does it compromise any American civil rights.

Speaking, as I was, of the war in Iraq, let me point out that we have had a tremendous milestone. Last Thursday, there was a 70-percent voter turnout, the highest thus far.

I ask unanimous consent to print in the RECORD an op-ed piece by a marine who spoke very eloquently about the reasons why he is signing up, why he is going back to Iraq, why significant numbers of people are reenlisting because they know we are making progress in the war on terror.

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

> When I told people that I was getting ready to head back to Iraq for my third tour, the usual response was a frown, a somber head shake and even the occasional ''I'm sorry.'' When I told them that I was glad to be going back, the response was awkward disbelief, a fake smile and a change of subject. The common wisdom seems to be that Iraq is an unwinnable war and a quagmire and that the only thing left to decide is how quickly we withdraw. Depending on which poll you believe, about 60 percent of Americans think it's time to pull out of Iraq. How is it, then, that 64 percent of U.S. military officers think we will succeed if we are allowed to continue our work? Why is there such a dramatic divergence between American public opinion and the upbeat assessment of the men and women doing the fighting?

Mr. BOND. Mr. President, our efforts in Iraq are pivotal to our strategic interests in the Middle East and throughout the world. This past Wednesday, Osama Bin Ladin's principal deputy, Aman al-Zawahiri, in his latest video on the internet called for the insurgent groups in Iraq to unite in order to drive out the Americans. Zawahiri has stated consistently that the war in Iraq is his holy jihad and the battleground for establishing a worldwide, Islamo-fascist state. Terrorists like Zawahiri are clear on their goals for Iraq, let us be clear and steadfast in our resolve to defeat their diabolical plans and lay the foundation for a peaceful, free Iraq.

As I outlined on the Senate floor earlier this year, Southeast Asia is of vital importance to the economic health and the security of the United States—and I have urged active engagement. Home to over 500 million people and two Muslim democracies, U.S. engagement is essential for strategic, economic and security reasons.

I have just returned from my second trip to the region this year. In January of this year, I visited Malaysia, Singapore, and Indonesia, including a tour of Aceh in the wake of the devastating tsunami that hit that part of the country. I have just returned from a trip to

the Philippines, Indonesia and Thailand. Throughout Southeast Asia, I spread the message that America has vital interests in the region and that we will continue to cultivate economic and security ties.

Foremost, however, I made it known that the United States wants to participate in this and any future East Asian summits. The summit was initially billed as a meeting of East Asian countries, but it continued to expand until it was a meeting of ASEAN countries plus Japan, Korea, China, India, Australia and New Zealand—it has started to look like everyone but the United States.

I can understand China wanting to take this opportunity to marginalize the United States while pressing aggressively their priorities in the region. However, I pointed out to the leaders with whom I visited in Southeast Asia that the United States was in Asia during World War II to liberate the region from Japanese aggression; we were in Asia to prevent the region from being taken over from the communists, and we are in the region to fight Islamic fascists bent in turning the region into part of an Islamic caliphate. We were in the region immediately to provide resources to save thousands of lives in Aceh and begin the rebuilding process. We have made a valuable contribution to the quality of life in Asia and we should not be excluded from such an important summit.

The Philippines has a population of 87 million people and population is expected to double in the next 30 years. I saw a startling statistic that showed in the same time that median income increased over 2,000 percent in Korea, increased over 900 percent in Thailand and almost 700 percent in Indonesia, median income increased only 90 percent in the Philippines.

Despite its longstanding ties to the United States and the presence of an English speaking population, the country has not advanced economically to the level it should have. The corruption of Marcos was a terrible setback but it is time to move ahead. The country is in need of U.S. Foreign Direct Investment but I heard from the American Chamber of Commerce that reforms are needed before more investment will flow, especially in area of judicial reform and intellectual property protection. We do have extensive U.S. Government presence that is actively working with the government on these and many important reforms.

In an excellent meeting I had with President Arroyo, I commended her on the leadership role the Philippines has taken to pushing ASEAN finally to get tough on Myanmar. It is long past time for that country to improve its human rights record and move towards installing the popularly elected government. We also discussed and I thanked her for her support of our objective to advance free trade in Asia.

Despite the massive undertaking, the rebuilding of Aceh is progressing. The U.S. remains involved, notably we have been integral to building a 60 mile road to cross the island of Sumatra, an essential artery to rebuilding the country. Between our efforts and between the waiver of military sanctions by the President, our standing in the United States is on the rise.

Reviving military to military relations will pay more dividends than support for the United States. The reform-minded President of Indonesia is a graduate of Webster University in St. Louis, MO, but he is also a graduate of the IMET program. While his tasks are immense, he is committed to reform and he has taken on corruption in the government and needed structural reforms in the military. Change will never happen at a pace that will satisfy some in this Congress, but important reforms are advancing and I believe we should seize the opportunity to influence further the professionalism of the Indonesian military through more IMET participation.

I also had the opportunity to dine with some very engaging, forward-looking members of the Indonesian parliament. They share my concern in the limitations of the Indonesian education system and the holes in curriculum that may be exploited by the paesantrans that are Saudi funded and teach an extreme version of Islam.

President Bush has identified an important goal, improving the education system in Indonesia, and has proposed a four year, $157 million education program for Indonesia. USAID is implementing the program that will work on curriculum issues and train teachers. This program is targeted at introducing basic education and the teaching of skills to young Indonesians, so that they will leave school with the ability to find work—creating a capable Indonesian labor force in the process.

Finally, I had an excellent visit to Thailand, a great and longstanding ally of the United States. Like the other countries in the region, we have active ties with Thailand on a number of levels. We are presently negotiating a FTA with the Thais, successful completion of an FTA will make Thailand our second free trade partner in Asia.

But there is also a great deal of success in the region in the war on terrorism and many of the countries in Southeast Asia have been valuable partners. As I have stated on this floor, Southeast Asia has opened up as a second front on the war on terrorism. It is home to its own terrorist network, Jemaah Islamiyah, that has made a number of successful and deadly attacks, including the two devastating bombings in Bali.

There have been numerous victories over terrorism in the past 3 years in the Indonesia, Thailand and the Philippines. For example, last month on November 9, 2005, in Indonesia, Indonesian police tracked down and killed Dr. Azahari bin Husin, the Jemaah Islamiyah bomb expert who was known as the most feared terrorist in Asia. Azahari was responsible for the two Bali bombings, an attack on the Australian embassy in Jakarta, and the bombing of the JW Marriott Hotel in Jakarta, among others. He was in the midst of planning a string of terrorist attacks when police assaulted his safe house in East Java. The termination of his terror campaign was the result of a culmination of numerous entities working together to fight terrorism in the region. U.S. assistance was and remains paramount to such efforts and is having great effect.

In Thailand on August 11, 2003, Riduan Isamuddin, aka Hambali, was arrested by Thai authorities near Bangkok, Thailand, after extensive coordination between multiple agencies and authorities. The capture of Hambali truly is a testament to the effectiveness that we and the allies we support are having in the global war on terror. When the details of this operation are declassified in the future, the phenomenal tale of his capture should make for a dynamic, nonfiction movie. President Bush described Hambali as ''one of the world's most lethal terrorists'' and a key figure in al Qaeda's global operations. Hambali was a close associate of September 11 mastermind Khalid Shaikh Mohammed, KSM, and it is no coincidence that the information we have gleaned from detainees like KSM has led to captures like that of Hambali.

In the Philippines, a great success in the war on terror has taken place over the past year on the southern Philippine island of Basilan. I met with the Commander of the Joint Special Operations Task Force Philippines, JSOTF–P, and he briefed me on this tremendous success. One of the primary terrorist organizations in the Philippines is the Abu Sayyaf Group, ASG. The ASG is primarily a small, violent Muslim terrorist group operating in the southern Philippines. The group split from the much larger Moro National Liberation Front in the early 1990s under the leadership of Abdurajak Abubakar Janjalani, who was killed in a clash with Philippine police in December 1998. His younger brother, Khadaffy Janjalani, replaced him as the nominal leader of the group. The group's goal is to promote an independent Islamic state in western Mindanao and the Sulu Archipelago, area in the southern Philippines heavily populated by Muslims. In April 2000, an ASG faction kidnapped 21 persons, including 10 Western tourists, from a resort in Malaysia. On May 27, 2001, the ASG kidnapped three U.S. citizens and 17 Filipinos from a tourist resort in Palawan, Philippines. Several of the hostages, including U.S. citizen Guillermo Sobero, were murdered. Philippine authorities say that the ASG had a role in the bombing near a Philippine military base in Zamboanga in October 2002 that killed a U.S. serviceman. In February 2004, Khadaffy Janjalani's faction bombed SuperFerry

14 in Manila Bay, killing approximately 132, and in March, Philippine authorities arrested an ASG cell whose bombing targets included the U.S. Embassy in Manila.

Today, however, after a year of joint operations between U.S. and Phillipine personnel consisting of combat patrols, civil affairs assistance, and local interaction with the citizens on the island, the majority of ASG personnel and other terrorist groups have been squeezed out of the island. Not only have most of the nefarious characters departed, but as our troops built wells and provided educational assistance they gained the trust of the inhabitants. They showed them a better way of life and thus ensured that once they left the terrorists would not be welcomed back. Thus far the method has worked, and a haven for terrorism has been eliminated. Through establishing security, building infrastructure and winning the confidence of the locals, Basilan Island has transformed into a place where terrorists are no longer welcome, and although U.S. and Philippine forces have largely left, the terrorists have not returned.

RAJADAMRI COMPOUND

Mr. President, on a number of occasions this session, I have addressed my colleagues about the critical importance of engagement and maintaining strong relationships with our allies in Southeast Asia. As I have described, an active U.S. presence is essential for a number of vital economic, security and strategic reasons. The United States has a number of strong allies in the region and these relationships are very important for promoting our policies pursuing peace, stability and prosperity in Southeast Asia. I remind my colleagues that the United States and the Kingdom of Thailand will soon celebrate 175 years of formal relations between the two countries, which makes Thailand our foremost and longest standing ally in Asia. It is in this context that I rise to address the significance of the Rajadamri Diplomatic Compound occupied by the U.S. Embassy in Thailand.

After the end of World War II, the U.S. Government intervened with the Government of the United Kingdom on behalf of the Kingdom of Thailand. The United Kingdom was demanding war reparations from the Kingdom of Thailand, which was nominally allied with Japan during the war. However, the United States argued that during the war the Allies received very meaningful assistance from the Free Thai movement, which was composed of a significant number of the Thai leadership. In 1949, in acknowledgment of the U.S. role in assisting the Free Thai movement and in persuading the United Kingdom to forego pursuit of war reparations, the Royal Thai Government sold Rajadamri to the United States for a nominal sum and transferred title to the 17 acre compound.

Rajadamri is a beautiful piece of property. Located in the heart of bustling Bangkok, around the corner from the U.S. Embassy and across from the famous Peace Park, Rajadamri is a magnificent setting where a visitor can simultaneously admire the imposing modern towers of downtown Bangkok and feed a Mekong catfish or pet the good-natured Chihuahua that lives on the grounds. The tranquil compound also houses three historic Thai homes that were built by the king for favored members of the royal family. Rajadamri represents a true gesture of friendship from the Thai Government and the people of Thailand. The granting of these royal residences to the U.S. Government is unprecedented and emphasizes even more so that this gift is a true symbol of the gratitude of the Thai people.

This compound has played a significant role in the long relationship with our stalwart Thai allies. In addition to the close cooperation between U.S. Forces and the Free Thai during WWII, the Thai Government has stood by the United States during Korean, Vietnam, Gulf, Afghanistan and Iraq wars. The Thais remain a very close friend in Southeast Asia and provide a variety of assistance beyond military, including delivering important assistance to Indonesia, Sri Lanka and other countries affected by the tsunami of 2004; and serving as the strategic center for our efforts to deal with Avian influenza and other pandemic risks. During the Vietnam War, the morgue used for transferring soldiers killed in action from Vietnam to the U.S. was initially located on this compound. Rajadamri has served as a base for regional U.S. financial operations. Rajadamri also continues to house numerous embassy support elements, along with other facilities supporting assistance programs, our war against terrorism, operations to eliminate trafficking in humans and drugs, and our operations to promote peace and stability in the region.

As the Rajadamri compound was essentially a gift to the United States by a grateful Royal Thai Government, I believe it is our obligation to continue to use the compound in a manner that is consistent with the spirit in which it was given to the United States. The Kingdom of Thailand is one of the United States true friends in the world. In honor of that friendship, in an effort to strengthen our warm relations and in hopes that the relationship will grow as we continue to meet challenges in the region and the world, we must maintain Rajadamri as a centerpiece of our mission to Thailand. I urge my colleagues to support me on this point.

The PRESIDING OFFICER (Mr. COBURN). The Senator from New York is recognized.

Mr. SCHUMER. I ask unanimous consent that I be recognized for up to 10 minutes as in morning business and that following my remarks Senator LEVIN be recognized for up to 10 minutes and that the time not be charged against the bill.

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

WIRETAP

Mr. SCHUMER. Mr. President, I rise to read a quote that I thought my colleagues might be interested in. Let me first read the quote. It says:

> Secondly, there are such things as roving wiretaps. Now, by the way, any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order. Nothing has changed, by the way. So when we're talking about chasing down terrorists, we're talking about getting a court order before we do so. It's important for our fellow citizens to understand, when you think Patriot Act, constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.

Now, that sounds like something that would come from somebody saying, of course, we ought to have court orders before we wiretap our citizens. Well, let me tell my colleagues who made this statement. It was President Bush in 2004, on April 20, in my home State of New York, in the great city of Buffalo.

Let me read what the President said while we are talking about this new revelation about wiretaps. He says again, this is a quote from President Bush, April 20, 2004:

> . . . any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so. It's important for our fellow citizens to understand, when you think Patriot Act, constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.

So I have a question for the President: Sir, with all due respect, what has changed? If, on April 20, 2004, you said we needed a court order to do wiretaps when we listen in on our citizens, why is it now that you are out there busy saying we do not need a court order; that the law does not require it?

On April 20, 2004, I would say to the President, you obviously knew that this program of wiretapping citizens was in effect. Why did you say we always need a court order, that that is what the Constitution says, ''because we value the Constitution,'' ''constitutional guarantees,'' your words?

I think this shows the speciousness of the argument that has been made by those in the White House, including the President, that, of course, wiretapping citizens without a court order is perfectly allowed by the law. The President himself stated something that you learn in law school, that you probably even learn in a civics class in high school or a constitutional law class in college, that a wiretap for an American citizen requires a court order.

The President of the United States stated:

> . . . any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order . . .

I could not have stated it any better myself. That is the law. That has been

the law for a long time in this country and many believe that the Constitution, the fourth amendment, so requires.

So I would ask the President now to admit that in the heat of the aftermath of 9/11, something we all felt, that a mistake was made; that the Government went ahead and wiretapped American citizens without a court order. That was a mistake and should not be repeated or defended. We Americans realize that we need security as well as liberty and, in fact, in the Pantheon of values, I guess security might come a little bit above liberty, but as the President is implying, when it comes to wiretaps we can have both. So for all the sturm und drang, for all the fuss that has been made, oh, of course, everyone knows the law does not require us to get a court order for wiretaps, the President's basic knowledge—and by the way, from what I am told, this is from the President's archives. He went off the script and just said this on his own, that he knew that a wiretap requires a court order.

So I would ask the President to reconsider his words of the last few days. I would ask the President to join the vast majority of Americans who know that if you are going to wiretap an American citizen, of course, you have to go to court. And if it is unwieldy to do so, that you go to Congress and change the law. You do not change it with the flick of a pen.

You compare this statement, what the President said in Buffalo, NY, on April 20, 2004, to what the President is saying in the last few days, it is a 180-degree turn.

Mr. President, which one do you really mean? Which one do you really believe? Please, no one should be playing political games on something as serious as the delicate balance between security and liberty.

So I ask my colleagues, as we consider possibly renewing the PATRIOT Act, to read what the President has said. The view that we have had on this side of the aisle, that it was sort of beyond discussion; that if one is going to wiretap an American citizen, they needed court permission—in emergencies, of course, it is allowed 72 hours after it is done—that that was more or less the consensus in this country, and it was a consensus the President was part of at least as of a year and a half ago.

What made the President change his views? What made him reverse the universally accepted view that a wiretap requires a court order is beyond me. But let us move forward here. Let us come together, realize that we must protect ourselves but that we can protect ourselves and protect our liberties at the same time.

I urge the President to explain why he said what he did on April 20 and why what he is saying now is so different and to return to the position that most Americans accept, the position he had on April 20 but has since vanished, and that is that to wiretap an American citizen requires a court order.

I yield my remaining time and yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Mr. LEVIN. I ask unanimous consent that Senator CANTWELL be recognized immediately after I conclude, for 10 minutes under the same conditions as I am speaking under.

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

DEFENSE APPROPRIATIONS

Mr. LEVIN. Mr. President, a totally extraneous provision allowing for oil and gas drilling in Alaska's Arctic National Wildlife Refuge—ANWR—has been inserted in the Defense Appropriations Conference Report. The provision was in neither the House or Senate bill which went to conference. This provision clearly violates Senate Rule 28 which states:

> Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

It is clear that the ANWR provision violates Rule 28 and that the Presiding Officer will, on the advice of the Parliamentarian, so rule. The sponsors have indicated that they will appeal such a ruling of the Presiding Officer and seek to overrule it. If they are successful, this would, in effect, eliminate enforcement of Rule 28.

That is why language has been inserted in the Defense Appropriations Conference Report which would, upon the signing of the legislation into law, attempt to reinstate Rule 28's effectiveness. That provision states:

> Effective immediately, the presiding officer shall apply all the precedents of the Senate under Rule 28 in effect at the beginning of the 109th Congress.

Playing ping pong with the Senate rules is an outrageous process. Violating a Senate rule and restoring it, all in the same bill, if permitted to occur, means the rules of the Senate are subject to the whim of conference committees. Rules will exist or can be ignored, violated, or reinstated at the whim of the conferees. Conference reports could be used by a Senate majority to circumvent any Senate rule. Each conference committee becomes a Rules Committee—every conference report can accomplish anything the majority wants regardless of the Standing Rules of the Senate. Senators should play by the rules, not play with the rules. Do we care if the Senate rules take a massive blow? Why are we contemplating destroying our process this way?

The majority has cited as a precedent the 1996 Federal Aviation Authorization Conference Report. A Rule 28 point of order was raised against that bill because of out of scope matters which were added in conference. The ruling of the Chair was overturned by the Senate, creating a precedent that the Senate so regretted that, by bipartisan agreement, 4 years later, the Senate restored the enforcement of the rule.

The trashing of our rules proposed in this Defense Appropriations bill in order to get an unrelated provision passed, is far worse than the mistake we made in 1996. The effort to combine the destruction of a rule and its restoration all in the same legislative act would create a precedent which could lead to the routine circumvention of any Senate rule by conference committees. Is this what we want to do in the Senate—to leave ourselves without rules we can rely on?

If the suspension of a rule has merit, the Senate has a process under its rules to suspend it. Suspension of a rule simply requires a 1-day advance notice and a ⅔ vote. This is the proper way to proceed under the rules, not abusing the conference committee process to allow the majority to change the rules at any time for any purpose by adding language to a conference report.

So what can a minority do in response to protect itself in the future against this trashing of the rules? The minority would presumably never agree to allowing the Senate to appoint conferees. Since the steps leading to conference require the cooperation of the minority party in most instances, why would the minority leave itself vulnerable to losing the protections of 200 years of Senate rules, precedents, and history? My colleagues, walking down this road leads us to an abyss. Why are we doing this to the Senate? I am afraid it is because some have the power to do it and get their legislative goal accomplished.

Arthur Vandenberg, one of my predecessors from Michigan is one of the giants of Senate history. His portrait was recently added to the Senate Reception Room outside of this chamber where he joined six other greats of the Senate. Senator Vandenberg back in 1949 said:

> I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

Senator Vandenberg added that when:

> . . . we fit the rules to the occasion, instead of fitting the occasion to the rules . . . in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate. That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important [the pending issue's] immediate incidence may seem to many today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

No Senator, no matter how he or she feels about ANWR, should accept the abuse of power which is incorporated in the ANWR add-on to the Defense Appropriations bill. That bill, so important to our troops and our national security should not be misused in this way.

Mr. President, I yield the floor. I notice that Senator CANTWELL is on the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. I would say to the Senator from Washington, Senator FRIST will be here shortly to do maybe, I hope, a unanimous consent request. If that is the case, I ask the Senator from Washington to allow us to interrupt.

Ms. CANTWELL. I am happy to.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, many of my colleagues have been on the floor talking about the importance of the votes tomorrow, and I want to remind my colleagues that I do think that these votes are important for the Senate process. I am very disturbed, as are many of my colleagues, that we have moved forward with the Department of Defense appropriations bill that includes language to open up drilling in the Arctic National Wildlife Refuge as well as a provision allowing drug manufacturers to be protected from liability from lawsuits for vaccines that they make.

I think most of my colleagues thought we were going to vote on a Department of Defense appropriations bill tomorrow that was going to help our troops and give military pay raises and help provide security for our Nation. The last thing I think many Americans think is a nexus to that is drilling in the Arctic Refuge, particularly when many Americans believe we don't have enough energy independence and need to get over our over dependence on fossil fuels.

I hope my colleagues understand how important this issue is. We have been contacted by military leaders, retired military leaders who have said:

> . . . any effort to attach controversial legislative language authorizing drilling in ANWR to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need. . . .

This coming from retired military personnel who thought it was so important they actually sent a letter saying they were concerned that this legislation would hold up funding for our troops. That letter has previously been printed in its entirety in the RECORD.

We have also been contacted by the Retired Military Officers Association. These are individuals, too, who want to see legislation go through because they want to make sure the men and women in the military receive their increase in pay and take care of the troops overseas and get all the enforcements they need in a Defense bill. But they also wrote to us saying:

> We are concerned that the insertion of any divisive, non-defense related issues at the last minute could further delay the enactment of this crucial legislation.

So military leaders from around our country are saying they do not like the antics of putting ANWR drilling, a very divisive issue that has been debated for 25 years, into a Defense appropriations bill. This is coming from the military men and women who want to see a clean defense appropriations bill.

I should say to my colleagues that there are other people watching this issue as well. We have newspapers across the country that are also calling out for Congress to be more responsible on this legislation. They are hearing the complaint, as I am, from many parts of the country about this legislation and the way it has been put together.

The Statesman Journal in Salem, OR, states that some U.S. lawmakers are still trying to scheme and allow oil drilling in the Arctic National Wildlife Refuge.

I heard my colleague talk about the vote tomorrow and the process. I just wish to emphasize that while there will be points of order as it relates to the budget and the budget process allowing for a budget point of order and the rules of the budget as it relates to this bill, the Defense appropriations bill, there is language in here that I believe is outside the scope of this legislation and should not be allowed.

I hope my colleagues understand that is one of the possible votes tomorrow—on whether this language on the Arctic National Wildlife Refuge, as my colleague from Michigan said, has no inclusion, neither in the House nor Senate original proposal, has no place showing up in a conference report in the eleventh hour. That is why we are hearing from people all over the country about how absurd it is to include this in the legislation.

I hope, if my colleagues are forced to have a vote on upholding the ruling of the Chair, that they will realize they are really overturning the Senate rules if you disagree with the ruling of the Chair on this issue. This is not the same as the budget process. It is part of our Senate rules. The Senate rules, as the Senator from Michigan read, are very clear. You can't include things in a conference report that were in neither House nor Senate version. But that is exactly what the Senator from Alaska has tried to do.

Alaska will likely get, from drilling in the Arctic National Wildlife Refuge, $5 billion in bid bonuses. I actually think that this proposal, even for an Alaskan, is shortsighted.

America needs to be diversifying into alternative fuels like biofuels, and be focusing on lightweight materials that help us be efficient.

I think that is why this newspaper in Oregon calls this plan shortsighted, that it is disgusting that lawmakers would try to equate oil profits with the Nation's true defense needs. That is what newspapers across the country are saying about this legislation. I believe they are right because we are doing a great disservice to the men and women in the military by continuing to talk about this issue without being specific to the fact that we are adding something that should never have been put in this legislation.

Another Oregon newspaper, the Oregonian also said that Arctic drilling has been thrown into the Defense bill, and it is an emotionally charged matter of supporting the troops at a time of war, and it does not belong there.

This is from another newspaper: It doesn't belong there.

Americans are watching and paying attention to the fact that this legislation was thrown in at the eleventh hour. I believe we should pull it out and get on about our business of passing a Defense appropriations bill.

Let me mention another issue that I am sorry is in this legislation.

I have for the RECORD several editorials that I would also like to submit for the RECORD on this issue of immunity for drug and vaccine manufacturers. There are several here that deserve being a part of the RECORD. I ask unanimous consent that they be printed in the RECORD.

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

[From the New York Times Dec. 14, 2005.]

THE STEALTH LIABILITY PROVISION

Republicans are using the last days of this Congressional session to try to grant extraordinary liability protection to the drug companies that will make the vaccines and other medicines to combat a possible influenza pandemic. But they have been slow to mount a comparable effort to help the people who may be harmed by adverse side effects.

Although liability protection is being portrayed as a vital step in carrying out the president's $7 billion flu pandemic plan, it serves a political purpose as well. The insulation against liability looks suspiciously like an effort to reward the drug companies, which help bankroll Republicans, and punish the trial lawyers, who help bankroll Democrats.

Some form of liability protection is clearly needed, if only to allay the concerns of drug company executives worried about lawsuits. We know how to provide sensible liability protection and have done so for routine childhood immunizations, and for the national swine flu vaccination campaign of 1976 and the smallpox vaccination effort two years ago. But each time individuals had a mechanism to seek compensation, and often, if warranted, the government could sue the manufacturers.

For a pandemic, however, Republican leaders would allow suits only if there was willful misconduct. The companies could be reckless or grossly negligent and escape responsibility. As for victims' compensation, the Republicans have been vague and secretive, but claim that they will produce a fair and robust compensation system. Their provision is expected to be attached to a defense appropriations bill that is now before a conference committee and, once approved, cannot be amended on the floor.

The conferees ought to shun that provision and leave the complexities to fuller discussion early next year.

[From the Des Moines Register, Dec. 9, 2005.]

DRUG MAKERS DON'T NEED GIFT.

President Bush and Congress are trying to give a Christmas present to one of their favorite industries—the drugmakers. Senate legislation seeks to create a new government division within the Department of Health and Human Services with the power to shield drug companies from lawsuits.

The legislation would allow drug makers to create a product with no threat of civil accountability—even if they're negligent.

That's wrong on its face. But there's also no reason for doing it. The motivation appears to be based on an untruth repeated recently by President Bush.

Last month, when he outlined a prevention plan for an avian-flu outbreak, he also called on Congress to ''remove one of the greatest obstacles to domestic vaccine production: the growing burden of litigation.'' He said the industry had been ''flooded'' with lawsuits.

In an independent review of jury verdicts and judicial decisions for cases involving flu vaccine, two Harvard researchers found 10 suits in the past 20 years. Just 10.

The industry doesn't need protection from litigation—or any more gifts from its friends in Washington.

[From the Detroit Free Press, Dec. 16, 2005.]

VACCINE MAKERS: LAWMAKERS SERVICE PEOPLE, NOT DRUG COMPANIES.

As panicky as Americans may some day become about getting vaccinated against bird flu, that urgency does not translate into walling off vaccine makers from lawsuits or invoking secrecy around medical research.

Attempts to add those measures to year-end bills piling up in Congress are subterfuges to dodge the full debate that would probably sink them.

Some vaccines do come with risks. The best model so far for addressing them is the one used for children's immunizations, which includes a fund to reimburse anyone harmed by a vaccine.

Shielding drug companies completely could undermine confidence in the vaccines they do develop for an epidemic, which would heighten the risk if bird flu mutates into a form easily transmitted from human to human.

Managing public fears—whether of the illness or the preventive measures or both—is an essential part of any health strategy.

In that context, how to handle a rush vaccination program merits serious debate.

Shoehorning industry favors into other bills, such as the defense spending bill, does not meet the threshold.

Another potential stealth insert is a plan to create a biomedical research agency that would not have to answer Freedom of Information Act requests or follow other accountability rules normally applied to federal agencies.

The vaccine shield was part of that plan; groups allied against it wonder whether some of the secrecy provisions also could get slipped into a spending bill.

The research agency bill allows more information to be hidden than any current law, according to analyses by journalists' associations lined up in opposition.

Public health programs work best when they live up to that name by operating in the open and serving the common good.

Congress needs to remember that its first responsibility is to the health of people in this country, not to the companies that get contracts to help protect it.

Ms. CANTWELL. For example, the Register-Guard—I don't know why Oregon is paying so much attention to what is happening, but they are on top of things—says in an editorial, ''Unjustifiable protection against lawsuits,'' making sure to protect the drug companies is an immunity deal for vaccine makers that has been slipped into the Defense bill.

They think it is unjustifiable.

Another paper, the Vindicator, a Youngstown, OH, newspaper with the headline: ''Trading on fear by passing legislation is wrong.''

It says that when legislators begin attaching complex legislation with far-reaching effects to must-pass bills, a tactic designed to grease the way for passage with virtually no debate, people should be alarmed.

I ask unanimous consent these articles be printed in the RECORD.

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

[From the Register Guard, Dec. 14, 2005]

VACCINES COME WITH RISK

President Bush and Republican leaders in Congress are right to focus special attention on improving the nation's capacity to develop and distribute vaccines quickly. No response to a bioterrorism attack or influenza pandemic would save more lives than rapid, widespread immunization of healthy people.

But it's inexcusable to exploit public fears of a flu pandemic as a means to grant the drug industry unjustifiable protection against lawsuits filed by injured patients. Senate Majority Leader BILL FRIST is attempting to slip immunity for drug and vaccine makers into a defense spending bill without debate.

It's not just unseemly to concoct such a blatant Christmas giveaway for the pharmaceutical industry. Barring injured patients from seeking compensation undermines the very public health goals an effective vaccination program seeks to promote. Case in point: the Bush administration's 2003 effort to have health professionals and first-responders immunized against smallpox.

Some military personnel and others who received the smallpox vaccine suffered heart attacks and neurological disorders. When other first-responders were told there would be no compensation for anyone who experienced adverse reactions, the backlash stopped the program in its tracks.

President Bush would have Americans believe that greedy trial lawyers and runaway jury verdicts have crippled vaccine makers. Hogwash. The idea that U.S. vaccine production has suffered as a result of product liability lawsuits is a Trojan horse designed to sneak the administration's tort reform agenda into must-pass public health legislation.

Here are the facts: A study of ''Legal Concerns and the Influenza Vaccine Shortage'' by two Harvard University School of Public Health professors found only 10 lawsuits against the manufacturers of flu vaccine during the past 20 years. Moreover, pharmaceutical companies have been making heavy recent investment in vaccine R&D without any additional liability protection.

The common-sense solution to this issue has existed since 1986. It's called the Vaccine Injury Compensation Program, a no-fault fund that shields drug manufacturers from most lawsuits by compensating patients who can prove they were injured by a vaccine.

All Congress needs to do is extend the VIC plan to any new federal flu pandemic vaccine. That solves the problem without creating the first blanket industry product liability immunity in the nation's history.

[From the Vindicator, Dec. 13, 2005]

TRADING ON FEAR TO PASS VACCINE LEGISLATION IS WRONG

When legislators start playing on the worst fears of people, the people should be worried. And when legislators begin attaching complex legislation with far reaching effects to must-pass bills—a tactic designed to grease the way for passage with virtually no debate—people should be alarmed.

The American people should be both worried and alarmed by the efforts of Senate Majority Leader Bill Frist to ram through legislation in the name of protecting the nation from a bird flu epidemic. The bill would not only indemnify the pharmaceutical industry from suits involving death, disability or sickness resulting from the use of pandemic flu vaccines, but would create a new secret bureaucracy to shield the government's health decisions from public scrutiny.

The need to provide some sort of protection to pharmaceutical and biotechnology companies that provide life-saving vaccines is arguably necessary.

Even though a study by Harvard public health professors reported in the October 2005 Journal of the American Medical Association concluded that there were only 10 vaccine-related civil lawsuits brought in the United States in the last 20 years, wariness by pharmaceutical companies in pursuing new vaccines is understandable. In today's litigious climate, it only takes one big mistake to bankrupt a company.

VIGOROUS DEBATE NECESSARY

But the need to protect vaccine providers from unreasonable risks should be vigorously and openly debated in Congress. If companies are to be indemnified against potential catastrophic losses by the federal government, should the federal government share in any extraordinary profits a company makes when its vaccine is a market success?

But there will be no such discussion of hypotheticals if FRIST has his way. He is attempting to attach the liability shield bill of Sen. Richard Burr, R–NC, onto a must-pass defense spending bill.

Even more troubling, S.B 1873 would establish the Biomedical Advanced Research and Development Agency within the Department of Health and Human Services. BARDA would be presided over by a presidential appointee and would assume many of the functions of the U.S. Centers for Disease Control and Prevention and the National Institutes of Health.

But unlike the CDC and NIH, BARDA would be exempt from the Freedom of Information Act.

Ms. CANTWELL. The Toledo Blade editorial said:

Congress and President Bush have acted sluggishly in protecting the nation from public health emergencies, but they can move at lightning speed when it comes to helping their friends in the pharmaceutical industry.

I ask unanimous consent to have that printed in the RECORD.

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

[From the Toledo Blade Editorial, Dec. 16, 2005]

CONGRESS, ON DRUGS

HELPING THEIR FRIENDS IN THE PHARMACEUTICAL INDUSTRY

One example: A Senate bill aimed at creating a stealthy new federal agency to shepherd rapid development of drugs and vaccines to be used against bio-terrorism and pandemic disease.

Against the backdrop of potentially deadly bird flu outbreaks worldwide, it sounds like

a good idea, but a closer look reveals a plan for blanket immunity for industry against legal action by anyone hurt or killed by defective drugs or vaccines. Worse, the agency's activities would be shielded from public view by an exemption from the federal Freedom of Information Act, broader even than the CIA enjoys.

The bill, introduced in mid-October by Sen. Richard Burr, Republican of North Carolina, reportedly is set to be attached to a defense appropriations bill that Congress must pass this month before lawmakers leave town for the holidays. That means there would be little or no debate.

The legislation would be welcomed at the White House, which has demonstrated repeatedly that it wants to govern with the least amount of public input and as much secrecy as possible.

Not surprisingly, the action is being taken in the wake of two reports that give the Bush Administration low marks for emergency preparedness.

First, the 9/11 commission gave the government an F for lackluster homeland security efforts since the terrorist attacks more than four years ago. That was followed by a stinging D+ from Trust for America's Health, a nonprofit, nonpartisan Washington organization that graded the administration's overall public health capability in the event of a disaster.

Senator Burr has been quoted as saying the legislation is necessary to provide ''the incentives and protections necessary to bring more and better drugs and vaccines to market faster.'' Experts, however, say the industry is doing just fine and doesn't need special treatment. Moreover, despite claims to the contrary, there has been no disruptive wave of lawsuits against drug manufacturers.

And, working in secrecy, BARDA would have the sole authority to determine what medical equipment, drugs and vaccines would be shielded from civil lawsuits.

We have editorialized before about the penchant for the Bush administration, which backs S.B. 1873, to try to expand the secrecy under which government operates. It began long before the threat of avian flu, even before Sept. 11, 2001. But the administration and its supporters have not been shy about using fears of disease or terrorism or national security to further a goal of being able to operate with less and less public oversight.

If Burr's bill is a good one, it should be able to survive the healthy debate that is supposed to be a part of the legislative process.

Likewise, if bureaucrats are making life and death decisions regarding the medical care that is available to the American people, they should be subject to the same Freedom of Information law that existing public health agencies work under.

Ms. CANTWELL. The St. Louis-Dispatch, ''Vaccines: Shot in the dark.''

Nor is there any reason to provide extraordinary liability protection for drug companies making bird flu vaccine.

It may be attached to a defense appropriations bill . . . that would be a big mistake.

I ask unanimous consent that be printed in the RECORD.

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

[From the St. Louis Post-Dispatch, Editorial, Dec. 15, 2005]

VACCINES: SHOT IN THE DARK

Shielding vaccine makers from accountability won't speed the development of new drugs to fight bioterrorism. But that's the approach some in Congress seem bent on taking.

Rushing to get home for Christmas vacation, Congress is poised to approve an ill-considered bill introduced by Senate Majority Leader Bill Frist, R–Tenn. The bill would create a new bureaucracy, the Biomedical Advanced Research and Development Agency, that would perform many of the functions now carried out by the U.S. Centers for Disease Control and Prevention and the National Institutes of Health.

It's being sold as an essential step in President George W. Bush's pandemic flu plan, and a short-cut to the development of vaccines for other diseases that could be used in a bioterror attack. It is neither.

The new agency would be exempt from the federal Freedom of Information Act. And it would have the authority to block civil actions on drugs, vaccines and other medical devices developed for it. That means patients would have no right to compensation if they were harmed, and professional groups could be blocked from getting information about things like complication rates.

The foundation of public health is sharing information, making it as widely available to individuals and local governments as possible. Arguing that an agency designed to help combat bird flu or bioterror should work in extraordinary secrecy is as puzzling as it is wrong-headed.

Nor is there any reason to provide extraordinary liability protection for drug companies making bird flu vaccine. For 20 years, America has had a vaccine injury compensation fund that helps people injured by side-effects of inoculations and protects vaccine makers from excessive liability. It works fine, so why tamper with it?

Most analysts say that recent reductions in the number of vaccine makers are tied to low profit margins and uncertain markets, not to the fear of lawsuits. Now, with guarantees of massive government purchases, the industry is gearing up research and production. It doesn't need these new protections.

Dr. Frist's bill could be voted on by the end of the week. It may be attached to a defense appropriation bill that would be the last thing Congress votes on this year. That would be a big mistake.

Ms. CANTWELL. The Times-Tribune of Scranton, PA, said:

. . . the prospect of a pandemic is being used by Congress to pander to the pharmaceutical industry.

And:

Congress should not use legitimate concerns about a flu epidemic as a wedge to protect the manufacturers from liability.

I ask unanimous consent that it be printed in the RECORD.

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

[From the Times-Tribune, Dec. 12, 2005]

PANDERING PANDEMIC

Fear of an avian flue pandemic has driven the government to find ways to increase the production of vaccines while improving monitoring and detection technology. Unfortunately, the prospect of a pandemic also is being used in Congress to pander to the pharmaceutical industry.

The Biodefense and Pandemic Vaccine and Drug Development Act of 2005 would create a new federal agency that would be exempt from public disclosure laws, while superseding many of the functions now handled by public agencies such as the National Institutes of Health and the Centers for Disease Control and Prevention. It would have the power to designate certain drugs as exempt from civil liability litigation.

That measure cannot be directed at vaccines. According to a study of recent flu vaccine shortages by the Harvard School of Public Health, only 10 liability suits have been filed against vaccine manufacturers over the last 20 years. Most such claims are handled under the National Vaccine Injury Compensation Program.

Economic factors produce vaccine shortages. Vaccines are difficult and costly to produce, and unlike for prescription drugs, there is no definitive long-term market. That's why the federal government, quite rightly, has begun to subsidize vaccine production.

Members should get a copy of the most recent issue of the New England Journal of Medicine, which accuses Merck of misrepresenting the results of clinical trials of Vioxx, the anti-inflammatory medicine that was pulled from the market this year.

Ms. CANTWELL. Several other articles that I will go through include the Roanoke Times, that this legislation is in pursuit of secrecy around this issue.

The Orlando Sentinel: Drug firms don't deserve virtually unlimited protection against vaccines lawsuits that would shield manufacturers.

The Raleigh, NC newspaper: Wrong way immunity.

One more, the Las Vegas Sun, titled ''Vaccines and accountability: Bush's proposal to shield avian-flu vaccine makers from liability invites health problems.''

I ask unanimous consent to have those printed in the RECORD.

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

[From the World News, Dec. 11, 2005]

NAUGHTY PURSUIT OF SECRECY

(By Tommy Denton)

As is his custom this time of year, Santa's been making a list and checking it twice, finding out who's been naughty and nice.

President Bush and other perpetrators of the nefarious ''Black Drug Act'' should consider themselves in the ''naughty'' column.

OK, the ''Black Drug Act'' slightly overstates the nefariousness of the Biodefense and Pandemic Vaccine and Drug Development Act of 2005, its formal title, but not all that much.

Introduced in October in response to natural and potentially terrorist-induced pandemics, the bill would create a new federal bureaucracy under a presidential appointee charged with overseeing a vast new initiative to develop remedies for such events.

Skeptics might wonder why the administration supports creating another agency that effectively duplicates the functions currently assigned to the highly capable U.S. Centers for Disease Control and Prevention, the National Institutes of Health and other federal public health operations.

The answer, for those untutored in the ways of Washington in general and the Bush administration in particular, lies in the proposed agency's license to operate under smothering secrecy.

That's where the ''black'' comes in under the legislation's informal title, as in the ''black'' operations of the military that are exempt from public awareness or exposure.

The same would apply for the Biomedical Advanced Research and Development Agency, which, with its extra-judicial powers and supervision by a political appointee, would

be cloaked in official secrecy while ensuring that remedies for fighting a biological outbreak or attack would remain equally ''black.''

Translated into operational terms, that means BARDA would grant astounding levels of secrecy and legal immunity from civil lawsuits filed by persons harmed by the products of the drug companies overseen by the agency.

Even the business of the agency would be exempt from the public protections of the federal Freedom of Information Act. The Defense Department and Central Intelligence Agency are required to meet the accountability standards of such scrutiny, for goodness' sake, so the shield provided to BARDA and its clients in the pharmaceutical industry should elicit a public denunciation of epic proportions.

Yet, under the president's eager support, a squadron of Republican senators has been shoving the bill closer to passage with a frightening lack of public attention to its perils.

Bush pleaded early last month: ''One of the greatest obstacles to domestic vaccine production [is] the growing burden of litigation. In the past three decades, the number of vaccine manufacturers has plummeted, as the industry has been flooded with lawsuits.''

Oh? According to a study published in October of 2004 in the Journal of the American Medical Association by Michelle Mello and Troyan Brennan, Harvard University School of Public Health professors, only 10 lawsuits were filed against makers of flu vaccine in the last 20 years.

And the president's alleged flood of lawsuits apparently has not seriously discouraged such manufacturers of vaccines for influenza and other infectious diseases as Merck, Wyeth, GlaxoSmithKline, Novartis and the Swiss company Roche.

Sanofi-Pasteur, the nation's largest flu vaccine maker, already has invested $150 million to double its production capacity in response to the likely demand for its products, according to a recent report on National Public Radio.

The key for the White House and congressional leadership in this effort to invoke official secrecy and stymie the civil justice system in the event of malpractice and negligence is, simply, fear.

Never mind that sound, cutting-edge medical science—indeed, all science—and responsive public policy work best under the confidence-building conditions of public transparency.

If you have no concern for science or the patience for transparency, then raise the specter of bio-terrorists preying on a vulnerable nation, invoke the need to work in secret to repel that peril, and you're halfway home.

Boogy, boogy, boogy!

Killer viruses!

Hide, take refuge in secrecy, hide!

Boogy, boogy, boogy!

Under such fear-inspired secrecy, the public would be stripped of the very openness and accountability required to acknowledge, assess and overcome threats to public health and safety—processes essential in a democratic republic.

No, the Black Drug Act has precious little to do with much of anything other than securing an expanded sphere of official secrecy in which the administration and its favored corporate benefactors can exploit the fruits of fear.

Santa's still making his list, and he's not amused.

[From the Orlando Sentinel, Dec. 13, 2005]

LEARN FROM PAST VACCINES: DRUG FIRMS DON'T DESERVE VIRTUALLY UNLIMITED PROTECTION AGAINST VACCINE LAWSUITS

Even with the threat of a worldwide bird-flu pandemic, U.S. vaccine manufacturers might be unwilling to respond without protection from lawsuits. Protection is fine but it needs limits and some recourse for victims.

The leading proposal in Congress, from Senate Majority Leader Bill Frist, would bar lawsuits except where a manufacturer's willful misconduct caused injuries or deaths. That standard is much too permissive; it would shield manufacturers in cases of gross negligence, such as failing to follow normal safety procedures.

Yet Mr. Frist's proposal would not set up an alternative system to compensate victims of severe reactions, which are inevitable in any mass vaccination. Congress made the same mistake preparing for a swine flu pandemic in 1976. That program collapsed amid widespread fears about harm from the vaccine. The country was lucky the pandemic never materialized.

Congress gave lawsuit protections to childhood-vaccine manufacturers in 1986, but wisely created a compensation system for severe reactions. Rep. Dave Weldon, a Palm Bay Republican and doctor, is rightly concerned that the lack of a system for a bird-flu vaccine could deter doctors and others on the front lines in a pandemic from getting vaccinated.

Mr. Weldon also sensibly proposes an independent review of the safety of a bird-flu vaccine, to anticipate problems and build public confidence in the program.

Without limits and the kind of measures Mr. Weldon advocates, lawsuit protection for flu-vaccine manufacturers could backfire.

[From the News and Observer, Dec. 16, 2005]

WRONG-WAY IMMUNITY

It's understandable why the Bush administration and its Capitol Hill allies are trying to speed up the production of vaccines and drugs to combat pandemics and bioterrorist attacks. But in that effort, the administration and Republican Sen. Richard Burr of North Carolina have gone off course.

A bill introduced by Burr has come under wide criticism because of its intended formation of a large new bureaucracy wrapped in secrecy and its lack of accountability to the citizens it is designed to protect. With the measure stalled in the Senate, the sponsors appear intent on trying to pass it as a rider to the defense appropriations bill.

This kind of end run around fuller consideration would be a mistake. The Senate especially needs a more complete exposition of the Burr bill's proposal that the Biomedical Advanced Research and Development Agency (BARDA) be exempt from the Freedom of Information Act.

Even more sweeping is a provision empowering the new agency to shield from any legal action those producing vaccines, drugs, medical equipment or other products turned out to combat pandemics or bioterrorism. Such a broad exemption from liability is hardly justified on the record.

A study reported by the Journal of the American Medical Association found, for example, that there had been only 10 lawsuits in 20 years over flu vaccines. Drug companies don't get out of the vaccine business because of liability, the study's authors said, but because of low profit margins and unpredictable demand.

These are two factors that clearly should be more fully dealt with in any legislation to spur the production of vaccines, for instance, for an avian-flu pandemic.

There is another major question hanging over Burr's bill: Is it desirable to form within the Department of Health and Human Services a new supersecret agency?

Already in place are the U.S. Centers for Disease Control and Prevention, the Department of Homeland Security and the National Institutes of Health. Such programs ought to provide more than enough federal firepower to encourage and monitor the steps being taken to prevent or counter pandemics or bioterror attacks. The forming of a large new agency that would be all but shielded from public and even congressional scrutiny can hardly be the right answer for Americans.

[From the Las Vegas Sun, Nov. 2, 2005]

VACCINES AND ACCOUNTABILITY: BUSH'S PROPOSAL TO SHIELD AVIAN-FLU VACCINE MAKERS FROM LIABILITY INVITES HEALTH PROBLEMS

The Bush administration is planning today to release a detailed proposal of its plan to thwart an avian flu pandemic. Scientists say the flu, now present in Asia and parts of Europe, could develop into a worldwide crisis if the virus causing it mutates into a form that makes people, and not just birds, contagious.

President Bush spoke Tuesday in general terms of his plan, most of which we believe is well thought out. The plan would provide funding for developing a new technology for producing vaccines. It would commit the country to a continued partnership with the World Health Organization. It calls for helping to fund the people and agencies in other countries who are now battling the virus. It would provide funding for states to develop emergency plans in the event of a pandemic. It also calls for manufacturing and stockpiling supplies of a flu vaccine that shows promise of being effective.

These points are all worthy of congressional approval. We do have reservations, however, about another point in Bush's plan. He is asking Congress to absolve the manufacturers of vaccines from all legal liability, meaning they couldn't be sued if people who took the vaccines died or suffered physical harm. We believe this aspect of the plan needs a hard look by Congress.

Is there really a good reason to remove accountability from manufacturers of drugs that are intended to safeguard the whole country, if not the whole world? We believe that a solid shield against legal action could lead to a lowering of safety standards by manufacturing executives, who will be under pressure to rush vaccines into production. If the manufacturers want protection from widespread bad outcomes, let them buy insurance.

Ms. CANTWELL. We can see from the editorials there are many people paying attention to what is in this Department of Defense appropriations bill. I should say, because my colleagues all have a copy of the legislation on their desk but they may not have dug deep into these many pages to see, that they should pay special attention to language starting on page 434 about a liability provision exempting drug manufacturers.

It was alarming enough to me to have the ANWR language, but certainly to have additional language that is thrown into this bill as these various editorials have said, at a time without the review and the complexity of the legislation being discussed is wrong.

I hope my colleagues tomorrow will think about their votes on this process and to say that the Defense bill and appropriations should be about the

troops. It should be about protecting our country. It is about giving them resources. It should not be about backdoor attempts or legislative blackmail to say force Members to vote for drilling in the Arctic National Wildlife Refuge or this drug liability provision.

I hope my colleagues will read this legislation carefully.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak up to 10 minutes as in morning business.

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

Mrs. HUTCHISON. Mr. President, I don't know what the parliamentary situation is, if my time is not to be charged to the bill or charged to the bill. Could the Presiding Officer inform me?

The PRESIDING OFFICER. The last two speakers have asked their time not be charged. They were speaking as if in morning business. The Chair would honor the request that the Senator's time not be charged against the bill.

Mrs. HUTCHISON. That would be my request.

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

DEFENSE APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I am rising to say we now know we will get the votes on the reconciliation and we are going to have a vote on the Defense appropriations bill which includes the ANWR legislation as well as the Katrina hurricane relief and the Rita hurricane relief.

I rise tonight because I hope we now see the pathway to finishing a very productive year in the Senate. It is never easy to pass legislation in the Senate. We all know that. We have 100 Senators representing 50 States and everyone has a different idea. What we have to do is come together for the good of our country.

If ever there was a time when important legislation for the families of our country, for the military men and women of our country, for the children of our country, for the future, to have energy independence for America, this is the time when we must say, even if I don't like everything in this bill we must pass it. I don't like everything in this bill. Not one Member would say we liked everything in this bill.

However, what we have pending in the appropriations bill for our Department of Defense and regarding ANWR is essential for the future of our country. I hope my colleagues will look at this last opportunity we have this year to do what is right for our country.

On the appropriations bill, the chairman of the committee has done an incredible job. We are going to have a budget to which we will adhere. It is going to have an across-the-board cut to pay for the Katrina relief we all are seeking. We are trying to do the responsible thing. That is to meet the crises facing our country, the war on terror, doing what is right for our military men and women with boots on the ground as we speak, helping to make sure terrorists are stopped from disrupting Iraq and Afghanistan and coming back to America.

We are trying to do those things. We are trying to help the victims of Katrina, Rita, and Wilma. We are trying to make these important new expenditures in a responsible way with an offset of an across-the-board 1-percent cut in discretionary expenditures with the exception of veterans' health benefits. We are not going to cut those. We know the Veterans' Administration was running out of health care money, so we gave them an emergency supplemental to make sure veterans' health care needs are addressed.

Other than that, we have a 1-percent across-the-board cut in discretionary spending as an offset, because that is the responsible way to help rebuild the gulf coast that has been hit so hard this year.

We are taking up the Defense appropriations bill along with ANWR. Sometimes I hear on the other side of the aisle arguments as if we had not passed ANWR in the Senate. We have passed drilling in ANWR in the Senate because we know we must have an energy policy in this country that will produce more energy, more types of energy.

We have to employ conservation to conserve energy. At the same time, we have to promote solar energy; renewable sources, such as wind energy; research into other types of new fuels, which we are doing every day, so we have new sources; and increasing our domestic supply of oil and gas, which is the bread and butter of our energy needs for this country.

We are over 50 percent dependent on foreign sources for our energy needs in America. That is not a position in which the strongest Nation on Earth should find itself. We should have the capability to provide our own energy and depend on no one.

Drilling in ANWR would give us the amount of oil that we get from Saudi Arabia every day. We are looking at 4 billion to 11 billion barrels of recoverable oil and gas in this area.

I will never understand why the people who are so opposed to this will not go and look at it. The Wildlife Refuge is an area the size of the State of South Carolina. The area to be drilled is under 2,000 acres. Because we have new technologies, you can now drill for miles underground without ever marring the surface.

So we are talking about an area the size of Dulles Airport that would be the drilling site in an area the size of South Carolina.

Are there trees in this area? No. There is not a tree in this area. It is grassy plains. Drilling is not going to harm the environment. It is going to be done in an environmentally safe way. It will increase the energy supply in our country. The people of Alaska, where this is to be done, want it. They have overwhelmingly supported it time and time and time again. They have supported it in polls. They have supported it in coming to Washington to seek the approval of Congress because they want the jobs. They want the economic boost. So this is something that is good for everyone, and it is the right thing to do for our country.

So I hope, as we start voting on these very important bills and finish the business of this year—I hope very soon because so many of our Members want to be with their families at this time of year, just like everyone in America does—I hope we will do the responsible thing.

We were elected to represent the people and to stay here as long as it takes. I hope we do that tomorrow and we deliver to the American people a reconciliation bill that sets the budget on a path to lower our deficit by half, as the President has asked us to do, over the next 5 years; a Defense appropriations bill that will give the Katrina and Rita victims the help they need and deserve, and to be able to drill in ANWR so we will be able to add one more new source of energy for our country that we control, that we do not depend on foreign sources to produce for us. That is another vote for the stability of the economy and the national security of our country.

I urge my colleagues to do the right thing as we start these important votes tomorrow.

Thank you, Mr. President. I yield the floor.

Mr. DURBIN. I rise today to talk about a few of the many ways that this spending reconciliation bill reinforces the misplaced priorities of the Republican leadership of this Congress.

With the 2 reconciliation bills—the bill that we are considering today that cuts services for the poor and the bill that we will see again in January that cuts taxes for the wealthy—we again are saying to the American people that we believe in shared sacrifice . . . so long as this sacrifice is made only by those who can least afford it. Especially in a time of war, this is wrong.

I didn't vote for the Senate version of the spending reconciliation bill a few weeks ago because I didn't think that it was right to try to reduce our huge budget deficit by cutting funding for those who need it most while cutting taxes for those who need it least.

Never mind, of course, that these two bills would actually increase the deficit, and therefore not even meet the purpose they were meant to serve.

Now we have received the conference report on the spending reconciliation bill, after the House passed this report late last night with almost no review or debate. The report cuts funding for the needy far more than the original

Senate bill did, and therefore is even worse than the bill we saw a few weeks ago.

I will attempt to address 6 of the many areas in which this bill cuts services to those who need these services most: Medicaid, Child Support Enforcement, Child Care, Supplemental Security Income for the Disabled, Foster Care, and Higher Education.

First, this conference report asks for more from those who need Medicaid services while asking nothing of pharmaceutical companies and HMOs. In fact, this bill was a victory for big business.

This conference report allows States to increase the Medicaid copayments that many beneficiaries must pay in order to receive health care services and medications. The original Senate bill included no increases in copayments or premiums.

This conference report, however, reflects the House cuts, which overwhelmingly impact beneficiaries.

The House and Senate conferees also chose to leave a $10 billion Medicare slush fund for managed care companies intact.

The Medicare Payment Advisory Commission, MedPAC, an independent commission appointed to advise Congress on Medicare spending, found that the $10 billion slush fund was unnecessary and unwarranted, and recommended its elimination.

The Senate included its elimination in the Senate-passed budget bill, but the managed care companies and the administration went to work on the conferees, and the slush fund lives.

That means the Secretary of Health and Human Services will have $10 billion to dole out to multimillion dollar managed care companies while States will be allowed to increase the copayments of patients making below the Federal poverty level, which is slightly more than $19,000 per year for a family of four.

The average compensation of the highest paid executive in each of the 11 largest managed care companies in America was approximately $15 million in 2002. These companies are not the ones in need of Government subsidies.

Another example of this conference agreement's choice of big business over working Americans is the giveaway to pharmaceutical companies while punishing poor seniors who need nursing home care.

The Senate version of this bill insisted that Medicaid get the best pharmaceutical prices by increasing the minimum rebates drug manufacturers are required to pay the Medicaid program.

In a victory for the pharmaceutical industry, this provision was stripped. Meanwhile, provisions that would substantially impact middle-income seniors in need of nursing home care were maintained.

Medicaid was not meant for people who have enough money to afford their own nursing home care, and rules restricting the transfer of assets to qualify for Medicaid are necessary.

However, the rules adopted by the conferees are overly restrictive and punish middle-income seniors.

Under the rules outlined in this conference report: A woman who helped her granddaughter with her college tuition 5 years ago would be penalized.

A widow who doesn't know what her husband spent their money on before he died 4 years ago would be penalized.

A senior whose home appreciated during the housing boom to $500,000 would be refused Medicaid, even if her house is modest. Medicaid has always had the right to collect from the home of a beneficiary through a lien. Now, we are going to deny coverage altogether to a senior who happens to live in an active real estate market.

The typical nursing home resident is a widow in her 80s with 3 to 5 medical diagnoses who needs help with most daily activities. Almost half have Alzheimer's disease or another dementia. Many have no immediate family. Why are we punishing them and rewarding HMOs and pharmaceutical companies?

A budget is more than a collection of numbers; it is a reflection of values. We should all value health care for the least among us.

This conference report makes many more cuts beyond the cuts to Medicaid.

Many low-income mothers cannot afford to lose the child support payments to which they are legally entitled simply because deadbeat dads can get away with not paying to support their children. Yet the House has created a conference report that cuts $1.5 billion over the next 5 years and $4.9 billion over the next 10 years from the funding for child support enforcement.

The CBO estimates that this will result in $8.4 billion being taken out of the pockets of mothers who are owed child support over the next 10 years.

This conference report includes $1 billion in additional funding for childcare. That sounds pretty good. But since the report would dramatically change the way the Temporary Assistance for Needy Families program works, the negative effects on childcare of the conference report as a whole are simply huge.

The Congressional Budget Office estimates that this conference report provides $11 billion less than what States would need in order to support the new TANF work requirements that this bill requires and to maintain the existing childcare programs for low-income working families not on TANF.

Because of this shortfall in funding, many States will likely be forced to reduce the number of childcare slots available for TANF families. According to the Center on Budget and Policy Priorities, an estimated 255,000 fewer low-income children will receive childcare assistance by 2010 compared to the children who received it in 2004.

This conference report also uses a budget gimmick to make it appear that the bill saves more money that it actually does. Shamefully, this gimmick comes at the expense of poor people who need supplemental security income.

Let me explain. Today, when disabled people are forced to wait for many months to be approved for supplemental security income by the Social Security Administration—and unfortunately this seems to happen quite often—the money that these disabled individuals are owed is paid in one lump sum once these folks are approved for this supplemental income. Under this conference report, however, these people would instead receive the support for which they are eligible in installments.

Why? So that when the savings of this conference report are calculated, it will appear that the savings are bigger than they really are, since some of these payments will be pushed outside of the 5-year ''budget window.'' But this accounting gimmick comes with a real cost: the disabled have to wait longer for the help that they need. That is just shameful.

The conference report also cuts $343 million in foster care funding, including cuts that will make it more difficult for some grandparents to raise their own grandchildren.

Finally, much has been said already about the $13 billion cut in Federal financial aid for college students in this bill. About one-third of the total cost-savings in the budget reconciliation bill come from the student loan program.

This bill dramatically increases the cost to middle-income families of borrowing money to send their kids to school.

The PLUS program, Parent Loans for Undergraduate Students, is available to families who have exhausted their Stafford loan eligibility, are credit worthy, but have run out of money for college before their kids are done with school.

Today, PLUS loans are made to parents at an interest rate of 6.1 percent. This conference report hikes that interest rate to 8.5 percent. For the 800,000 families with a PLUS loan, that is an average increase of $550 per year. Instead of paying $989 in interest, they will pay $1,541.

At a time when we should be doing everything we can to prepare our students to compete in the economy of the 21st century, it simply makes no sense whatsoever to make it harder for low- and middle-income students to go to college.

In summary, there is simply no reason why we should support this conference report which goes much farther in cutting support for the needy than the bill that we barely passed by a vote of 52 to 47 a few weeks ago. If we are going to ask some Americans to share in the sacrifice that wartime requires, we should ask all Americans to share in that sacrifice, not only those who are most in need.

Mr. ENZI. Mr. President, I rise today to discuss the Deficit Reduction and Omnibus Reconciliation Act of 2005.

The purpose of this bill is deficit reduction. We did it without taking anything away from students. In fact, we gave new money and a new program to college students. Let me summarize some of the things we did.

Academic Competitiveness and SMART grants: Creates new grant programs that award academic competitiveness grants and SMART grants to Pell-eligible students in an undergraduate program of study. Students in their first and second years may receive awards of $750 and $1300 respectively, provided they have completed a rigorous program of study at the secondary level. Undergraduate students in their third and fourth year may receive up to $4,000 in grant aid if they major in math, science, technology, engineering or critical foreign languages and make progress toward a degree. Students at both 2-year and 4-year academic colleges will be eligible for the academic competitiveness grants.

Increase loan limits: Increases loan limits for first- and second-year students to $3,500 and $4,500 respectively and increases graduate borrowing limits to $12,000 per year for unsubsidized loans. In addition, the bill permits graduate students to borrow PLUS loans.

Interest rates: Reduces the cap on student loan interest rates from where they are currently capped at 8.25 percent and stabilizes them at 6.8 percent. The interest rate on parent loans, currently capped at 9.0 percent, would be fixed at 8.5 percent.

Lender payment cap: Requires lenders to rebate to the Federal Government the difference between the borrower rate and the lender rate when the borrower rate exceeds the lender rate.

Reduction of work penalty: Reduces the work penalty by increasing the income protection allowance for students and encourages saving for college by reducing the percent of savings that are assessed.

Simplified needs analysis: Simplifies the application process for student aid by permitting students and families who are receiving means-tested assistance to file a shorter form and raises the ''auto-zero'' amount to $20,000 so that families with income levels below that amount are automatically determined to have zero expected family contribution.

Reduction of origination fees: Reduces origination fees charged to borrowers by 1 percentage point immediately and by half of a percentage point for each year beginning July 1, 2007, and continuing through July 1, 2010.

Distance learning: Eliminates the ''50 percent'' rules for institutions offering distance education programs. One 50 percent rule limits the percentage of courses offered through distance learning and the other rule limits the percent of an institution's students that may be enrolled in distance education courses.

School as Lender Program: Imposes a moratorium on the School as Lender Program effective April 1, 2006. To be grandfathered, schools must be making loans prior to or on April 1. In addition, the bill requires that the proceeds of the sale of loans, in addition to any interest and special allowance payments, must be used for need-based student assistance programs at the school. Limits expenses to reasonable administrative expenses.

Extension of loan foregiveness: Permanently extends teacher loan forgiveness up to $17,500 to math, science, and special education teachers in low-income schools. Private school teachers become eligible for loan foregiveness.

9.5 percent loans: Eliminates the recycling of 9.5 loans and extends the limitations already in effect under the Taxpayer-Teacher Protection Act. Provides a 5-year extension for the smallest of the non profit lenders.

Over the past year, I have worked to reauthorize the Higher Education Act. I worked closely with my colleague and good friend from Massachusetts to develop legislation that would provide students with access to postsecondary education, make it more affordable for students to get to college, and provide them with new opportunities.

In March of this year, the Senate adopted a budget resolution that included reconciliation instructions for several committees, including mine. The Senate HELP Committee was given a target that represented 40 percent of the total deficit reduction package. In conference, the Senate HELP Committee again was given the heaviest lift. We were given a target that made up an even higher percentage, saving $16.1 billion of the $39 billion total.

One of the principles that guided the committee's efforts to achieve the savings was ensuring that a significant portion of the savings would be used to provide student benefits. In September, the committee approved bipartisan legislation unanimously that included several provisions designed to help students, including $8 billion in need-based grant aid. Of that $8 billion, over $2 billion was targeted to encourage students in their junior and senior year to major in math, science, and critical foreign languages. In November, the Senate approved this program as part of the larger reconciliation bill.

While the conference report is less generous to students than what the Senate had agreed to, the reconciliation bill we are considering provides $10 billion in spending on student benefits. First among these, the bill creates a new academic competitiveness program that provides grant aid to low-income students. Students eligible for Pell grants are able to receive up to $700 in additional grant aid their first year of college, and $1,300 in their second year. Students majoring in math, science, and critical foreign language programs in their third and fourth years are eligible for up to $4,000 in additional grant aid.

This report dedicates $3.75 billion to grant aid for the next 5 years. This is an extraordinary commitment and a larger increase in grant aid than we have seen in the last 5 years under Pell or any other Federal student aid source. This is real money that will help today's students enter and succeed in college. It will also help support students in programs of study critical to our national security and economy and create a strong incentive for more students to enter these fields.

The $3.75 billion grant program is smaller than this body approved in November. This is a first step, and the first step is a critical step to take, but it is often the most difficult and misunderstood. I believe this is a good start, but we must continue to work toward what it takes to ensure this Nation's competitiveness. Access to postsecondary education is critical to this effort, and we cannot lose sight of the goal of a strong and competitive American economy.

The reconciliation conference report also includes provisions to reduce borrower origination fees in both major Federal student loan programs. Borrowers currently pay origination fees of up to 3 percent when they take out their loans. The conference report provides for the reduction of these fees, so that students will not pay more than 1 percent in either program.

These fees cost students millions of dollars every year, and they don't provide any benefit. They make college more expensive, and students typically end up paying interest on these fees for 10 years or longer. The reduction of these fees will save individual students hundreds of dollars over the life of their loans.

The bill allows current law to take effect on schedule, setting borrower interest rates at 6.8 percent. Many people have suggested that the 6.8 percent rate will cost students more over the life of their loans. They don't realize that this provision is already part of current law. Four years ago, when Congress approved the fixed interest rate for borrowers, students supported this change because they had paid interest rates of up to 8.25 percent for years. Now, after 4 years of historically low interest rates, the 6.8-percent fixed rate doesn't seem as attractive.

I want to point out, however, that current trends and projections don't support the conclusion that the 6.8 percent interest rate will cost students more in the long run. At each of the last 13 meetings, the Federal Reserve Board has voted to increase interest rates. The historic lows that interest rates have been set will not continue and will likely to continue to go up. The rate increases accounted for a nearly 2 percent increase in borrower interest rates in 1 year. By setting the student loan interest rate at a set rate

we will save future interest rate increases from effecting student lending. This is the same interest rate policy that passed the Senate HELP Committee unanimously.

Only 5 years ago, borrower interest rates exceeded 8 percent. At the current rate of increases, students would be paying more than 6.8 percent by July 1, 2006. That is before the next school year. In fact, they would be paying more than 7.3 percent if we had kept the current interest rate structure. The same can be said of the parent loan provisions. Parent loans are currently capped at 9 percent. At the current rate of increase, parent borrowers would be paying more than 8.5 percent by July 1, 2006. This is the same rate that passed the HELP Committee unanimously.

The bill that initially established the 6.8-percent fixed interest rate was passed by unanimous consent over 4 years ago. In September, the HELP Committee voted unanimously in support of these provisions. In October, the HELP Committee, with the support of five Democrats, voted again to allow the scheduled interest rate change to take effect.

The conference report also provides for increased loan limits for students. This has been criticized as a provision that will only encourage more students to take out increased loans. However, since 1994, many students have been taking out significantly more private loans to meet their education expenses. Many of these loans have interest rates of up to 18 percent or more. The difference between a $10,000 private loan at the 18-percent rate and a federally guaranteed loan at a rate of 6.8 percent would save a student almost $8,000 over the life of the loan. As the cost of college across the country has skyrocketed, this provision will help more students afford the increased cost of tuition and subsidize their interest, so they don't have to take out private high-interest student loans.

As I said earlier, this bill provides almost $10 billion in student benefits over 5 years and significantly more over the long term. At the same time, we have been able to additionally net more than $12 billion from Federal loan programs to make them operate more efficiently, which contributes to reducing the deficit.

While I am very disappointed that the conference report does not include broader-based grant aid to improve access to and persistence in postsecondary education, I am pleased that the report includes the grant funding that it does. These are funds that will benefit low-income students and will help our country and its economy to remain competitive by ensuring that tomorrow's workforce has the skills necessary to compete in the global economy. I will continue to work next year and in the coming years on legislation to further our goal to provide the opportunity for all Americans to go to college if they choose.

There were a number of provisions important to students included in the conference report provided to the Budget Committee that were stripped from the final language due to Senate procedural rules. Among these provisions was one that would have clarified the purpose of the new grant program. That section used to read: ''The purpose of this section is to increase the number of postsecondary students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in physical, life, and computer sciences, mathematics, technology, engineering, and foreign languages critical to national security.'' This language was removed from the conference report because of potential conflicts with the ''Byrd rule.'' It is my hope that the Department of Education will consider this language when they promulgate the appropriate regulations on the administration of this program.

Another important provision that was stripped from the report was language to repeal the so-called single holder rule, which limits the ability of students to consolidate their loans with the lender of their choice. I hope the Senate will take action on this important issue quickly and permit students to take advantage of this additional flexibility.

I will continue to work toward the goals we held for the reauthorization of the Higher Education Act. I hope that this process can continue in a bipartisan way, because ultimately, it is about students, it is about the economy, and it is about our national security.

With respect to pensions, the conference report also adjusted premiums payable to the Pension Benefit Guaranty Corporation, PBGC, and will save a total of $3.6 billion. These savings will be achieved by a series of increases to pension insurance premiums.

The per-person premium for single employer plans will rise from $19 to $30 and will be indexed; the per-person premium payable for multiemployer plans will rise from $2.60 to $8 and will be indexed; and a new premium will be charged against underfunded, terminated plans of $1,250 per person and will be payable for the first 3 years after the sponsor emerges from bankruptcy. This ''termination premium'' will apply to plans of sponsors whose parent company filed for protection under Chapter 11 after October 18, 2005. This increase in premiums payable by plan sponsors to the PBGC is long overdue. Single-employer premiums have not been increased since the early 1990s. This conference report marks the first instance in which multiemployer plan premiums have been increased since 1980. Now, all of the language in the pension part of this bill will be superceded when the full pension bills passed by the House and by the Senate are conferenced to one bill to provide full pension reform to protect the pensions of all hard-working Americans who were promised a defined benefit plan.

This bill meets the goal of deficit reduction, and it does so by taking the money from corporate windfalls, not students. It protects current student programs. It adds a new student grant program to the tune of $3.75 billion. Much of what is in the education part passed the Senate Health, Education, Labor, and Pensions Committee unanimously. That means that Republicans and Democrats voted for it. We did not get all the money we wanted for students. We got more than they had before. We had to settle for some limitations—but limitations that will improve America's competitiveness. In legislation you seldom get all that you would like to have. We can be proud of what we have done for students—and for people on pensions.

Overall, the bill provides significant saving measures while at the same time providing billions of dollars in new student grant aid. In addition, this bill will help to stabilize our Nation's defined benefit pension system.

Mr. OBAMA. Mr. President, I rise today to speak in opposition to the spending reconciliation conference report.

The Federal budget should reflect the Nation's priorities. Unfortunately, the priorities on display in this year's budget reconciliation process are out of touch with those of the American people. Worse yet, the rhetoric we hear about fiscal responsibility is at odds with the reality of the pending legislation.

This bill cuts deeply into programs that serve our country's most vulnerable citizens in order to fund tax breaks for those who need them the least. I support lower taxes. I also support lower Government spending. Most Americans do. But at what cost, and for what purpose?

What sacrifices in our domestic priorities, our economic security and independence, our humanity are we asking the American people to endure so that the wealthiest can pocket a little more income each year, even as working class Americans—facing rising fuel prices and health care costs—are pocketing a lot less?

And it is not even as if the spending cuts here will fully pay for the tax breaks. The majority's campaign to do away with pay-as-you-go rules has meant that the tax breaks over the past 4 years have been financed by debt. Debt that now exceeds $8 trillion and keeps rising.

Debt, not discipline, has been the hallmark of the majority's fiscal strategy. They want us to believe that we can't afford the Government we need. But funding our domestic priorities like education, health care, and equal opportunity for America's children is not inconsistent with budget discipline. In fact, a responsible fiscal policy is a prerequisite to tackling the challenges of a relentlessly competitive global economy.

First, ensuring access to basic health care is critical to our Nation's productivity. But this bill undermines Medicaid and essential health services for the poor, cutting benefits by $6.3 billion over 10 years.

Second, education is the key to economic competitiveness. But this bill cuts student loans by $12.7 billion, the largest cut in history. I don't understand how the majority expects middle-class American families to make it in the 21st century workforce if we turn our backs on students.

Third, helping people move from dependence to independence, from poverty to prosperity is in all of our best interests. And many States have made great progress implementing TANF requirements and moving people from welfare to work. But this bill deprives States of the flexibility they need to set realistic and meaningful work targets for their caseloads. It also dramatically underfunds childcare, thus assuring that it will be even more difficult for States and families to fulfill the Federal mandates.

The TANF program affects millions of American children and families and deserves a full and fair debate. Under the rules, the reconciliation process does not permit that debate. Reconciliation is therefore the wrong place for policy changes and the wrong place for the proposed changes to the TANF program.

In short, the reconciliation process appears to have lost its proper meaning. A vehicle designed for deficit reduction and fiscal responsibility has been hijacked to facilitate reckless deficits and unsustainable debt. Instead of being a tool to get us back on track to deal with our serious economic challenges, reconciliation has become a tool for enacting tax cuts for the wealthy while punishing the poor.

This is a profound disappointment to me. Indeed the entire 2006 budget process has been a disappointment.

Mr. President, as we wrap up this session and look towards next year, I hope we will find ways to work in a bipartisan manner on the issues and choices that really matter to American families. The importance of our task and the demand for responsible leadership will only grow in the years ahead.

I urge my colleagues to vote against the conference report on spending reconciliation.

Mrs. FEINSTEIN. Mr. President, I rise today to oppose the budget reconciliation conference report. The conference report cuts total $39.7 billion versus the Senate proposed $34.6 billion. It reduces mandatory outlays for entitlement programs by relying heavily on added financial burdens on poor, working Americans.

This ''deficit-reduction'' effort of cuts in vital programs is offset by provisions soon to come which will provide $95 billion in additional tax cuts—including cuts to capital gains and dividends rates. The conference report will raise $39.7 billion while capital gains and dividends tax cuts passed by the House will reduce revenues by $20 billion over 5 years and $50 billion over 10 years. This strategy is clearly not reducing the deficit, and it does not justify cutting programs for the poor to benefit the wealthy.

This bill is just another step to further the Republican agenda of severely cutting benefits to working-class families while handing out tax cuts to the wealthy. The fiscal year 2006 Department of Defense appropriations conference report is another illustration of this—this bill contains a 1 percent across-the-board cut to discretionary programs totaling $8.6 billion in fiscal year 2006.

While Republican leaders had the opportunity to create significant savings in the conference report by reducing prescription drug costs and eliminating unnecessary payments to HMOs, they chose not to. This bill provides relief for special interests in exchange for greater burdens on poor, working families, welfare recipients, and children.

Here is an overview of who wins and who loses in this conference report.

The conference report fails to include provisions in the Senate bill that would have limited what Medicaid pays for prescription drugs. The Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid Program for drugs provided to Medicaid beneficiaries. The Senate bill also applied the rebates to drugs provided to Medicaid beneficiaries in managed care plans. In total, the prescription drug provisions in the Senate bill would have saved $3.9 billion over 5 years and $10.5 billion over 10 years. The conference report eliminates all but a few hundred million of these cuts.

Although not in this bill, the drug industry scored another major victory in the fiscal year 2006 Department of Defense conference report by being handed broad liability protection even in instances of reckless disregard or gross negligence. This egregious provision protects drug companies even when there are criminal violations of FDA standards.

I think we can safely say this holiday season will be a merry one for the drug industry. Unfortunately, the same cannot be said for poor and working Americans on Medicaid under this bill.

The conference report maintains the $10 billion Preferred Provider Organization, PPO, stabilization fund even though 52 Senators voted to eliminate it and the extremely strong showing of private health insurance participation in the Medicare prescription drug benefit obviates the need for it.

Even the independent, non-partisan Medicare Payment Advisory Commission, MedPAC, recommended, nearly unanimously, that the $10 billion stabilization fund be eliminated because it is unnecessary and unwarranted and provides an unfair competitive advantage to PPOs.

In total, the conference report contains $1.9 billion in increased copays and premiums for poor families and children in Medicaid. That is over 5 years. If you look at the 10-year figure, that amount jumps to $10.1 billion.

The Senate bill contained no such increases in premiums and copays.

In total, the conference report cuts $3 billion that will directly impact Medicaid beneficiaries.

What is going to happen to these families once they are required to pay possibly as much as 20 percent of the cost of each medication they take or 20 percent for each doctor visit with no annual limit on how much they have to pay out-of-pocket? They simply won't go to the doctor, they won't take their medications, or they will simply not enroll in Medicaid at all.

For those Medicaid beneficiaries who can no longer afford to stay enrolled in Medicaid or choose not to enroll, who wind up in an emergency room for their medical care, under this bill there is no limit on what they may be charged, other than a 10-percent limit of the cost of service for those who are between 100 percent and 150 percent of poverty, which is equivalent to between $9,570 and $14,355 of individual annual income.

As under the House-passed spending reconciliation bill, the conference report allows providers to deny a service if the patient has no ability to pay the charges at the time of services and States can terminate Medicaid coverage if the family cannot pay premiums.

The conference report allows States to provide any child, without regard to income, a lower benefits package than they have today. That means low-income children, no matter how poor they are, are no longer guaranteed vision screenings, eyeglass coverage, therapy services, and medical equipment that would allow them to attend school.

I am disappointed that the conference report eliminates a provision that Senator HUTCHISON and I worked hard to get included in the Senate bill which protects Medicaid adult day health care services in eight States: California, Texas, New York, New Jersey, Maryland, Massachusetts, New Hampshire, and Washington. In California alone, the elimination of this provision means that 47,000 seniors and disabled people are at risk of losing community-based health care services.

And why are they at risk? They are at risk because of aggressive actions by this administration to force California's adult day health care program into a 1915(c) Medicaid waiver which the State of California estimates will make 40 percent of currently eligible program participants ineligible for the services they receive today. These services include skilled nursing care, physical, occupational, and speech therapy, and nutrition services for low-income, frail elders and disabled adults.

The administration is pursuing this despite vocal, bipartisan opposition from California's Congressional Delegation. I ask unanimous consent to

enter into the record two letters from the California delegation to the administration opposing a waiver.

Cuts to Federal student loan programs in the conference report will push college out of reach for many middle- and low-income families. The $12.7 billion reduction over 5 years, nearly one-third of the conference report's total cuts, will be the largest cut to student aid ever enacted.

This conference report makes it more expensive for students and their parents to borrow for college by increasing the interest rates and fees they pay on loans. At the same time, this bill protects private lenders at a higher cost to the Government.

This is being done as students and families are struggling to pay skyrocketing college costs. The average cost of attending a public university for 1 year in our country has increased 66 percent within the last decade.

Students will be forced to take out more loans to meet the cost of increasing tuition. This will only drive them greater into debt, making it even more expensive for students to pursue a college degree.

The conference report reauthorizes the TANF Program for 5 years despite overwhelming opposition in the Senate to including TANF reauthorization in budget reconciliation. The conference report contains drastically inadequate child care funding and will cost California approximately $350 million more annually as a result of changes to work participation requirements.

Lastly, I am deeply concerned about the impact this conference report will have on child welfare in California. This bill, like the House-passed bill, reduces Federal foster care supports that help grandparents and other relatives care for abused and neglected children. It also contains a provision overturning a 2003 Ninth Circuit Court of Appeals decision in Rosales v. Thompson that may harm more than 4,400 foster kids in California alone.

Mr. President, the bill before us today represents a victory for special interests over the interests of our nation's poorest and most vulnerable citizens. I urge my colleagues to join me in rejecting this bill.

I ask unanimous consent that two letters be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 29, 2005.

Hon. MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY LEAVITT: As Senators representing California, we are very concerned about the future of adult day health care (ADHC) in California due to the recent requirement imposed by the Centers for Medicare and Medicaid Services (CMS) to convert the ADHC program to a 1915(c) waiver. If implemented, this proposal would radically diminish what services are provided. how the services are delivered, and to which populations the services are provided.

As you know, ADHC services manage disease and chronic conditions; prevent and reduce hospitalizations, physician and emergency department visits; and maintain or improve health status while permitting the individual to retain important community and familial contacts. The provision of these services is qualitatively equivalent to those provided in institutional long term care environments but less costly than when the same services are provided in such settings.

California and seven other states have long been innovators in providing ADHC services as an alternative to institutional long-term care for the frail elderly and disabled. ADHC services have been offered in California and the other states as an optional state plan benefit under Medicaid since the 1970's, prior to the introduction of the 1915(c) home and community based services waiver.

ADHC services are currently provided to 47,000 participants in California, including the frail elderly, persons with disabilities, persons with Alzheimer's disease and related dementia, persons with developmental disabilities, persons with psychological disabilities and those infected with HIV.

In 2003, CMS ordered California to remove ADHC services from the state plan as an optional benefit and offer the services through a 1915(c) waiver. CMS's stated rationale for taking this action is that, despite the provision of these services under Medicaid for more than two decades, they are not defined in the federal statute and therefore must be stopped.

Unfortunately, transposing ADHC into a waiver would deny access to these services to many of those within the currently served populations. It is estimated that the transition to a waiver would leave approximately 40 percent without ADHC services in California due to the restrictive rules governing 1915(c) waivers.

While seven other states also offer ADHC services as an optional state plan benefit under Medicaid, it is our understanding that to date none of those states have been requested to transform their ADHC services into a waiver. Yet the policies your agency is pursuing make those states vulnerable to the same consequences that are anticipated in California.

The action by CMS, attempting to reinvent a program that has worked for more than 25 years and saves the Medicaid program money, is totally contrary to your own stated interest in reducing the institutional bias in Medicaid and encouraging the use of community-based services. Further, it occurs as CMS is launching a new demonstration program in Medicare to allow beneficiaries access to ADHC under the home health benefit.

At a time when both your Administration and the National Governors' Association have identified Medicaid's institutional bias as a serious policy problem and are examining options for enhancing home and community-based care, it is puzzling that CMS's Medicaid program is moving in the opposite direction by proposing to dismantle existing ADHC programs and force them into waivers, thereby undermining their effectiveness. Maintaining ADHC services as an optional Medicaid benefit would be consistent with the Administration's New Freedom Initiative and the United States Supreme Court's Olmstead decision, which give priority to the provision of services at home and in the community,

We urge you to withdraw CMS's attempt to overturn existing Medicaid policy and thus continue Medicaid beneficiaries' uninterrupted access to ADHC services in California and other affected states. We look forward to your response.

Sincerely,

DIANNE FEINSTEIN.
BARBARA BOXER.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 29, 2005.

MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

Re Adult Day Health Care

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The action by CMS, attempting to reinvent a program that has worked for more than 25 years and saves the Medicaid program money, is totally contrary to your own stated interest in reducing the institutional bias in Medicaid and encouraging the use of community-based services. Further, it occurs as CMS is launching a new demonstration program in Medicare to allow beneficiaries access to ADHC under the home health benefit.

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We urge you to withdraw CMS's attempt to overturn existing Medicaid policy and thus continue Medicaid beneficiaries' uninterrupted access to ADHC services in California and other affected states. We look forward to your response.

Sincerely,

Mary Bono, Jerry Lewis, Henry A. Waxman, Anna Eshoo, Randy ''Duke'' Cunningham, Darrell Issa, Elton Gallegly, John T. Doolittle, Howard P. ''Buck'' McKeon, Gary Miller, Lois Capps, Pete Stark, Howard Berman, Adam B. Schiff, Linda T. Sánchez, Joe Lofgren, Tom Lantos, Hilda L. Solis, Doris O. Matsui, Lucille Roybal-Allard, Xavier Becerra, Jane Harman, Bob Filner.

Mr. REED. Mr. President, I strongly oppose the Deficit Reduction Act of 2005 Conference Report. This conference report and the Administration's budget are fiscally irresponsible and reflect misguided priorities.

The dual reconciliation process this year illustrates these misplaced priorities, as middle- and low-income families are being asked to pay the price for tax cuts for the wealthiest. The second reconciliation bill, which will soon be negotiated by the House and the Senate, will contain a reduction of as much as $70 billion in tax revenue that will more than eliminate the effect of the spending cuts to critical programs in the conference report that we are considering today. With the enactment of the two reconciliation bills, there is a real effort by this administration and the majority to perform a bait and switch on the American people and at the end of the day the ''so-called'' deficit reduction bill along with the tax reconciliation bill will further increase the deficit by as much as $30 billion over the next 5 years.

The President's claim at his news conference yesterday that his policies are focused on the priorities of average Americans belies the experience of most working families. The economy has grown this year, but the benefits of that growth continue to show up in the bottom lines of companies rather than in the paychecks of workers. The Minority Views of the Joint Economic Committee 2005 Annual Report released yesterday finds that in the recovery from the 2001 recession, working families have been left behind from the start, and they continue to be left behind today.

The unemployment rate is nearly a full percentage point higher than when President Bush took office, about 5 million fewer jobs have been created in this recovery than at this point after the 1990–91 recession, and millions of Americans who want to work do not have jobs.

Higher prices for gasoline, home heating fuel, and medical care are also squeezing the take-home pay of workers. In the past year, average hourly earnings are down, after adjusting for inflation. Moreover, wage growth has been uneven, with low-earning workers hit hardest by sluggish wage gains and more recently by declining real wages.

The signature policies of the administration and the majority have not addressed the problems facing ordinary American families. Successive rounds of tax cuts were poorly designed to stimulate job creation and produced a legacy of large budget deficits. Those large and persistent budget deficits contributed to an ever-widening trade deficit and massive borrowing from abroad.

Most of the benefits of the tax cuts accrued to very high-income taxpayers, while—as this reconciliation bill shows—cuts in programs that benefit middle- and lower-income families are viewed as the best way to pay for those tax cuts.

As far as health and human service programs go, this bill has gone from bad to worse as compared to the Senate-passed bill. As expected, significant portions of the reduction that are achieved in this reconciliation bill are achieved by cuts in programs that low- and moderate income Americans rely on. The reconciliation package before us includes roughly $40 billion in spending cuts over 5 years, of which $11.2 billion will come from Medicaid and Medicare.

Included among these 'savings' are new copayments on Medicaid beneficiaries and additional flexibility to States to scale back coverage for certain vulnerable populations. It also tightens rules designed to limit the ability of elderly people to shed assets in order to qualify for nursing home care. And, for the first time, people with home equity of $500,000 or greater would be ineligible for nursing home care under Medicaid.

During Senate consideration of the reconciliation bill, I offered an amendment to restore targeted case management services, TCM, to assist eligible high-need Medicaid beneficiaries gain access to needed medical, social, educational, and other services. Despite promises that this provision would be corrected, the conference report jeopardizes an essential bridge to services for these populations.

While low-income Medicaid beneficiaries are bearing the brunt of budget cuts, drug companies and Medicare managed care plans emerged virtually unscathed in the conference report. Specifically, the report drops a Senate provision that would have eliminated the $10 billion slush fund to health insurers a key recommendation of the Medicare Payment Advisory Commission, MedPAC, because it is unnecessary, unwarranted, and provides an unfair competitive advantage to private health plans over traditional Medicare. Nevertheless, under veto threat by the President, the conference report leaves this fund fully intact, forgoing $5.4 billion in savings over 5 years and twice that amount over 10 years.

The bill also shed most of the drug rebate provisions contained in the Senate-passed bill and includes only two minor provisions that generate savings of only $220 million over 5 years and $720 million over 10 years.

I would remind my colleagues that this body passed by a vote of 75 to 16 a Baucus motion to instruct conferees to reject provisions that would undermine Medicaid coverage for pregnant women, the disabled, low-income children, the elderly, or other vulnerable populations. Yet, this conference report entirely ignores the will of the majority of the Senate in this area.

At the same time, this conference report strikes yet another blow to community health care providers who serve Medicare and Medicaid recipients. On the Medicaid side, pharmacy payment reform provisions contained in this bill will be devastating to the Nation's community retail pharmacies and could significantly reduce Medicaid recipients' access to their essential services. The provisions cut $6.3 billion out of community retail pharmacies payments over the next 5 years by reducing the amount that Medicaid pays for generic medications at a time when the program should be doing everything it can to encourage utilization of generic medications. Every time a pharmacy dispenses a generic medication, Medicaid saves about $100, but this report drives pharmacies to either dispense more expensive medications or simply not serve Medicaid customers at all.

The conference committee also included cuts to Medicare providers that were not included in either the House- or Senate-passed bills. Under the conference report, home health care providers will see their reimbursement rates frozen in 2006, in addition to the already scheduled .8 percent reduction implemented as part of the Medicare Modernization Act of 2003. Again, this conference report puts into effect the exact opposite policy at a time when the administration and States have made access to home- and community-based care a priority. I, along with Senator COLLINS, had urged the conferees to not consider such cuts, and I am disappointed that is exactly what the conference did.

Another unfortunate provision in this conference report will impact individuals with disabilities who have languished for months waiting for the Social Security Administration to review and approve their applications for Social Security Supplemental Income, SSI, and are owed back benefits as a result of these delays. They will now have to wait even longer under this package. Instead of receiving a single lump sum payment as they do under current law, SSI beneficiaries will receive back benefits in installments that could stretch out over the course of a year.

This provision means many poor SSI recipients with disabilities who have

been unable to work and who have probably been unable to pay their mortgage, heating, and other bills will be forced to endure financial destitution even longer.

Another area of concern is the inclusion of the House reauthorization for Temporary Assistance for Needy Families, TANF. This bill adds tough new requirements on States and recipients with no additional funding for child care. The Congressional Budget Office, CBO, has estimated that an additional $11 billion in childcare funding is needed to meet these requirements. Unfortunately, this bill only provides $1 billion in additional childcare funding.

If my Republican colleagues were truly committed to helping families break the cycle of poverty, they would not create tough new requirements that States and recipients will be challenged to meet and then provide no additional childcare funding to help them do so.

Moreover, the policy goals of this conference report are quite detrimental to States like my home State of Rhode Island. We are a leader among States in providing childcare assistance to low-income families. We recognize that all working families need help paying for childcare and that high quality early care is the key to the healthy development of our children. Rhode Island has made a commitment to help all low-income families pay for childcare, giving equal treatment to families on welfare and those who are working but cannot afford the high cost of childcare. In Rhode Island, we have seen childcare budgets rise as Federal investments have remained stagnant. The new TANF work requirements, coupled with inadequate funding for childcare, jeopardizes my State's commitment to assure that all children have safe, nurturing, and enriching childcare.

New harsh requirements will now apply to separate State programs as well, hurting States that have been successful in helping families transition to work through other State initiatives. The Congressional Budget Office, CBO, has estimated a cost to States of $8.4 billion over the next 5 years in order to meet these work requirements. This amounts to a higher cost to States than even the controversial House-passed bill.

I want to take this opportunity to remind my colleagues that last week Senator CARPER introduced and this body approved by a vote of 64 to 27 a motion to instruct conferees not to include the reauthorization for Temporary Assistance for Needy Families in this reconciliation package. I am most troubled that such a vote was ignored, and we now face the reauthorization of TANF without allowing the Senate to put forth its own bill and have a fair debate on this issue.

The reconciliation conference report also includes a $1.5 billion cut in Federal funding for child support enforcement efforts over the next 5 years and $4.9 billion cut over the next 10 years. Some of my colleagues on the other side of the aisle might suggest that these child support cuts are modest, but the fact remains that the CBO has estimated that, as a result of these cuts, $2.9 billion in child support will go uncollected over the next 5 years.

In my home State of Rhode Island, 45,000 families rely on the Office of Child Support Services for help in securing and maintaining child support payments. This is an agency that needs more not fewer resources in order to continue to make collections efficient. I am baffled that the leadership of this Chamber would cut a program that is cost effective, promotes responsibility, and helps families. This program has garnered strong bipartisan support because of its cost effectiveness.

During consideration of S. 1932, the Budget Deficit Reduction Act, the Senate approved a sense-of-the-Senate amendment offered by Senator HARKIN, stating that the Senate should not accept any cuts to the child support enforcement program during this Congress. In addition, last week Senator KOHL introduced and this Chamber passed by a vote of 75 to 16 a motion to instruct conferees not to include any provisions that would reduce funding for the child support program. How can a program that has this level of bipartisan support receive a $1.5 billion dollar cut?

This reconciliation conference report also hurts college students by eliminating the Pro-Gap Program that would have provided $6.5 billion in much-needed aid for college students. In its place is a single modest math/science initiative. While I fully support initiatives that boost our global competitiveness through encouraging study of math and science, I am dismayed that this bill compromises the successful and important Pell grant program to do so. For the first time need-based financial aid under the Pell grant program is tied to curriculum, essentially stifling academic freedom for low-income students.

Again, I remind my colleagues that last week Senator KENNEDY introduced and this Chamber passed by 83 to 8 a motion to instruct conferees to insist that the Senate provisions increasing need-based financial aid, which were fully offset by savings in S. 1932, be included in the final conference report. I am disappointed that such a vote was ignored.

In the wake of Hurricanes Katrina and Rita, escalating home energy prices, and stagnant wage growth, taking money from important Federal programs in order to pave the way for billions of dollars in tax cuts shows how out of touch the majority and administration are with hard-working Americans.

Unfortunately, there has been no change in the priorities or policies of the administration and the majority to address the problems facing the country's most disadvantaged citizens or to help ordinary working families.

And instead of sound budget policies aimed at preparing for the imminent retirement of the baby boom generation, this administration and this majority have refused to adopt the kinds of budget enforcement rules that helped achieve fiscal discipline in the 1990s and have remained committed to extending tax cuts that will add further to the budget deficit.

The end result is that policy priorities are distorted and programs that help working families cope in a difficult economy have become candidates for budget cutting in order to fund tax cuts for the wealthiest. Meanwhile the problems of large budget and trade deficits and the economic insecurity felt by many American families remain unaddressed.

Mr. AKAKA. Mr. President, I express deep concern about the conference report for S. 1932, the Deficit Reduction bill. Like many of my colleagues, I too have called for fiscal responsibility and restraint in government spending. However, my opposition to this conference report is not just based on fiscal restraint, but also against misplaced priorities. I voted against the bill when it first passed the Senate because of the draconian message that it sent to the American people, and now we face a package that is worse.

We are all conscious that we are heading into the holidays—a time for celebration and reflection. Unfortunately, this is not true for some of us, especially for certain low-income families and individuals affected by this reconciliation package. While families who are well off sit at their lavishly decorated dining room tables, calculating the largess they enjoy as a result of tax cut extensions advocated by the majority party, other families will sit in stark contrast with spare fixings, worry, anxiety, and fear that comes with not knowing how they will survive.

The package before us will hit families across the country right in the wallet. The cuts in the conference agreement decrease Medicaid benefits and increase Medicaid copayments and premiums. According to the Center on Budget and Policy Priorities, people living just above the poverty line may experience the most hardship, finding that they need to pay $20 to $100 for health care services that now cost no more than $3. These Medicaid changes, which total roughly $16 billion over the next 10 years, were not included in the original Senate bill.

Welfare reform has been pending for several years now, but that is because the issues are complicated and there exists great contention in how far we want to go to ensure that welfare recipients are fully-participating members of the workforce. The approach in my State of Hawaii has been a kinder, realistic approach that works to ensure that recipients have the education, training, and other tools that they need to become and remain self-sufficient, for their own good and the good

of their children. However, the provisions in the reconciliation conference report deny the Senate's balanced view on welfare reform and instead adopt some of the most controversial policy changes that will impose major unfunded mandates on States.

It makes no sense to eliminate the flexibility States have to design work requirements for those families served wholly by State funds. According to preliminary estimates, Hawaii would have to increase its work participation rate by 16 percent or bring another 1,600 families into work from FY 2007 and beyond to meet the new standard, or face severe penalties. It also makes no sense to bring more welfare parents into the workforce without ensuring that their children will be adequately cared for through appropriate and adequate childcare assistance. According to CBPP, under this package, childcare would be available to an estimated 255,000 fewer children in low-income working families not receiving cash welfare assistance than in 2004. It is unconscionable to do this to our low-income families, particularly without giving Senators the opportunity for further and adequate deliberation.

The conference agreement does not include cuts in food stamps, but that is one of the few bright lights in this package for vulnerable families. It also makes significant cuts in child support enforcement funding, Supplemental Security Income, and foster care assistance—none of which were included in the original Senate bill. These are clearly misplaced priorities. The better choice would have been to achieve savings by going after special interests catered to by the health care industry, but we are again seeking spending cuts on the backs of low-income families and individuals in our country.

Finally, we may say that we are for increasing higher education opportunities, but this reconciliation conference report includes the largest cuts to student loan programs in history, a total of $12.7 billion. Some additional assistance is provided for certain students who are eligible for Pell grants, but the most needy students are not prioritized and additional hurdles make it difficult to apply for aid in the first place. The general Pell population—including about 14,000 students in my state of Hawaii—have been waiting for an increase in the base grant for several years now, but will have to wait longer because this conference report does not include that additional help for them to stay in school.

For these and other reasons, I strongly oppose the conference report before us. I cannot vote in favor of a package with such harmful cuts—particularly not this close to Christmas, and particularly not to impact those that need our help the most. Human kindness should abide throughout the year, but particularly at this time of year. This conference report simply embodies the opposite message.

Mr. ROCKEFELLER. Mr. President, there are many provisions within this reconciliation conference report that are deeply troubling to me, but at this point, I want to focus my concerns on provisions that undermine the historic 1996 welfare reform bill. That bill changed the old broken welfare system into a new program that encouraged people to work their way into self-sufficiency.

In 1996, I was an active participant in the controversial but bipartisan negotiations to boldly change our outdated welfare system, known then as the Aid to Families with Dependent Children, AFDC. Under the old rules, parents were discouraged and penalized from trying to work. In 1996, after contentious but full bipartisan debate by the House and Senate, we passed a bold new program called Temporary Assistance for Needy Families, TANF.

The new rules encouraged and required parents to move from welfare to work, but there were incentives to help parents, and billions of new dollars in childcare so parents could work with the knowledge that their child had childcare. Such supports are essential so that parents can make a successful transition.

The historic reform of 1996 also made changes in the child support enforcement programs, and further enhancements were made in 1998 to improve child support enforcement. While progress has been made on both programs, the child support enforcement has been a real success story. In 1996, child support enforcement collected $12 billion. Thanks to the changes in welfare reform, child support enforcement is now collecting $21.9 billion. In the President's fiscal year 2006 budget, the Office of Management and Budget, OMB, rated the Federal child support enforcement programs among the highest, most efficient programs in all of the Federal Government.

Despite this record of success, the reconciliation conference cuts child support enforcement by $1.5 billion over the next 5 years and a $4.9 billion cut over the next 10 years. These cuts are outrageous because States use this funding to track down absent parents, establish legally enforceable child support orders, and collect and distribute child support owed to families. CBO has estimated that this loss in Federal child support funding will result in $2.9 billion in child support going uncollected over the next 5 years and $8.4 billion going uncollected over the next 10 years. The reality is that children and families will be shortchanged. How, in any way, does this lack of investment promote personal responsibility? The answer is that it does not—in fact, this provision actually undermines past reforms.

I want to express my appreciation to Chairman GRASSLEY for his effort in forging a bipartisan welfare reform reauthorization bill during recent debates. In March, the Senate Finance Committee secured such consensus that it was able to move the TANF reauthorization package on a voice vote. On December 14, the Senate voted 64 to 27 on a motion by Senator CARPER not to include TANF in reconciliation. This amendment was a clear sense of the Senate about the importance of investing in childcare as an essential support for families making the transition from welfare to work.

Despite this bipartisan discussion in the Senate, the welfare reform authorization has been sandwiched into a massive reconciliation conference report that we have been given only 10 hours to debate. We have 10 hours to debate on a whole host of issues, many of which, including welfare reforms, have serious problems that were not part of the original Senate bill.

Previous Republican proposals were designed to pressure the States to have at least 50 percent of their TANF families in work activities, but, under these earlier discussions, States would have 5 years to achieve these new, tougher standards. The reconciliation package that we are forced to vote on now would impose this new, tougher participation rate by 2007. And it gets even worse. Under the conference report, the Department of Health and Human Services will issue new regulations to re-define work activities and how States will be required to verify the hours and activities to avoid serious financial penalties. These new regulations will be issued in June of 2006, just a few months before new, tougher standards are imposed. Adding insult to injury, very little childcare money is provided—only $1 billion over 5 years. The Congressional Budget Office reports that the cost to States of this new bill would be $8.4 billion over the next 5 years, which is slightly more than the cost would have been under the House reconciliation bill. CBO projects that some States would not meet the new mandates and would face fiscal penalties as a consequence. This is not fair because it essentially sets up States to fail. It will not promote work and self-sufficiency among welfare parents. It will encourage States to push families off the welfare rolls.

West Virginia currently has a 27 percent participation rate. Under these new rules, it would have to reach 50 percent in 2007, and State officials do not even know, at this point, what the rules will be. In my own State of West Virginia, Gov. Joe Manchin has said, ''The proposed Federal funding cuts in TANF will greatly impact the families and children who depend upon the childcare, transportation assistance and welfare-to-work transitional periods. I urge Congress and the President to reconsider this action. We cannot lose sight of the fact that the individuals affected are those who are the neediest.'' I wholeheartedly agree with West Virginia Governor Manchin.

In addition to policy concerns raised by this conference report, the process has been equally unfair. The 774-page conference report on the reconciliation spending cut bill was filed in the House of Representatives at 1:12 a.m. on Monday, December 19. Four hours later,

after less than 40 minutes of debate on the measure, the House began the final vote on the reconciliation spending cut bill. Now the Senate has only 10 hours to debate this package with no ability to make changes.

This package is patently unfair to our children. It will hinder the effort to move parents from welfare to work. It will undermine efforts to promote personal responsibility and ensure that parents pay the child support they owe their children.

It is unfair to our States to change the rules on welfare reform. Even worse, they will be changed just months before States have to meet these new standards.

This reconciliation conference report turns its back on bipartisanship.

It turns its back on needy children and families.

It turns its back on personal responsibility.

It is the wrong approach to welfare reform, and it should be rejected along with the other cuts in reconciliation.

Mr. BINGAMAN. Mr. President, the budget conference report that is about to be voted on by the Senate decreases access to and affordability of needed health care through the Medicaid Program for low-income children, parents, seniors, and people with disabilities while protecting a $10 billion fund for Medicare private health plans that are already acknowledged to receive payments far in excess of Medicare fee-for-service.

Clearly, the conferees made the choice to protect private health plan overpayments in Medicare while cutting access to care for some of our most vulnerable citizens enrolled in the Medicaid Program.

The conference report permit States to cut back on benefits for nearly all of the 27 million low-income children enrolled in Medicaid, including allowing States to restrict and limit benefits even for those with little or no income. The language is ambiguous about whether Early Periodic Screening Diagnostic and Treatment, EPSDT, services, which are critical to ensuring that children have access to all medically necessary services they need, will continue to be provided. Benefits that could be lost include comprehensive developmental assessments, assessment and treatment for elevated blood lead levels, eyeglasses, dental care, hearing aids, wheelchairs and crutches, respiratory treatment, comprehensive mental health services, prescription drugs, and speech and therapy services.

While certain populations, like pregnant women, people with disabilities, dual eligibles, and people with long-term care needs, are explicitly protected from benefit reductions, all other children enrolled in Medicaid, with the exception of children in foster care, are no longer ensured such protections.

The conference report also permits, States to reduce Medicaid benefits for many low-income parents and some people with disabilities to something called a benchmark package, even if it is bare-bones coverage with minimal benefits. The Congressional Budget Office, CBO, had previously written that it expected a reduction in benefits by 15 percent to 35 percent due to this provision. The conference report estimates that over $6 billion in cuts will occur to benefits for low-income people in Medicaid.

The conference report also allows States to impose substantial cost-sharing charges upon Medicaid beneficiaries that will impact millions of low-income beneficiaries. Currently, States can generally charge no more than $3 for copayments per service or prescription drugs with groups like children entirely exempt. That is all changed by the conference report.

For very low-income people, the Secretary would increase the nominal copayments of $3 by the medical portion of the Consumer Price Index, or M–CPI, which rises twice as fast as inflation generally. Of course, it will result in sharp rises in cost-sharing for our Nation's most vulnerable citizens, which a large body of research indicates will result in having people forgo needed health care services and prescription drugs.

Meanwhile, beneficiaries with income between 100 and 150 percent of poverty could be charged copayments up to 10 percent, and beneficiaries with income over 150 percent of poverty could be charged copayments of up to 20 percent of the cost of medically necessary care.

Furthermore, providers are allowed to deny care to anyone that cannot afford such cost-sharing. There are not even protections for children facing life-threatening conditions and in dire need of medically necessary care, as the language states that it would be incumbent upon the provider to waive the copayment in this case and only if the State allows it.

It should be further noted that there really are no statutory limitations because even those protections or limitations on cost-sharing that I have cited may be waived by the Secretary under the conference report.

CBO estimates that the conference report will result in $10.1 billion in cuts over 10 years resulting from increases in beneficiary copayments and premiums and these reductions are about 90 percent of the size of the cuts in the House package that they previous analyzed. It is important to remind my colleagues what the CBO said about the House bill, as it so closely mirrors what came out of the conference.

As CBO's analysis of the House bill states, ''We estimate that the number of affected enrollees [due to increased cost-sharing requirements] would increase from 7 million in 2010 to 11 million by 2015, and that about half of those enrollees would be children.''

CBO added that, due to added premiums, ''about 70,000 enrollees would lose coverage in fiscal year 2010 and that 110,000 would lose coverage in fiscal year 2015 because of the imposition of premiums.''

In sharp contrast, the Senate bill had nothing that increased premiums or cost-sharing.

Without the Medicaid Program, the number of children without health insurance—8.3 million in 2004—would be substantially higher. In fact, the number of uninsured children has dropped by over 300,000 children over the past 4 years due in large part to Medicaid and the State Children's Health Insurance Program, or SCHIP. We should not at this time be taking steps backward by reducing coverage for low-income and vulnerable populations, including children.

Senators need to fully recognize, understand, and reject what the House of Representatives and conferees have done with respect to the health and well-being of children, seniors, and the disabled in their budget reconciliation bill. Our Nation's most vulnerable citizens should not be asked to bear the burden of billions of dollars in budget cuts—cuts that are not even being used to reduce the deficit but, rather, to help pay for tax cuts.

There is also the fact that the conference report will significantly restrict eligibility for nursing home care under Medicaid. The conference report adopts most of the punitive provisions in the House-passed bill to limit eligibility for long-term care services, but adds additional restrictions so that savings in this area would actually be 11 percent larger than the House bill and 7 times larger than the Senate bill.

There are numerous problems with the provisions in this section that I do not have time to address today, but I would like to ask unanimous consent to place into the RECORD a letter from AARP expressing concern about these provisions, that CBO estimates will cut $6.5 billion out of nursing home spending over the next 10 years. It should be noted that these figures are just Federal amounts and that if you add State cuts in spending that there are billions and billions more in cuts to eligibility and services to Medicaid beneficiaries.

In addition, I also want to raise another major problem that I asked conferees to address and was highlighted by my introduction of S. 2074, the Medicaid Indian Health Act. That legislation would have exempted American Indians and Alaska Natives, AI/ANs, and Indian health programs from those provisions and changes being proposed to Medicaid that will all have devastating consequences for Native Americans.

Unfortunately, the conference report failed mightily in this regard. In fact, there is not even a mention of Native Americans or Indian health program in the legislation despite the fact the Federal Government's responsibility for Indian health, the uniqueness of the Indian health care system, and the serious health problems of Indian people require that protection of access to health care services for Native Americans be reflected in Federal Medicaid

policy. Failure of the conferees to address this fact will have significant harmful consequences for American Indians and Alaska Natives.

For example, the budget conference report would allow States to impose cost-sharing on Medicaid beneficiaries similar to and at even higher levels than those allowed under the SCHIP program, with the stated policy objective of achieving more appropriate utilization of cored services. This objective, however, would not be achieved at Indian Health Service, IHS, or Indian tribal health facilities, as these programs do not charge their American Indian and Alaska Native patients for health care. Rather, imposition of premiums and copays would produce the following unintended—and very harmful impact—on the Indian health system:

Medicaid enrollment of AI/ANs who are eligible for coverage is already low, since the IHS user population receives health care without charge at IHS and tribal facilities. The financial barriers imposed by assessment of Medicaid premiums would further depress AI/AN enrollment. Decreases in Medicaid enrollment would deprive already-underfunded Indian health programs of vital Medicaid revenues on which they are heavily dependent.

The imposition of copayments will not change utilization habits of Indian Medicaid beneficiaries because IHS and tribal providers do not charge copays to their Indian patients. Copay amounts would be simply cost-shifted to the Indian health programs, causing a further reduction in the services they can offer, and reducing the resources they need to purchase contract health care.

These reductions in resources available to the Indian health system will decrease the health services they can provide and cause further decline in the health status of Indian populations. Everybody voting on today's package should be fully aware of that fact.

In addition, the budget reconciliation bill would, for the first time, allow States to offer different Medicaid benefit packages to ''individuals within one or more groups of individuals'' in the State by requiring enrollment in ''benchmark'' or ''benchmark-equivalent'' Medicaid coverage. This authority would allow a State to reduce the amount, duration and scope of Medicaid benefits to many beneficiaries. The Indian Health Service, which is now funded at less than 60% of need and is heavily dependent on Medicaid payments, would be decimated by any reductions in Medicaid-covered services.

While States receive 100% FMAP for Medicaid services provided in an IHS or tribal facility, those facilities have limited capabilities and are not able to directly supply all needed care. When the IHS or tribal facility must refer an Indian Medicaid beneficiary to a private or public provider, the State must pay the regular State Medicaid match. Thus, States would have an incentive to limit the benefits AI/ANs referred to outside providers could receive under the State Medicaid plan.

If Native Americans stay within the IHS system and the benefits are not covered, this is simply yet another cost shift to Indian health care programs.

As part of the Indian Health Care Improvement Act of 1976 report, the Congress said, ''The most basic human right must be the right to enjoy decent health. Certainly, any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all the other Federal programs for the benefit of Indians. Without a proper health status, the Indian people will be unable to fully avail themselves of the many economic, educational, and social programs already directed to them or which this Congress and future Congresses will provide them.''

The Federal Government has a ''Federal trust responsibility'' to Indian people that it is simply not fulfilling. This budget conference agreement is yet another example of this failure and should be rejected for this reason, as well as the negative consequences that it will have on low-income children, senior citizens, and people with disabilities across this Nation.

Finally, although I do not have the time today to talk at length about the problems with the Medicare provisions, I will say that I am very disappointed and deeply concerned about the $8.1 billion in home health cuts that have been included in the conference report. It is also disturbing that the conferees would choose to add a provision that was in neither the House nor Senate bills to cut $3 billion out of the Medicare disproportionate share hospital, DSH Program, which provides financial assistance to our Nation's safety net hospitals. These cuts will undoubtedly have negative consequences on safety net hospitals across the country. With 46 million uninsured people in our country, it makes little sense to be cutting our Nation's safety net providers at this time.

This is all about choices. The Senate reconciliation bill contained the same level of savings in Medicaid and Medicare without all of these provisions that will certainly have negative consequences on millions of people served by Medicaid and Medicare. The conferees had before them the choice of protecting vulnerable, low-income citizens or to do things such as protecting the interests of private health plans.

For example, such cuts were added in conference to help pay for decisions such as the dropping of savings that had been obtained in the Senate bill by such things as elimination of what is known as the health plan ''slush fund.'' This $10 billion fund was created in the Medicare prescription drug bill to encourage participation by private health plans, but the Medicare Payment Advisory Commission, MedPAC, almost unanimously recommended its elimination and the Senate bill had included such savings.

The dropping of such reasonable cost savings out of the conference report has clearly left low income people to pay the price through cost-sharing increases and benefit restrictions that will undoubtedly have negative consequences on the health and well-being of our Nation's most vulnerable citizens enrolled in Medicaid.

I would also like to express my opposition to section 1101 of this budget reconciliation conference report the Senate is now considering.

I am disappointed the budget reconciliation bill includes a 2-year extension of the Milk Income Loss Contract, or MILC, a wasteful subsidy that primarily benefits dairy farmers in only a few states. I helped lead the opposition in the Senate in 2002 when this new dairy subsidy program was created as part of the farm bill. The MILC program has already cost taxpayers over $2 billion. I strongly oppose extending it further.

The Milk Income Loss Contract Program expired on September 30, but this conference report extends it for 2 years at a cost to the taxpayers of almost $1 billion. I oppose the extension because I believe this MILC Program is basically unfair and unnecessary.

Since the subsidy payments began in 2002, almost half the MILC payments—about $950 million—has gone to producers in only four States, Wisconsin, New York, Pennsylvania, and Minnesota. In fact, 20 percent of the payments, over $410 million, went to producers in just a single state, Wisconsin. The other half of the Federal payments is shared among all the remaining 46 States.

California, on the other hand, by far the nation's largest dairy state, isn't even among the top four in Federal MILC payments. California's dairies produce 20 percent of the nation's milk but get only about 7 percent of the payments. Idaho is 4th in dairy production, but 12th in MILC payments. How can anyone say that is a fair and equitable use of the taxpayers' dollars? Dairy producers my State of New Mexico rank 7th in the Nation in milk production but are 28th in Federal MILC payments.

Some of the supporters of this $1 billion boondoggle say that dairy farmers need a safety net. However, I hope all Senators know dairy producers already have a safety net, one that has been in place for over 50 years. It's called the Federal Price Support Program, and it was extended in the 2002 farm bill. So this $1 billion program subsidy program is really just a case of some dairy farmers trying to double dip at the taxpayers' expense.

Another argument I have heard is that MILC helps the family farms. Nearly all dairies in this country, regardless of size, are family farms; that

is, owned and run by families. The families who run New Mexico's dairies are strongly opposed to extending MILC.

Finally, a recent study by the U.S. Department of Agriculture shows the MILC program actually lowers prices paid to diary farmers. This shouldn't be a surprise to anyone, it is just basic economics. Taxpayer subsidies invariable lead to excess production, which pushes prices down. In my opinion, this is a simple case of an unnecessary and counterproductive program that should have been left to die.

I understand President Bush made a campaign promise last year to support extending the MILC Program. But at hearing on October 27 in the Senate Finance Subcommittee on International Trade, where I am a member, the deputy trade representative, Ambassador Allgeier, stated the administration would prefer MILC not be extended because of the possible impact on the President's ongoing world trade negotiations. MILC is a huge trade-distorting subsidy, and extending it now sends the wrong signals to our trading partners.

I didn't sign the conference report, and I plan to vote against this budget reconciliation bill because I do believe this bill is a missed opportunity to establish spending priorities and deal with the nation's burgeoning deficit.

This bill sets aside $1 billion for an unnecessary subsidy to benefit mainly Northeast and Midwest dairy farmers, while at the same time making deep cuts to essential health care and housing initiatives. Agriculture spending for farmers and ranchers has had to be cut an extra $1 billion to pay for the MILC subsidy. Our country is in deep financial trouble which requires us to make difficult choices and set priorities. In my view, we have laid out the wrong priorities in this bill.

Decisions that cost the taxpayers a billion dollars shouldn't be made on the basis of partisan politics. Section 1101 in this reconciliation bill will cost taxpayers $1 billion over the next 3 years. That means $1 billion more that has to be borrowed; another $1 billion added to the deficit.

New Mexico's family-owned dairies are some of the most efficient in the Nation, and they should be free to compete without this costly and totally unnecessary subsidy program. I do believe it is bad policy to put an extra $1 billion of the taxpayers' money into this unnecessary MILC subsidy.

Groups that oppose this 2-year extension of the MILC subsidy include the International Dairy Foods Association, the American Conservative Union, Americans for Tax Reform, Citizens against Government Waste, Freedom Works, and the National Taxpayers Union.

In addition to the letter from AARP previously mentioned, I ask that letters expressing major concerns and opposition to the conference report from 35 organizations that are part of the Consortium for Citizens with Disabilities, the American Cancer Society, the National Council of La Raza, and an organization representing 2,500 police chiefs and other law enforcement leaders be printed in the RECORD.

I also ask unanimous consent that a recent article opposing extending MILC by Thomas Schatz, president of the Council for Citizens Against Government Waste, and John Berthoud, president of the National Taxpayers Union, be printed in the RECORD.

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

AARP,
December 19, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR MAJORITY LEADER FRIST: AARP strongly opposes the budget reconciliation conference agreement scheduled to come before the Senate for a vote today. Rather than reflecting the rational provisions of the Senate reconciliation bill, the final conference agreement is irresponsible policy.

The final conference agreement does not ask for shared sacrifice to achieve budgetary savings. Rather it protects the pharmaceutical industry, the managed care industry, and other providers at the expense of low-income Medicaid beneficiaries and Medicare beneficiaries who will foot the bill.

AARP members and your other constituents will question why members of the Senate would vote for a bill that would:

Make it harder for Americans needing long-term care to qualify for Medicaid;

Force some Americans to forfeit their homes in order to pay for long-term care services;

Require all Medicare Part B beneficiaries to pay higher premiums;

Reopen the MMA, not to make improvements in the new drug benefit, but to require those with more income to pay higher Part B premiums sooner; and

Force low-income Medicaid recipients to pay more for their care—and if they cannot afford to do so—to potentially be denied care entirely.

The conference agreement systematically undermines the critical protections built into both the Medicaid and Medicare programs. If the conference agreement becomes law, then over the course of the next few weeks and months we will make sure that our members across the country fully understand the impact of this conference agreement on them and on their families.

We urge the Senate to oppose the reconciliation conference package and urge Congress to instead return to the fair and responsible policies of the original Senate package.

Sincerely,

WILLIAM D. NOVELLI.

CONSORTIUM FOR CITIZENS
WITH DISABILITIES,
December 20, 2005.

DEAR SENATOR: We are writing as members of the Consortium for Citizens with Disabilities (CCD). We strongly urge you to opposes the budget reconciliation conference report because of the serious harm it would cause the 9.2 million children and adults with disabilities and others who rely on Medicaid for essential health and long-term services. Unlike the Senate-passed budget reconciliation package, the conference report achieves budget savings in ways that would weaken critical Medicaid protections upon which people with disabilities and other low-income beneficiaries rely. This includes cost-sharing provisions that will only lead to necessary services being denied and effectively punishing people with disabilities who have extensive health and long-term services needs. Changes to the EPSDT requirement can only lead to a bifurcated system that will impose formidable barriers for children in Medicaid trying to access the full range of covered services. The home- and community-based services provisions permit enrollment caps and waiting lists—the very policies that currently prevent Medicaid from meeting the needs of all people with disabilities otherwise eligible for community services. The asset transfer policies also go beyond the consensus reforms in the Senate bill and will make it harder for some seniors with disabilities to qualify for Medicaid—even if they do not have substantial incomes or were not purposefully divesting assets to qualify for Medicaid.

CCD is also very concerned about the negative impact of the TANF provisions on people with disabilities and oppose the inclusion of these provisions in the conference report.

While we are supportive of the Family Opportunity Act and the Money Follows the Person demonstration, these provisions alone do not justify supporting a Medicaid and TANF reform package that is excessively harmful to people with disabilities.

Sincerely,

Academy for Educational Development
American Association on Mental Retardation
American Association of People with Disabilities
American Foundation for the Blind
American Congress of Community Supports and Employment Services
American Council of the Blind
American Network of Community Options and Resources
American Therapeutic Recreation Association
APSE: The Network on Employment
Association of University Centers on Disabilities
Brain Injury Association of America
Council of State Administrators of Vocational Rehabilitation
Easter Seals
Epilepsy Foundation
International Association of Business, Industry and Rehabilitation
LDA, Learning Disabilities Association of America
Lutheran Services in America
National Alliance on Mental Illness
National Association for the Advancement of Orthotics and Prosthetics
National Association of Social Workers
National Association of School Psychologists
National Association of State Head Injury Administrators
National Disability Rights Network
National Down Syndrome Congress
National Mental Health Association
National Organization of Social Security Claimants' Representatives
National Spinal Cord Injury Association
NISH
Paralyzed Veterans of America
Research Institute for Independent Living
The Arc of the United States
Tuberous Sclerosis Alliance
United Cerebral Palsy
United Spinal Association
Volunteers of America.

AMERICAN CANCER SOCIETY SPEAKS OUT AGAINST CONFERENCE REPORT PROVISIONS THAT INCREASE COST SHARING AND LIMIT BENEFITS IN MEDICAID PROGRAM

DECEMBER 19, 2005

DEAR SENATOR: The American Cancer Society is disappointed in House passage of provisions in the Reconciliation Spending Cuts

Act Conference Report (H.R. 4241) that will have an adverse impact on access to care for Medicaid beneficiaries who have cancer or are at high risk for cancer. Specifically, we are deeply concerned about the provisions which achieve budget savings by increasing cost sharing and putting benefits packages at risk. We urge the Senate to stand up for a reconciliation package that minimizes the negative impact on beneficiaries by deleting these provisions, as reflected in the Senate bill (S. 1932).

Cancer is a disease where up front financial costs are substantial, timely treatment is absolutely critical upon diagnosis, and treatment modalities vary widely. We know that access to screening and quality cancer care can have a substantial impact on outcomes. Therefore policy changes, such as imposing undue financial barriers or reducing benefits that inadvertently limit Medicaid beneficiary access to screening, treatment, and follow up care can be a particular problem for those with cancer.

The Society is greatly concerned about cost-saving provisions in the conference report that seek to secure most of its required savings by eliminating the guarantee of coverage, increasing cost sharing and allowing for changes in benefits packages that could negatively impact those who are most vulnerable—particularly low-income individuals with or at greatest risk of chronic diseases such as cancer. We believe that Medicaid beneficiaries' existing access to specialty services and covered cancer protections, including ''optional'' benefits like screenings, cessation services, and prescription drug coverage, should be protected, and not diminished.

The Congressional Budget Office estimated that much of the savings from these provisions in the conference report would be achieved by beneficiaries foregoing critical health services or participation in coverage altogether. The Senate has voted in the past to achieve its savings through both the Medicare and Medicaid programs by limiting fraud, waste, and abuse, and by reducing drug prices and other payments—savings which are less likely to hurt beneficiaries. The Senate again expressed its intent to protect beneficiaries in overwhelmingly passing a Motion to Instruct on Medicaid last week. The Society stands in support of this bipartisan approach for achieving cost-savings while protecting access to care for Medicaid beneficiaries.

The Medicaid program plays a significant role in providing access to cancer prevention, screening and early detection, treatment, and follow up care for the nation's most vulnerable populations, and we applaud Congress for providing this safety net for Hurricane survivors.

While we recognize the fiscal constraints faced by states and the federal government in controlling overall health care costs in addition to administering the Medicaid program, we believe that reforms must be achieved while continuing quality coverage and comprehensive access for cancer patients and those at risk for cancer in the Medicaid program. Therefore, we ask that you support provisions that maximize protection of Medicaid beneficiaries and delete provisions that increase cost sharing, jeopardize benefits, and eliminate the guarantee of coverage. If you have any questions, please contact Kelly Green Kahn, Senior Federal Representative at 202–661–5718.

Sincerely,

DANIEL E. SMITH,
National Vice President, Federal and State Government Relations.

WENDY K. D. SELIG,
Vice President, Legislative Affairs.

NATIONAL COUNCIL OF LA RAZA,
December 19, 2005.

DEAR SENATOR: On behalf of the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States, I write to strongly urge you to oppose current budget reconciliation legislation, the ''Deficit Control Act of 2005'' (S. 1932). This budget reconciliation would cut vital programs that were established to protect the economic security of low-income families, including Latinos.

S. 1932 will move our nation in the wrong direction. In the past, when hardworking Latino families faced economic hardship, they could count on temporary relief such as Medicaid or Temporary Assistance for Needy Families (TANF) to sustain their households until they could ''get back on their feet.'' The reconciliation package would weaken the ability of federal programs to provide effective services that help Americans move up the economic ladder by cutting services, increasing costs to beneficiaries, or severely compromising program structure.

Today there are more than 41 million Hispanics in the U.S.; more than 19 million are in the labor force making contributions to the nation's prosperity and economic growth. With respect to federal budget and tax priorities, six in ten (61%) of registered Latino voters say they would rather pay higher taxes for a government to provide more services. Three-quarters (74%) say the government is spending too little on education and a similar share (76%) say we as a country should spend more to provide health insurance for everyone who needs it, even if it means raising taxes. Yet, Congress is following the opposite route. In addition, this proposal would bring us no closer to a balanced budget.

More troubling, the budget reconciliation proposals continue to be described, in some cases, as an effort to pay for disaster relief and in others as must-do legislation to reduce the federal budget deficit. While NCLR agrees that providing relief to disaster victims and improving the budget deficit are critical, we believe that the budget reconciliation package would shift the burden to other low-income families while failing to balance our nation's budget. To close the deficit gap, Congress should seriously consider strategies to raise revenues. Tax cuts increased the budget deficit; low-income families should not now have to pay for them.

Much is at stake for Latinos in this budget reconciliation. We hope that the Senate will send a clear message to Latinos and all Americans that Congress is serious about enhancing life opportunities for working families. This budget reconciliation package fails to send that message. Thus, NCLR urges you to VOTE ''NO'' on the budget reconciliation package. NCLR will recommend that the National Hispanic Leadership Agenda include votes associated with this legislation in its Congressional Scorecard.

Sincerely,

JANET MURGUÍA,
President and CEO.

FIGHT CRIME: INVEST IN KIDS,
Washington, DC, December 19, 2005.

DEAR SENATOR: On behalf of the 2,500 police chiefs, sheriffs, prosecutors, and victims of violence who constitute the anticrime group, FIGHT CRIME: INVEST IN KIDS, we urge you to support investments in kids proven to reduce crime, and reject proposed bills—which may be considered sometime today—that would reduce those investments. The research confirms what the law enforcement leaders of FIGHT CRIME: INVEST IN KIDS have seen on the front lines; investments in kids like safe foster care homes for abused and neglected children, high-quality early care and education, and comprehensive screenings and treatment through Medicaid help prevent later crime and violence.

We thus urge you to reject the House/Senate Conference Report on Reconciliation (S. 1932), expected to be considered later today by the U.S. Senate, which—unlike the original Senate-passed S. 1932—would cut low-income, at-risk kids' access to Medicaid, foster care and child care assistance.

Also, we urge you to reject the Defense Appropriations conference report—to be considered by the Senate in the next day or two—which would make indiscriminate (so-called ''across-the-board'') cuts that would, in 2006, leave 25,000 more low-income at-risk children out of Head Start, and would deny 11,000 more low-income at-risk kids the assistance their parents need to access quality child care.

Please reject these two fiscally-short-sighted conference reports, which would reduce children's access to proven programs that cut crime, save lives and save money.

Medicaid

Unlike the original Senate-passed S. 1932, the Reconciliation Conference Report would cut many low-income children from the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program that can help reduce later delinquency. Currently, EPSDT provides comprehensive early screening and treatment to help identify and treat behavioral and emotional problems and mental illnesses while children are young, preventing more serious problems later that increase a child's risk of involvement with the juvenile justice system. Studies show that behavior problems in young children are linked to later antisocial behavior. For example, an estimated 7 percent or more of preschoolers have levels of disruptive, aggressive behaviors severe enough to qualify for a mental health diagnosis and approximately 60% of these children will later manifest high levels of antisocial and delinquent behavior. Eliminating the state requirement to offer EPSDT services would limit at-risk kids' access to proven treatment that can help keep them on the right track and away from the road to crime.

The Reconciliation Conference Report would limit kids' access to mental health treatment that can reduce the risk of repeat involvement with the juvenile justice system, Medicaid pays for over 50% of public mental health services, helping cover evidence-based, intensive individual and family therapy programs. For example, Functional Family Therapy (FFT) works individually with troubled, delinquent youths to change their behavior and break the peer connections that lead to crime. FFT cuts re-arrest rates in half, while saving money; the public saves over $26,000 for each youth treated. By eliminating the EPSDT benefit guarantee for many low-income children, the Reconciliation Conference Report would also allow states to adopt benefits packages that would clearly be inadequate for many at-risk children in need of intense mental health intervention. For example, in Colorado, kids could be limited to 20 outpatient mental health visits per year. Mental health treatment under Medicaid helps kids get the care they need, while making our communities safer.

Unlike Senate-passed S. 1932, the Reconciliation Conference Report would eliminate affordability guarantees for millions of children on Medicaid (those with incomes just above the poverty line), leaving low-income children subject to new and sometimes unaffordable costs that experts expect will

prevent these children from receiving necessary care. Currently, federal law exempts Medicaid-eligible children from cost-sharing and premiums. As a result, low-income children covered by Medicaid are even more likely than low-income children with private insurance to have a well-child visit, helping ensure that children get off to a good start in life. Participation in health insurance programs has been shown to drop to fewer than one in five eligible people when premiums reach the levels allowed under this proposal) however, suggesting that fewer children would receive needed care—care that prevents crime and saves money.

Foster Care

Unlike Senate-passed S. 1932, the Reconciliation Conference Report would limit the ability of relatives to care for abused and neglected children in need of a safe foster care home, increasing pressure on the already inadequate number of non-relative foster care homes and potentially leaving more children in dangerous homes. Reversing the Rosales court decision would limit federally IV–E foster care reimbursement to some relatives who can now receive these reimbursements. The proposal would also limit federal Title IV–E funds for case management and other services for children living with relatives under certain circumstances. This cut in federal foster care support will decrease the likelihood of safe foster care homes being available for all of the abused and neglected children who need them, resulting in re-abuse and later crime.

The Reconciliation Conference Report would put new limits on funding that would restrict states' ability to support prevention services for kids ''at imminent risk of removal from the home'' and limit caseworkers'' ability to perform crucial case management roles. Limiting the ability of states (under certain circumstances) to support prevention services for kids at high risk of entering the foster care system would increase child abuse and neglect and foster care placements, as well as later crime. Restricting caseworkers' ability to help with family reunification and other case management when children are transitioning between foster care and juvenile institutional placements would place an additional burden on the already underfunded juvenile justice system, diverting funding that would otherwise support effective violence prevention programs for at-risk kids and intervention programs for kids who have already committed a criminal or delinquent act.

Early Care and Education

Unlike the original S. 1932, the Reconciliation Conference Report ''Child Care and Development Block Grant'' (CCDBG) provisions would cut 255,000 low-income children from child care in 2010 (compared to 2004). The Defense Conference Report would, this year alone, deny tens of thousands of low-income at-risk kids access to CCDBG and Head Start. CCDBG and Head Start support the type of quality early childhood care and education programs that have been proven to prevent children from turning to crime. For example, a study of the High/Scope Perry Preschool program showed that three- and four-year-olds from low-income families who were left out of the program were five times more likely to become chronic offenders by age 27 than those who were in the program, and the program saved $17 for every $1 invested. The Reconciliation Conference report provides such a small increase in CCDBG funding over five years that it doesn't account for: (1) inflation; (2) increased work requirements in the proposed Temporary Assistance to Needy Families reauthorization; (3) the need to increase quality; or (4) current unmet need (only 1 in 7 eligible children is now served). The two Conference Reports. together, would limit CCDBG and Head Start funding, thus preventing hundreds of thousands of children from receiving quality early childhood care that can help them become productive citizens rather than criminals.

We urge you to reject conference reports that include any of these harmful provisions. Cutting Medicaid, foster care and early care and education now will only lead to higher crime rates and far greater criminal justice system expenditures down the road. The United States Senate must not allow a rush-to-adjournment to result in enactment of bad laws. Your constituents—and the Nation—deserve better.

Sincerely,

MIRIAM A. ROLLIN,
Vice President.

DEAL MILKS TAXPAYERS DRY

(By Thomas A. Schatz and John Berthoud)

The dairy-farm lobby is at it again. With the assistance of several key lawmakers, the industry is using must-pass year-end legislation to gain additional subsidies.

The latest shenanigans involve the milk income-loss contract (MILC), a costly program that expired Sept. 30.

The dairy lobby's objective is to resurrect the MILC program by attaching it to the Deficit Reduction Act of 2005, which is supposed to reduce spending by about $50 billion over the next five years. Adding insult to injury, the House Republican leadership is making back-room deals to help the dairy lobby secure its subsidy.

To garner the votes necessary to pass the Deficit Reduction Act, Speaker of the House Dennis Hastert (R–Ill.) promised a number of Republican lawmakers that he would ''instruct House conferees to secure an extension of a MILC program through September 2007.'' This would be accomplished by receding to the Senate, which included a renewal of the MILC program in its version of the Deficit Reduction Act. The failure to vote upon down on the program in the House is a betrayal of the taxpayers.

Congress did the right thing when it allowed the MILC program to expire at the end of September. During its existence, the MILC scheme perpetuated economic distortions, created inefficient markets and unnecessarily harmed taxpayers and consumers.

When MILC was created as part of the 2002 farm bill, the Congressional Budget Office (CBO) estimated that the four-year price tag would be ''only'' $1.3 billion. Since the program's inception, however, taxpayers have been tapped for more than $2 billion. Now, the estimate for a scaled-back, two-year version of MILC is $998 million. If the CBO is as wrong now as it was in 2002, this new two-year concoction will cost taxpayers closer to $1.5 billion.

Whether the actual cost turns out to be $1 billion or $1.5 billion or even more, there is no justification for bringing the MILC program back to life, particularly as part of the Deficit Reduction Act. Taxpayers have already taken too many forced trips to this milking machine.

The industry is currently subsidized through the dairy-price support program, which cost taxpayers an average of $500 million per year from fiscal year 1999 to fiscal year 2004 for the purchase of surplus products.

The absurdity of MILC is evident in its own past history. Even the U.S. Department of Agriculture (USDA), which oversees the program, agrees that the costly subsidies simply aren't working and have produced unfortunate and unintended consequences.

A comprehensive study released by the USDA last year concluded that the MILC program leads to expanded output through production-linked subsidies. Then, incongruously, the federal government purchases the surplus milk production caused by the MILC program through the price supports. In short, taxpayers shell out for the same unneeded milk not once but twice.

The MILC program was based on the failed Northeast Dairy Compact, which was also the product of a back-room deal, and, like the late price cartel, MILC primarily benefits certain, less efficient dairy farms.

In rewarding and perpetuating such inefficiency, the MILC program is not just expensive for taxpayers but at the end of the day is simply bad, backward policy. Particularly at a time of staggering federal deficits, it would seem hard to justify spending an additional $1 billion to resuscitate a program that never worked in the first place.

Aside from the problems inherent in the program itself, using the Deficit Reduction Act to reconstitute MILC is another example of the way in which Washington has grown ever more beholden to special interests. After all, legislation that would have extended the MILC program failed to move ahead earlier this year in either the House or the Senate. Attempting furtively to funnel MILC into legislation that is meant to save tax dollars, not squander them, is deplorable and pathetic.

After more than 70 years of meddling in the U.S. dairy industry, Congress was right to begin phasing out our convoluted system of antiquated subsidies by allowing the MILC program to sunset. They ought at least to protect this victory for taxpayers by keeping the menace of MILC out of the Deficit Reduction Act.

More important, the House leadership ought to show taxpayers respect, rather than using deficit-reduction legislation to create new government programs and making back-room deals that milk the taxpayers dry.

REVISIONS TO PAYMENTS FOR THERAPY SERVICES

Mr. ENSIGN. Mr. President, I would like to raise an issue of clarification regarding section 5107, Revisions to Payments for Therapy Services. It is my understanding that this provision retains the therapy limitation of $1,740 for outpatient physical therapy and speech-language pathology and $1,740 for outpatient occupation therapy but provides an exception process for services that are needed by a beneficiary over this amount. This exception process is expressly to permit services above the cap that are medically necessary. Mr. President, I ask the Chairman of the Senate Finance Committee whether this interpretation is correct.

Mr. GRASSLEY. Mr. President, this is correct.

Mr. ENSIGN. In addition, there should be no delay in implementing the exceptions process. CMS should work diligently to develop a process to determine whether a service is medically necessary. This process could include a ''code modifier'' and standard audit review of medical necessity and reflect similar processes that currently exist. It is my understanding, based on the language, that if CMS does not develop a process, a request for therapy services will be deemed medically necessary if CMS does not act on the request within 10 business days. Further, the language also appears to permit a beneficiary to request medically necessary coverage outside the caps at the

outset of treatment. If CMS does not develop a process and fails to act within 10 business days, then the beneficiary can receive covered therapy services in excess of the cap. I would hope that further information from CMS regarding the exceptions process is laid out as we approach January 1, 2006, when the therapy caps go into effect. Senator GRASSLEY, do you agree with these statements?

Mr. GRASSLEY. I agree that CMS needs to develop a process to permit medically necessary Part B therapy services that exceed the cap in a timely manner. I also believe that this process should not result in the delay of needed therapy services. I would hope that CMS would provide an outline as to how they envision the exceptions process to work so that beneficiaries needing therapy services beyond the $1,740 caps receive the therapy they need if medically necessary.

Mr. KENNEDY. Mr. President, in follow-up with respect to the education provisions in the conference report on the pending bill, it is important to note that the Senate bill included $6 billion for Pell grants, to do more to ensure that every talented student who has the opportunity to go to college can afford to do so. In addition, the Senate bill included a further $2 billion for college students studying math and science.

By contrast, the conferees' bill reduces spending in the student loan programs by $13 billion and allocates only $3.75 billion to new grant aid. That's $13 billion in tax giveaways for the wealthy and only a meager $3.75 billion increase in grants to help students go to college.

It gets worse. In order to receive the funds that are available, students must jump through multiple hoops. As a result, only a very small percentage of students will ever see the aid. In fact, based on an analysis by the Congressional Budget Office, our estimates show only about 10 percent of the students who currently receive Pell grants will receive additional assistance under this bill—hardly a commitment to educational opportunity for all students.

We need to provide incentives for students to study math and science. But it makes no sense to do so at the expense of other students. As the cost of college rises and Pell grants remain stagnant, it's wrong to take $13 billion in savings from the student loan program and not give a single penny to 90 percent of the students struggling to make it through college.

Senator GREGG pointed to the loan forgiveness provisions in this conference report. I strongly support those provisions and urged their inclusion in the Senate bill. But these provisions are merely an extension of current law. They ensure that we won't now eliminate the incentive we've been providing for teachers who agree to teach in high-need fields in high-poverty schools. Loan forgiveness is an extremely important program, but it does nothing for the almost 170,000 college-ready students, who each year fail to go to college because they can't afford the upfront costs of doing so. These students need additional grant aid—even if they choose to be teachers and not scientists and engineers.

Senator GREGG also said that the fixed interest rate structure in this conference report will cost students $5 billion. In fact, the fixed interest rate structure actually saves about $6 billion more than the variable rate structure proposed by Senator GREGG and included in the House bill.

Instead of the variable interest rate capped at 8.25 percent, as proposed by Senator GREGG, the Senate bill kept the current law structure of 6.8 percent fixed rate, which is obviously better for students than an 8.25 percent rate. The Federal Reserve has increased interest rates in each of its last 13 meetings. The Senate bill was designed to protect more students from the current trend of increasing rates.

I had proposed a variable rate capped at 6.8 percent—the option supported by the student groups. But our Republican colleagues refused to accept this option.

Many of us wanted to do even more for students than we achieved in the Senate bill. Instead, we were forced to find $7 billion in savings—now $13 billion in this final version—so that this Republican Congress and the Bush administration can provide greater tax giveaways to the wealthy.

Our Senate bill opened the doors of opportunity for many more young people. We took the fat out of bank profits and put most of it back where it belongs—helping the nation's neediest students. This conference report puts an additional $6 billion into tax cuts for the wealthy—on top of the $7 billion in the Senate bill—while doing nothing for 90 percent of those struggling to pay for college. Those are the wrong priorities, Mr. President, and I very much regret that our Republican colleagues have insisted on turning a good Senate bill into a shameful retreat on aid to college education.

UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate convenes on Wednesday, December 21, it immediately resume debate on the conference report to accompany S. 1932; provided further that all time be considered expired under the statute other than 5 minutes each for the chairman and ranking member; further, that following that time, Senator CONRAD be recognized in order to raise a Budget Act point of order against the conference report and that immediately after the point of order is raised Senator GREGG be recognized in order to make a motion to waive.

I further ask unanimous consent that following the vote on the waiver, Senator CONRAD be recognized to make a further point of order and Senator GREGG be recognized immediately in order to move to waive for his point of order; provided that the only Byrd rule points of order in order be from the list that is currently at the desk and that if both points of order are waived, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate; further, that if either motion to waive is rejected and the Chair sustains either point of order following the votes on the motions to waive, the Senate then immediately vote on the motion to concur in the House amendment with the Senate amendment as provided under the Budget Act, again with no further intervening action or debate, and that there be 4 minutes equally divided before each point of order vote.

Mr. REID. Mr. President, reserving the right to object, I direct these remarks as much to myself as to all other Senators.

Tomorrow is an extremely important and very difficult day. I ask all Senators to be patient, not be upset if things don't go the way they think they should. It is going to be a hard day tomorrow. With a little bit of good luck, we should be able to finish everything tomorrow. But I hope all Senators would understand that getting to the point where we are is very difficult. And tomorrow, I hope everyone will, as I have said, be considerate of others and try to move through this with the understanding that we are all trying to get out of here. Everyone understands that there are a lot of things going on. We are also doing the people's business, and we need to focus attention on that.

I have no objection.

Mr. CONRAD. Mr. President, reserving the right to object, just on the one point we probably need to clarify, that after the point of order I make, Senator GREGG be recognized to make a motion to waive, that our understanding is that would be a motion to waive on the specific items which I have raised.

Mr. GREGG. That is correct.

Mr. CONRAD. I thank my colleague, and I thank the Chair. I will not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The majority leader.

Mr. FRIST. Mr. President, I will return later tonight to make further announcements about the schedule for tomorrow. I wish to emphasize what the distinguished minority leader has said. There will be a lot of votes tomorrow. We will begin voting around 10 minutes after 9 tomorrow. Thereafter, we are going to have a whole series of votes, with the goal of getting people out sometime tomorrow. It is going to take everybody's patience and cooperation. We will start bright and early. I will have more to say on that later.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak in morning business.

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

DEFENSE APPROPRIATIONS

Mr. DURBIN. Mr. President, tomorrow morning we will consider the Defense appropriations conference report with very little debate. It is an important measure. Earlier I came to the floor to speak about one aspect of the bill which relates to drilling in the Arctic National Wildlife Refuge. It is a large bill, about 1,000 pages. It contains many things. I would like to address the other elements that are included in that bill.

This conference report provides $453 billion in defense spending, money for body armor, armored vehicles, protective equipment for our troops that they need and haven't always had. The conference reports includes $1 billion for equipment for National Guard and Reserve units.

In Illinois, our National Guard units have been forced to leave their equipment behind in Iraq for use by the units that follow. Other States' National Guard and Reserve units have done the same. Leaving their equipment thousands of miles away makes it difficult to train our guardsmen in my State and many others. It also makes it harder for Guard and Reserve units to respond to civilian disasters here at home. We saw that in Hurricane Katrina. I voted for the Leahy amendment, offered by the Senator from Vermont, to increase funding for Guard and Reserve equipment by $1.3 billion. I am pleased that most of this funding is included in this final conference report.

The bill also adds $10 million for the Rock Island Arsenal to ensure that this important military-owned-and-operated facility is ready to make the equipment our troops need when they need it. That Rock Island Arsenal proved its value to America when we needed to retrofit the humvees with armor plating to protect our troops. The men and women of the Rock Island Arsenal worked 24/7 to meet that need. It provides $20 million to purchase or refurbish the heavy construction equipment needed by the Navy Seabees and Army Guard and Reserve engineer units. I am proud that we make this gear in Illinois.

It includes more than $20 million for upgrades to Navy and Marine Corps FA–18 fighter aircraft because our pilots deserve the best equipment there is. This conference reports also includes $29 billion for Katrina disaster relief. It is important to note that not one dime of this $29 billion is new money; $5.1 billion is from the 1-percent across-the-board cuts in this bill as well as other rescissions. The rest, $23.4 of the $29 billion total, was already earmarked for FEMA. FEMA programs are being cut to pay for Katrina relief. Would you believe that this conference reports actually cuts FEMA's preparedness, mitigation, recovery, and response programs by $2 million? It cuts Federal programs, funds for programs such as catastrophic planning and planning for mass evacuations. It is hard to imagine, in the wake of Hurricane Katrina, that we are reducing spending in this bill for planning for mass evacuations. God forbid we face another one in the near future.

Inadequate resources clearly was not the only reason FEMA was overwhelmed by Katrina. The main reason was cronyism and incompetence at the top. But does anyone seriously believe that cutting FEMA's disaster prevention and preparedness programs is the right way to respond to Katrina? It isn't. Of the $29 billion for Katrina relief, one-tenth of that total, $2.9 billion, is for Army Corps of Engineers projects including levee repairs. I am glad the administration has acknowledged the need for the Federal Government to take the lead to rebuild the levees. Homeowners can't rebuild, business owners won't relocate until New Orleans' levees are safe and rebuilt.

Let's be clear, $2.9 billion is a very small downpayment on what is needed to rebuild the levees and restore the wetlands. Estimates of what it will cost range from $18 billion to $32 billion to reach category 5 hurricane protection. Restoring the wetlands could cost an additional $18 billion. As any good environmental engineer will tell you, strong levees and restored wetlands are needed to fully protect New Orleans and the surrounding areas. In his nationally televised speech from New Orleans' Jackson Square in mid-September, President Bush promised the Federal Government would help New Orleans and Louisiana make the flood protection system stronger than it has ever been. The $2.9 billion in this bill is a small downpayment on that promise. We will look for the next installment next year.

The President should also make it clear right now that New Orleans' levees will be rebuilt to withstand a category 5 hurricane. If we don't want New Orleans to turn into a permanent ghost town, the people have to know that it is safe to return. Assurance from the President would make that difference.

What is missing in this bill? Unfortunately, several critically important provisions have been stripped out behind the closed doors of the conference committee. Let me tell you one that has become a perennial. The Reservist Pay Security Act, which the Senate has now passed four different times—I have sponsored this bill and it passed in the Senate four different times—is one of the measures that should be in this bill but always gets stripped out in conference. The same Senators who stand here and vote proudly for it can't wait to get behind closed doors and strip it out. Four straight years. What is it about? When Guard and Reserve members of top companies such as Sears, GM, and Home Depot are called to active duty, companies they work for make up their difference in pay. They can worry about defeating terrorism and don't have to worry about missing mortgage payments.

Thirty State governments do the same thing. They believe their workers who sacrifice to defend America are worth a helping hand. I introduced the Reservist Pay Security Act with a bipartisan team of Republicans and Democrats in the Senate, including my lead cosponsors Senator BARBARA MIKULSKI of Maryland, Senator GEORGE ALLEN of Virginia, LINDSEY GRAHAM of South Carolina, and others who believe the Federal Government should make the same commitment to the troops that other employers make. One out of every ten Guard and Reserve members is a Federal employee. Yet they don't have the same salary and income protection as those in the private sector. How can you possibly explain that? How can we say, as a Federal Government, we won't stand behind our troops when the private sector does, when State governments do, when local governments do?

Again and again that is passed on the Senate floor. We pat ourselves on the back and it heads to the conference committee and disappears. Think about this: The Department of Defense hands out awards to companies that stand behind the Guard and Reserve. The Federal Government should hand out a demotion to those in the Senate who consistently vote for this on the floor with a big smile on their faces, head to the conference committee and kill it every time. If they think they are getting even with me, that isn't what it is about. It is about helping our troops.

On a bipartisan basis, Members of the Senate have said it is time to get this done. This bill doesn't do it. The Department of Defense claims that it would cause disparity and discord if an activated reservist is being paid more than an Active-Duty soldier. Active-Duty soldiers don't stand around comparing pay stubs and what they are making back home. The Reservist Pay Disparity Act doesn't create disparities, it reduces them, by ensuring fewer soldiers have to sacrifice a substantial part of their income to serve the Nation. We talk all the time about supporting our troops. It is interesting, we support it when there is a rollcall on the floor. When it gets to the darkness of a conference committee, that support has been taken out time and time again.

I hope we will have a chance to pass this in the next session. I will offer it again. This time I hope the conference committee will give us a helping hand instead of turning its back on our guardsmen and reservists.

I am also deeply disappointed this defense conference report contains no relief funds for farmers who suffered serious income losses this year because of drought and other natural disasters. The year 2005 was a tough year for farmers from coast to coast. Hurricanes Katrina and Rita, the drought in the Midwest, the flooding in the upper Midwest, all of these things have taken their toll on my State and so many

others. Year in and year out we have had a disaster assistance program for farmers. This year we need it and we need it badly in Illinois and many other States. When Senator BYRON DORGAN of North Dakota offered a $1.6 billion amendment in the conference committee to restore the disaster assistance program, it was defeated on the House side. The House Republican leadership refused to agree to an agriculture disaster assistance relief program. That is unfortunate. I hope that the Congressmen who represent farming areas will come back to Washington after the first of the year and encourage their colleagues to pass this.

We need it so a lot of farmers will have the resources they need to get back to work and back to farming this next year. What is also missing is this: At least 300,000 innocent people have died in the genocide in Sudan. The number may be 400,000. Nobody knows for sure. Two million people have been driven from their homes and 500 people die every day in refugee camps. We missed an important opportunity to stop or slow down that genocide in this conference report. We refused to help the work of the African Union Mission in Sudan in this bill. The United States provides approximately $8 million a month in support of the African Union Mission in Sudan. That amounts to one-third of their total funding. These funds are vital to the African Union peacekeeping troops in Darfur.

The Senate included $50 million in our version of the bill, the Foreign Operations appropriations bill, to support the African Union, which was dropped in conference. Secretary Rice said these funds are critical. She requested they be included in this Defense appropriations bill. The Secretary noted the State Department already had to reprogram $13 million that was intended to train the new Afghan Army and use it instead for our commitments in Africa.

United States funds for Africa will run out January 1. Without additional funding, the State Department will have to choose between diverting funds from other important priorities and making this genocide situation worse in Darfur. I will quote from Secretary Rice in a letter she sent to Congress:

> We now face a critical juncture in supporting the African Union Mission in Sudan. . . . Through reprogramming of other peacekeeping monies, the administration has found a way to fund our contribution to AMIS through the end of this year. But the FY2006 Foreign Operations Appropriations Act provided no funding for this peacekeeping mission. We are in critical need of funding to continue this mission at a robust level into 2006.

She continued:

> To meet ongoing operational costs and to provide adequate logistical and communications support, we are seeking at least $50 million for AMIS.

She went on to say:

> I have discussed this matter with others in the administration and can assure you that taking immediate action to meet this unanticipated expense is of the highest priority.

Those are her words—''highest priority.''

Despite the urgency of the situation, the House Republican leaders removed the funds for the African Union Mission in Sudan from this conference report.

Just a few weeks ago, I was with Senator SAM BROWNBACK of Kansas in Rwanda. We stayed in that hotel in the movie ''Hotel Rwanda.'' That was the hotel that 11 years ago was a refuge for Rwandan victims of the genocide. At the direction of the manager of that hotel, he managed to secrete away and protect hundreds of people who otherwise would have been hacked to death and killed in the Rwanda genocide.

I remember that genocide as a Member of the House of Representatives, because my senior Senator and close friend, the late Paul Simon, was one of the few Senators to speak out. He said to the Clinton administration: What is going on in Rwanda is terrible. Whether you call it a genocide or not, with a few American troops, we can bring stability to the area and save innocent lives. Senator Simon's request fell on deaf ears. The Clinton administration did not respond and the genocide continued.

The death toll, when it was all over, is estimated at 800,000 people. I went to a Catholic church a few blocks away from this hotel in Rwanda. The church looked like an ordinary church, filled with people who came to worship at 6 a.m. in the morning. I learned later that a thousand people were hacked to death in that church. They came in there for refuge. They were, unfortunately, turned over to the rebels and killed on the spot. They thought they were saving a church.

That is what genocide is all about, the wanton killing of people. President Bill Clinton, when he does his assessment of his administration and lists the liabilities or negatives, is usually going to put at the top of the list his failure to respond to the Rwanda genocide. He deeply regrets the fact that our Nation didn't speak up and stand up to stop that genocide.

Fast forward now 9 or 10 years to the situation in Darfur in Sudan. We have a new President, George W. Bush; we had a new Secretary of State, Colin Powell; and now it is Condoleezza Rice. They were able to say the word about Darfur in Sudan which the Clinton administration would not say about Rwanda. They said we are dealing with a ''genocide.'' That is a word you have to use very carefully. It has happened rarely in the history of the world, but when it has, it has had cataclysmic consequences. So our administration, our Government, our country has declared that a genocide is occurring in Darfur in Sudan. The obvious question to us and those people around the world who care is: What are we going to do? We have not committed any American troops. Maybe we never will, but at the least we should be supporting the African Union troops who are trying to bring order there on the ground.

This bill we are going to consider tomorrow took out the money for these African Union troops, despite the pleas of Secretary of State Rice, despite the knowledge that we are dealing with a genuine genocide where innocent people are being killed, raped, and displaced every day. We could not find $50 million in a multibillion dollar budget to keep these troops there to protect the poor people in this region. It is unthinkable, yet it is a fact.

Earlier this year, the Senate unanimously approved the Darfur Peace and Accountability Act, calling for the rapid expansion of the African Union force. That legislation stated that if the AU Mission fails to stop the ongoing genocide, ''the international community should take additional . . . measures to prevent and suppress acts of genocide in the Darfur region.''

In recent months, the violence has worsened. Some aid groups are leaving the region because of security concerns. Even the African Union troops have been the target of violence.

With the resurgent violence of Darfur, the Sudanese Government and its partners, the jingaweit militias, appear to be testing the resolve of the African Union, the West, and the United States of America. Not providing these funds—$50 million for troops to protect these innocent people—is inexcusable. It is a signal to the perpetrators of these atrocities that we cannot be bothered. We cannot afford to come up with $50 million to stop a genocide.

Mr. President, $50 million for AMIS won't resolve the crisis there, but it will enable the African Union to maintain its current size and scope of operations. It would allow this Nation, America, to stand on the right side of history against the repression and genocide in Darfur.

How can we in good conscience vow ''never again'' and then cut the funds needed to keep that promise? How can we watch genocide in our own time and refuse to do what is needed to stop it? What if a God-fearing, caring Nation such as America declares there is a genocide and does nothing? That is what we are up against in this bill.

I hope that men and women of conscience in the Senate on both sides of the aisle, as soon as we return in January, will do something immediately to provide the assistance they need in Darfur to provide the African Union the support they need.

I spoke earlier about ANWR. I will not go into that any further, other than to say it is truly unfortunate that a bill of this importance and this magnitude is being dragged down the road in an effort to provide this giveaway to the State of Alaska and to oil companies. Of all of the things we should be doing, this is the last—to be drilling for oil in a wildlife refuge set aside almost 50 years ago to be protected for generations, so some oil company can make a profit and the State of Alaska can end up benefiting.

This conference report contains also a huge gift of nearly unlimited immunity for the pharmaceutical industry, one of the wealthiest industries in America. When I first came to Congress, I would have to say the strongest lobby on Capitol Hill in the 1980s was the tobacco lobby. You could not beat them. I know because I tried several times unsuccessfully before I passed a bill banning smoking on airplanes. It was the first real loss they ever had on the floor of the House. And when it came to the Senate, Senator LAUTENBERG led the fight here and we won. It made the news because nobody beat them. The tobacco lobby was unbeatable. Now they have been replaced as the king of K Street. That distinction now goes to the pharmaceutical industry. Hardly a bill passes through here where the pharmaceutical industry and drug companies don't end up getting some little favor that has been offered by the majority in the Senate.

The Republican leaders in Congress exploited in this bill a real need to push through a big favor for wealthy special interests. To prepare for a potentially deadly breakout of avian flu, Senate Democrats, including Senators OBAMA, HARKIN, REID, KENNEDY, and others, sought twice to add as much as $7.9 billion for the avian flu prevention and response efforts.

In response, the President requested $7.1 billion for avian flu. This conference report provides $3.8 billion for avian flu, a little bit over half of what the President requested. How in the world will we answer our critics when they come forward and say, Did anyone speak out here in the face of this potential devastation from avian flu, that the funding in this bill was inadequate to the task? We know it is in Congress; the President knows it is. But when it comes to the conferees, they have decided: Let's save some money here. It is a false savings if this pandemic strikes the United States and endangers the lives of innocent citizens.

It also includes something that was not in the President's plan nor in the Senate Democrats' plans, and that is where the pharmaceutical companies come in again. It includes sweeping immunity protections that would shield pharmaceutical companies from legal responsibility, even when their mistakes result in injury and death.

In the middle of the night, after conferees were assured that the controversial liability immunity provision would not be included in the bill, after the report had been signed, after all of that, the Republican leadership added 47 new pages to the bill.

These new liability protections are not limited to avian flu vaccine, which is what the press releases said. Oh, it is all about creating a market for new vaccines to be made. Nope. These immunity provisions are so broad that they include drugs such as Tylenol, Advil, even Vioxx.

The Republican proposal would shield the drug industry from legal accountability for sickness, disability, and even death resulting from vaccines, drugs, and other products. The only exception is in cases of willful misconduct. Do you know what it takes to prove willful misconduct? You have to prove a drug company knew its product would injure or kill someone and went ahead and sold it anyway.

That is an unrealistically high standard, and it just means fewer people will have a day in court. If that is not bad enough, even if a drug company acts with willful misconduct, it is still shielded from immunity unless the Secretary of Health and Human Services or the Attorney General initiates an enforcement action. If no such action is taken, a drug company could knowingly kill hundreds or thousands of Americans and still not be held liable.

There are other loopholes. The Secretary of Health and Human Services can declare an emergency at any time. These declarations would also shield drug companies from legal accountability. They are not subject to appeal or to independent judicial review. This bill overrides State laws.

Supporters of this proposal claim it establishes a compensation fund for victims. However, the fund is operated under regulations established by the Secretary alone. It includes caps on compensation. There is no guarantee Congress will provide sufficient funds to make certain that victims receive any compensation. It could turn out to be nothing more than empty promises.

Think about the fact that virtually anyone in America, with two exceptions now, is held responsible for the products they sell. And if those products cause harm to individuals, they can be held accountable. That kind of standard is used for all of America and for all businesses, for the products, the goods and services they sell.

Just a few months ago, we decided to create the first exception. We decided that people who manufacture firearms should not be held responsible if those firearms injure someone or kill them. That is right, firearms. The gun lobby came in here, pushed the bill through, and the President signed it gleefully. Now comes the next one, the pharmaceutical industry, that they will not be held liable for the drugs and vaccines they sell in the ordinary course of business if they have been negligent in preparing those drugs or misrepresenting what those drugs will do to the American public.

Let's get down to business. None of these protections in this bill are really needed. The Federal Government already has authority to waive liability during a public health crisis. That authority is part of the President's pandemic influenza plans. These protections are not needed to lure drug companies into the vaccine. This is a lucrative market. Roche, the company that makes Tamiflu, estimates that sales of its antiviral will reach $1 billion this year, four times the 2004 level—$1 billion. And we are building into this law protections for drug companies that are so profitable when, in fact, they are not being held as accountable as other businesses.

Other biotech firms are competing to develop improved vaccines and see their stock value soar in the process. The most profitable sector in the American economy has scored another big one. It is Christmas on K Street for drug company lobbyists. I am sure there are big parties this week as they can't wait for this bill to be signed into law and escape liability.

Why has this bill been stuck into this conference report at the last minute? Here is a hint. Big PhRMA, the pharmaceutical companies, is the single largest influence operation in Washington today. They spent $123 million lobbying Congress in 2004, according to the Center for Public Integrity. Since 1998, pharmaceutical companies have contributed $87 million to Federal candidates, nearly all Republicans, but not exclusively, according to the same center. This is the worst kind of special interest dealmaking.

It is unfortunate that, once again, we are saying to the American people that we are creating a special class in America—a class of businesses that cannot be held accountable for their wrongdoing.

We are also saying to the victims of their wrongdoing: Sorry, you can't go to a jury in your neighborhood and in your community and ask them to judge whether you have been wronged improperly.

A third provision that ought not to be included in this bill is in the Katrina relief package. It would create the first national education voucher program. Under this proposal, a disproportionate share of school funding would go to private and religious schools at the expense of public education. At the same time, the bill removes all prohibitions against using Federal money for religious education and sectarian activity.

Using public education dollars for religious purposes is contrary to our Constitution, it is contrary to the feelings of most Americans, and it is contrary usually to the will of the Senate. The Senate version of the Katrina education proposal, which I supported, and I know Senator LANDRIEU supported it as well, contained assurances that Government funds would not be used ''for religious instruction, proselytization, or worship.'' That language was stripped out of the House bill.

This is a sad pattern in Congress. For example, the House version of Head Start reauthorization would repeal the longstanding civil rights protections that prohibited Head Start teachers and staff from being discriminated against based on their personal religious belief.

House amendments to the Workforce Investment Act would also repeal the important civil rights protections that prevent employment discrimination based on religion.

In the same manner, there is no language in the House conference report that bans schools that receive these funds under the Katrina relief provisions from practicing employment discrimination. If the private and religious schools refuse to hire people who don't share their religious belief, according to this bill, that is just fine.

The bill also says if your family is forced from your home because of Hurricane Katrina, and your child is now attending a religious school because it is the only option available where you are now living, your child will receive religious instruction unless you opt out. It places the burden on the parents. Yet there is no language in this bill requiring that parents and students be notified of the right to opt out of religious instruction.

We can have a debate about using public school dollars for private and religious schools, but to use an unprecedented disaster to in a backhanded way include religious school vouchers in the Federal budget without adequate public debate is just wrong. When you combine these back-door cuts to public schools, the 1-percent across-the-board reductions in educational programs designed to help poor children and children with disabilities, this bill makes a mockery of the promise to leave no child behind.

There was recently an editorial, a column in the Chicago Tribune on Monday, written by Dennis Burns, in which he was arguing for the teaching of intelligent design in public schools. He believes Government should require that to be taught. He argued that faith-based belief is not inconsistent with science, and he felt the Government should step in and make it clear that you can include religious education as part of a public school curriculum.

What was interesting was the column next to it. It was a column by Charles Krauthammer, and it was about the President of Iran. If you have been following the lunatic ravings of the President of Iran about the fact that he believes there was no Holocaust and he believes that the Israelis have no right to their own homeland, you will find that his crazed beliefs are grounded in his strong religious convictions.

That tells us for a moment of the wisdom of our Founding Fathers, who understood the important necessity of separating church and state in America.

Our Constitution is explicit. It says that one has the right to believe what they want to believe, and if they want to believe in no God, they have that right in America, too. It is a matter of personal conscience. I believe they were absolutely right in that regard.

The second thing they said is this Government will not choose a religion, this Government will not have an official religion. That, too, was a very incisive and wise observation by those who founded this country.

I hope that many people who are now trying to force religious issues into appropriation after appropriation and issue after issue should consider for just one moment what they are doing. This time of year, when many of us turn to our religious belief to enrich this holiday season, I hope that everyone will say a little prayer that the intelligent design of the Constitution of the United States of America will be respected by the Congress.

Finally, this conference report includes a 1-percent across-the-board cut in all Federal programs except veterans and spending on the wars in Iraq and Afghanistan. Managing the Federal budget is supposed to be about making responsible and moral choices. A calculator can cut everything by 1 percent, but not every line item in the budget is of equal importance. We have been sent here to use some judgment. Cutting every program is an abdication of responsibility and no way to manage a budget.

We could spend hours listing examples of why this thoughtless approach to budgeting is bad government, but in the interest of time, I will simply highlight a few, based on the Center on Budget and Policy Priorities.

To really understand what these across-the-board cuts mean to the people and the programs, we need to compare this year's funding with the 1-percent cut to the funding level in 2005 adjusted for inflation. That is the budgetary baseline of the Congressional Budget Office.

When we look at the funding levels we have already appropriated and in some cases already cut for each program in 2006 and then impose an additional 1-percent cut, the results are troubling. Let me go through them quickly. In education, a 1-percent cut in elementary and secondary education amounts to $1.2 billion cut in education for poor children, special education, school improvement efforts, and vocational and adult education. Senator TOM HARKIN of Iowa today told us that this is the first time we have lost ground in special education in recent memory. We will have less money to educate the children who are born with special needs and disabilities. In my State of Illinois, we will lose $49 million for those kids.

A 1-percent cut in child and family services means $350 million less for Head Start, less for services for abused and neglected kids, less for adoption-related services, less for abstinence education, less for services for homeless children and other programs. Funding for early education and health care through Head Start will be cut by $195 million, and that means 25,000 more children will not be included in Head Start next year. Childcare development block grants helping lower and moderate-income families afford childcare face a 1-percent cut, meaning 11,000 fewer children from low-income families, working families, trying to make sure their kids are in a safe environment, will not be helped because of this 1-percent cut. In my State of Illinois, we will lose $16 million.

In housing, the section 8 Housing Choice Voucher Program is the Federal Government's main rental assistance program for low-income families. A 1-percent across-the-board cut means approximately 65,000 fewer low-income households receive rental assistance next year. Think of the struggle of working families in lower income categories to find decent housing. Section 8 is one of the fewer programs that helps them. We are going to make sure that 65,000 fewer people are helped next year. In my State of Illinois, we will lose 3,300 vouchers.

Community development block grant—a 1-percent across-the-board cut means $777 million lost. That is nearly 16 percent below this year's funding level. Illinois losses $24 million.

The Environmental Protection Agency provides Federal funding to States to improve water quality to construct and improve drinking and wastewater treatment. If we cut these programs by 1 percent, or $243 million, it means we are cutting them 12 percent below current levels. Illinois loses $11 million.

These examples are only the beginning. If one thinks these cuts are absolutely essential, remember that we will come back next year and consider another bill by this administration and by the Republican leadership in this Congress to give tax cuts to the wealthiest people in America. In the midst of a war, facing the biggest deficit in our history, with Hurricane Katrina and its responsibilities looming over us, we are cutting basic programs for education, health care, childcare, and environmental protection to provide tax cuts for the wealthy. Those are the priorities of the Republican leadership, priorities reflected in this bill. Real fiscal discipline requires thoughtful choices. Across-the-board cuts simply hack away indiscriminately at all programs.

I know the hour is late, and I thank my colleagues for their patience. I thank those in the Senate, the staff in particular, as we draw closer to the holiday season, and they are all wishing they could go home, and I am, too. I hope we will consider these bills tomorrow. I hope the votes in the Senate will reflect the priorities and values of America.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

CONGRATULATING THE CARROLL COLLEGE FIGHTING SAINTS

Mr. BAUCUS. Mr. President, I rise today to express a little hometown pride.

Last Saturday, I had the great opportunity to watch history in the making in Savannah, TN, as the Carroll College Fighting Saints from Helena, MT, marched to victory over the St. Francis Cougars from Fort Wayne, ID.

Carroll College is a private, Catholic college in my hometown of Helena, MT. Carroll is home to 1,500 students and enjoys a host of outstanding accomplishments in its nationally award-winning academic and pre-professional programs. Carroll is especially known for its flagship pre-medical, engineering and nursing programs.

The Carroll Talking Saints Forensics Team is ranked in the top five in the Nation and has reigned as Northwest Regional Champions for the past 15 years. It is a small school, with a huge record of accomplishment.

The Carroll College Fighting Saints are the only team on any level of college football in the modern era to win four national titles in a row.

They only gave up 9 points per game this season, adding to their outstanding national accomplishments.

Led by Tyler Emmer, who claimed the NAIA player of the year for the second time, the Saints offensive attack has piled up impressive numbers this season. The Saints can stretch the field with long passes or they can use their short passing game to keep the chains moving, as they did last Saturday.

It was wonderful to be there and watch, as the PA kept saying, ''Move those chains, move those chains,'' as Carroll kept scoring on the first down.

Emmert has thrown for 3,039 yards and 33 touchdowns this season. He owns a career record of 50–to–3 wins as a starter for the Saints. Emmert and his teammate Jeff Shirley were named Frontier Conference Players of the Year. A class act, Tyler is the first to credit his teammates for his success.

To win Saturday, putting the Carroll College Fighting Saints in the record book, is more than just about football. It is about hard work, dedication, competitiveness, leadership, friendship, and family.

In his 7-year career at Carroll, head coach Mike Van Diest led his team to four national championships. Mike again was named Frontier Conference Coach of the Year. He is a class act.

Working tirelessly to inspire these young athletes, Mike has created more than a championship football team. He has taught them the value of a quality education, the strength of teamwork, and the importance of giving back to the community and those in need. Coach Van Diest defines what it is to be a true Montanan. I commend him for setting such high standards for all of us.

Also, congratulations go to Carroll College athletic director Bruce Parker and his staff.

I recognize Carroll College President Tom Trebon for his leadership and commitment to Carroll College.

Finally, I want to commend my good friend from Indiana, Senator EVAN BAYH. The Senator and I had a little wager on the game. We went double or nothing on a bet from last year—Montana-brewed beer against Indiana-grown popcorn. I look forward to the popcorn. We appreciate the Senator being such a good sport.

Carroll College is more than a 4-year experience; it is for life. As the 17 senior players complete their football careers, they begin life's journey more equipped to meet the challenges of their new lives. I am confident the Saints will continue to march on to many more victories. They are a wonderful bunch of guys and gals at Carroll College, a great team, a great coach. I was there Saturday to watch the game. I was so pleased to be part of the Carroll family, and I cannot commend all of them enough for what they do in the best sense of the term, all the values that mean so much to basic America. I thank Carroll College for what you do.

I yield the floor.

INTELLIGENCE AUTHORIZATION

Mr. REID. Mr. President, I rise today to speak on the fiscal year 2006 Intelligence authorization bill.

As every American knows, we are a nation at war—at war in Iraq and at war against radical terrorists. These are wars Democrats and Republicans agree we cannot afford to lose. These wars have demanded a great deal from our troops and our taxpayers and will require much more sacrifice before they are over.

Given the stakes involved and the sacrifices required of so many, you would think that funding our troops and our intelligence community would be this Republican controlled Congress's top priority. You would think that our friends on the other side of the aisle would take up this must do legislation at the start of the Congress not at the end.

Unfortunately, while the Republican leadership is fond of stating the importance of prevailing in these wars and taking care of our troops, they have not matched those words with action. In fact, the hypocrisy demonstrated by the Republicans in this Congress on national security matters is astounding. How else to explain that with less than a week to go before Christmas, in the waning hours of this session of Congress, our Republican friends have yet to complete action on three major pieces of national security legislation—the fiscal year 2006 Defense authorization bill, the fiscal year 2006 Defense appropriations bill, and the fiscal year 2006 Intelligence authorization bill.

In recent times, Republicans have been extremely fond of painting themselves as patriots and extremely quick to brand those who challenge their policies as traitors. Given the callous way Republicans have treated our national security and our troops, I feel I must speak out on the Republicans' hypocrisy.

Although this point could be made with respect to each of the unfinished national security bills bottled up in this Congress, right now, I want to focus my remarks on the Intelligence authorization bill—a bill Republicans have not even seen fit to bring to the Senate floor despite the fact that the bill was reported out unanimously by the Senate Intelligence Committee.

This bill should have been taken up months ago. And Democrats would have been more than willing to quickly debate and pass this legislation once it reached the Senate floor so it could go to a conference with the House. Democrats know that it is essential that we permit the men and women of the intelligence agencies to continue their critical work on the front lines of the war in Iraq and the war on terror.

Unfortunately, our colleagues on the other side of the aisle apparently don't share that view. Republicans have taken months to move this bill through the legislative process. Once the committee acted and the bill was ready for the floor, an anonymous Republican placed a hold on the bill and prevented the Senate from working its will. As a result, the bill can't go forward. Vital intelligence operations are on hold while the bill languishes. And the men and women who selflessly serve are left wondering whether the Congress understands how vital their work is to this Nation's security.

I hope the Republican-led Congress will eventually get its act together and get this bill passed before we adjourn for the year.

In the meantime, to the men and women of the intelligence agencies, I say: Senate Democrats stand with you. We are proud of your bravery and your patriotism, and we thank you for your sacrifice working in silence and in the shadows against the threats America faces.

USA PATRIOT ACT

Mr. SALAZAR. Mr. President, I wanted to take this opportunity today to speak yet again on reauthorization of the PATRIOT Act.

I spoke earlier in the day on my dedication to fighting terrorism and in my support for giving law enforcement the tools to fight terrorism, the need and desire to reauthorize the PATRIOT Act, the political games surrounding extension of the PATRIOT Act, and the true patriotism of my colleagues in striving to uphold the Constitution and its liberties.

The President acts irresponsibly when he refuses—for purely political purposes—to allow the extension of the PATRIOT Act.

If the PATRIOT Act expires at the end of 2005, the responsibility lies with

the President alone and with those Members of the Senate and the House who rubberstamp his irresponsible direction.

We can act today to resolve this impasse over the PATRIOT Act. It simply requires good faith. Surely in the final few days before Christmas we can come together, set aside political posturing, and pass another extension of the PATRIOT Act so that we can continue in good faith to fix it.

But what we are witnessing with the PATRIOT Act is something more troubling—the abuse of absolute power.

It is an age-old self-portrait of America that we are a nation and people governed by the ''rule of law.''

Since before the American Revolution, we have held ourselves out to the world as a country and as a people different from all others. We have rejected for our country the tyranny of the powerful, the despotic kingships and the dictatorships that have oppressed mankind throughout its history.

The ''rule of law'' also of course includes the ''rules of law''—how we create laws at every level of government.

In our country, the rule of law protects the rights of those not in control of the levers of power—from the Bill of Rights to the rules of the Senate, our laws and rules aim to protect those out of power from the abuses of those who are in power.

But notwithstanding the ideal of our Nation—that we are governed by the rule of law and not by the whims of the powerful—all too often in our history the convictions that ''might makes right'' degrades the rule of law.

Earlier this year, those in power threatened to break the rules of the Senate to force their will on the Senate. It is happening again this week.

I have witnessed over the last few days the naked display of ''might makes right'' and the corrupting influence of absolute power.

Instead of an honest debate on differences of opinion between patriots on the reauthorization of the PATRIOT Act, our commitment to fighting terrorism is questioned.

In the closing hours of the session of Congress, we witness the amazing switch of ANWR from the budget reconciliation bill to the Defense Appropriations bill and the trashing of Senate rules. And why? Simply because those in power believe that might makes right.

We have an administration that has admitted it ignored our intelligence surveillance laws because it found them to be inconvenient.

When people dare to question the legality of these actions, they are called unpatriotic and obstructionist.

That is wrong.

Now Mr. President, let me turn my attention in more detail to the PATRIOT Act.

In March of this year, I joined a group of three Republicans and three Democrats in introducing legislation known as the SAFE Act. This legislation would have extended every single one of the expiring portions of the PATRIOT Act, while at the same time imposing reasonable checks on those powers.

In keeping with that spirit of compromise, the Senate Judiciary Committee worked tirelessly this spring and summer to draft a reauthorization bill that could garner broad support. With the participation of two of the original cosponsors of the SAFE Act, members of that committee, in conjunction with our colleagues on the Senate Intelligence Committee, worked together to make tough choices and hammer out a bipartisan compromise.

The legislation passed unanimously out of the Judiciary Committee—a group not known for its ability to achieve complete consensus on many issues—and it passed the Senate with the support of all 100 Senators—Republicans, Democrats, and Independents alike.

We stood together behind the principle that we can give law enforcement officers the tools they need without sacrificing our basic freedoms—freedoms that Americans are fighting and dying for in Iraq and Afghanistan, freedoms that Americans have fought and died to establish and preserve throughout our history.

But, once again, we were faced with the need to find compromise—this time, with the House. And again, my colleagues and I did not expect to get everything we wanted.

It is worth repeating that the Senate bill passed with the support of all 100 Senators, while the House bill passed in the face of stiff opposition.

It is also worth noting that, in separate votes, a bipartisan majority in the House supported stronger civil liberties protections than were included in the final conference report.

Unfortunately, after the House delayed for months in appointing conferees, the conference committee filed legislation that failed to provide the modest—but critical—civil liberties protections that Americans deserve.

Once again, I joined with the cosponsors of the SAFE Act—this time in a final effort to bring the conference committee back from the brink and to pass reauthorization legislation worthy of broad, bipartisan support.

Our requests were modest. We asked the conference committee to address four specific provisions: section 215 of the PATRIOT Act itself, which allows the government to obtain sensitive personal and business records without any meaningful limitation and no ability to challenge the permanent automatic gag order; national security letters, which allow the government to obtain certain categories of records without prior judicial approval, again without the ability to challenge the gag order; the need for periodic congressional review of these authorities; and sneak-and-peek searches, where the government can wait up to 30 days before notifying the target of a property search.

Last week, my colleagues and I introduced legislation to extend the PATRIOT Act by three months to give Congress time to make the final changes to the conference report necessary to protect civil liberties.

That proposal was summarily rejected by the majority leadership and by the White House.

When we have repeatedly this week attempted to propose extending the PATRIOT Act to allow for necessary improvements, those efforts have been again summarily rejected.

When the minority leader even attempted yesterday to propose the Senate simply re-pass its version of the PATRIOT Act reauthorization, that effort was rejected by the very same Senators who supposedly supported the Senate version the first time around.

It is eminently clear that those of us who have worked to improve the PATRIOT Act over the course of the past days, weeks, and months are entirely focused on extending these important powers as we continue to fight the war on terror. But, given that we have been labeled ''obstructionists'' and told that we are putting the nation at greater risk, it is worth examining some of the arguments over the bill's substance in greater detail.

Over the past few days, some on the other side of this debate have asserted that the changes we have proposed are unnecessary, because intelligence investigations authorized under the PATRIOT Act are no different from the routine law enforcement investigative activities that occur throughout our Nation thousands of times a day.

At the heart of this disagreement is section 215 of the PATRIOT Act, which revises substantially the authority under the Foreign Intelligence Surveillance Act, FISA, for seizure of business records, including third party records of individuals' transactions and activities.

Section 215 broadened the authority to seize business records under FISA in two ways. First, it expanded the scope of the kinds of records the government may obtain using this authority from ''records'' to ''any tangible things.'' Second, it eased the requirements for obtaining an order. Previously, FISA required the government to present to the secret FISA court ''specific articulable facts giving reason to believe'' that the subject of an investigation was a ''foreign power or the agent of a foreign power.'' Under section 215, the government is required only to assert that the records or things sought are needed ''to protect against'' international terrorism—in effect, that they are relevant in some way to a terrorist investigation. There is no requirement for an evidentiary or factual showing and the judge has no real discretion in reviewing an application. If the judge finds that ''the application meets the requirements'' of the section, he or she must issue an order as requested ''or as

modified.'' In addition, section 215 prevented the recipient of a search order from disclosing the fact that the FBI has sought or obtained records, and prohibited the recipient from challenging that gag order.

Both the SAFE Act and the Senate reauthorization bill retained the PATRIOT Act's expanded scope of the FISA records provision, but both restored a standard of individualized suspicion, and permitted the recipient of a search order to challenge that order in court.

National security letters have also been at the center of this debate. NSLs allow the government to obtain certain narrow categories of records without the prior approval of a judge. The PATRIOT Act expanded the use of national security letters, and authorized a much larger number of government officials to issue them. It has been asserted that the number of NSLs has exploded since passage of the PATRIOT Act, possibly by as many as 30,000 a year. In addition, as with section 215 orders, the act prohibited the recipient of an NSL from disclosing information about the order, and from challenging that order in court.

In contrast, the Senate bill would have permitted recipients of an NSL to challenge the gag order and to receive meaningful review of that order in court. Although many of my colleagues and I would have preferred to require a standard of individualized suspicion before an NSL was issued—as would have been required by the SAFE Act—we understood that NSLs are distinct from section 215 orders in that they are much more limited in scope, and supported the Senate compromise.

As I mentioned previously, supporters of the conference report have argued against the changes in the Senate bill on the grounds that the government already has the authority to obtain broad categories of third-party records without the prior approval of a judge, and without having to demonstrate even relevance to an investigation, let alone individualized suspicion.

In fact, it has been asserted that there are 335 specific cases in which the government is authorized to subpoena information without the prior approval of a judge.

It is important to point out that a vast majority of the administrative subpoena powers the government possesses are related to the ability of regulatory agencies to obtain records to ensure compliance by the industry being regulated. This is vastly different than government intelligence agents seeking information about U.S. citizens engaged in lawful activities. Moreover, the administrative subpoena powers not related to regulatory enforcement are far narrower than the authorities provided by the PATRIOT Act.

Secondly, and more importantly, intelligence investigations are inherently different from criminal investigations, because criminal investigations are limited to cases involving unlawful conduct.

In contrast, intelligence investigations may focus on lawful activity by law-abiding Americans.

Accordingly, it is inappropriate—and just plain wrong—to compare the authority provided to the government for intelligence investigations with the subpoena powers the government currently possesses with respect to regulatory enforcement, or under the criminal code.

Mr. President, there is still time to get this right. I am confident that, by working in the same spirit of bipartisanship and compromise that the cosponsors of the SAFE Act have exemplified all year, we will get this right.

That, Mr. President, is my goal.

Mr. BAUCUS. Mr. President, I rise today to speak briefly about the PATRIOT Act. I voted against cloture for the PATRIOT Act because I do not feel that this bill is good for our country. The conference report invades our most treasured civil liberties—the right to be left alone without the Government invading our personal space. I know the people of Montana value this freedom. So does the rest of the country. We can be safe from terrorism and at the same time be free from Government restrictions on our basic civil liberties. The conference report does not strike this essential balance. Instead, it infringes on the rights we hold most dear.

The Senate bill I supported in July was a joint effort, between Republicans and Democrats, which took important steps to protect the freedoms of innocent Americans. At the same time, the Senate bill made sure that the Government had the power it needed to investigate potential terrorists and terrorist activities. I am deeply disappointed in the conference report which retreats too far from the bill I supported in the Senate. The conference report fails to make some vitally important reforms to the PATRIOT Act that we, in Senate, agreed to in July. My colleagues have spoken at length about the broad, intrusive powers of section 215. I share these concerns on the expansive powers given to the Government in the conference report. I am also seriously disturbed by the recent news of the Government's ability to spy on innocent U.S. citizens and listen to our private conversations.

This conference report is flawed. And it needs work. Let me make myself clear. I am not opposed to reauthorization of the PATRIOT Act.

We need to work together to make the necessary improvements on this very important piece of legislation. We must put aside our party lines and come to an agreement that gives our law enforcement officers the ability to do their jobs. But we must also preserve our freedoms in the process. We can protect the country from terrorism while at the same time protecting all innocent Americans from unnecessary Government intrusion. The safety of our country depends on it.

Mr. JEFFORDS. Mr. President, I rise today to make some comments and share my concerns about the provisions of the Department of Defense appropriations conference report that open the Arctic National Wildlife Refuge to oil drilling. I do not support drilling in the Refuge. But even if I did, I would not support the language in this bill. It is inappropriate to make management decisions regarding one of our Nation's largest and most ecologically important wildlife refuges in a closed conference. Doing so restricts the ability of the Senate and the administration to ensure that drilling is done in an environmentally sound way. It is particularly troubling that a military spending conference report is being used as the vehicle to sneak this unrelated, controversial, and reckless legislation through the Senate.

As ranking member of Environment and Public Works Committee, I feel I must make clear to the Senate that the language in that this conference report has not passed the Senate before. It does not just open the Refuge to oil drilling, it does so in the least environmentally sensitive way possible. And, Mr. President, it does so in a manner that treats the Arctic Refuge differently than any other Federal lands or wildlife refuges.

Arctic Refuge drilling proponents repeatedly profess that oil development in the Refuge would be done in an environmentally sensitive way. As the ranking member of the Environment and Public Works Committee, I want to inform the Senate that this bill is actually riddled with clauses that weaken existing environmental standards, exempt drilling from key rules, or otherwise allow oil development activities to sidestep environmental protection laws. First, for example, the conference report exempts parts of the proposed Arctic oil and gas leasing program from environmental review requirements. In particular, it declares that the Department of Interior's Environmental Impact Statement EIS prepared in 1987 satisfies the requirements of the National Environmental Policy Act, NEPA, for preparation of the regulations that will guide the leasing program and any preleasing exploration or other activities. NEPA is supposed to ensure that public and Federal decisionmakers have the most recent, accurate information concerning the environmental impacts of projects, but this clause seems to ensure the opposite. In fact, as long ago as 1991, a Federal court found that due to new scientific information, Interior should have supplemented this very same 1987 EIS analysis before recommending to Congress that it allow development on the Coastal Plain.

In 2002, some 15 years after the 1987 EIS, the U.S. Geological Survey released a significant report detailing 12 years of study about the potential impacts of oil drilling on the wildlife of

the Arctic Refuge. This information can, and should, be incorporated as the Interior Department's consideration of drilling.

Many now question whether the existing final legislative environmental impact statement, prepared in 1987 to comply with the National Environmental Policy Act, NEPA, is adequate to support development now or whether a Supplement or a new EIS should be prepared. As I mentioned, a court in a declaratory judgment action in 1991 held that the Interior Department should have prepared a supplemental invironmental impact statement SEIS at that time to encompass new information about the Coastal Plain in connection with the Department's recommendation that Congress legislate to permit development. Therefore, without the language of this bill, it seems clear that either an SEIS or a new EIS would have to be prepared before drilling could begin.

But, in this provision, we change the law and the legal precedent. The bill before us states that the Congress finds the 1987 EIS adequate to satisfy the legal and procedural requirements of NEPA with respect to the actions authorized to be taken by the Secretary of the Interior in developing and promulgating the regulations for the establishment of the leasing program. This language explicitly eliminates the need to redo or update the EIS for the leasing regulations.

The Secretary is only directed to prepare an EIS with respect to actions other than the preparation of the regulations. This is noteworthy because only the smaller document, an environmental assessment, might not normally be sufficient, given on the magnitude of the action involved. The rest of that paragraph sets out limitations on the alternatives that the Secretary must consider as to leasing, as though this paragraph relates only to the leasing stage, rather than to all actions. But, the language is unclear and may curtain environmental review at all stages. The section goes on to say that the Secretary is to identify only a preferred action for leasing and a single alternative and analyze only those two choices and to consider public comment only on the preferred alternative. Public comments must be submitted within 20 days of publication of the environmental analysis, and the Secretary may only consider public comments that specifically address the preferred action. Compliance with this law is stated as satisfying all requirements for consideration and analysis of environmental effects.

There is no question that this language substantially weakens environmental review requirements. It significantly diminishes the comprehensive analysis traditionally required by NEPA, by stating that the Secretary of Interior need consider only its preferred action and a single leasing alternative. The ''alternatives analysis,'' which is all but eliminated by this section of the bill, is the heart of NEPA. Senators supporting this provision should be fully aware that these limitations strike at the core of our country's environmental review process and requirements.

Further, this language undermines the U.S. Fish and Wildlife Service's authority to impose conditions on leases. It states that the oil and gas leasing program are ''deemed to be compatible'' with the purposes of the Arctic Refuge. According to the Congressional Research Service, this provision ''appears to eliminate the usual compatibility determination process for purposes of refuge management.'' CRS notes that without the compatibility process, the authority of the Fish and Wildlife Service to impose conditions on leases is called into question.

Finally, this language changes judicial review of leasing decisions. Judicial review is limited to ''whether the Secretary has complied'' with this legislation. It also states the only appropriate legal venue is the DC Circuit Court of Appeals. The judicial review provisions undermine drilling proponents' claims that the language will result in sufficient environmental protection. A leasing program that is truly ''environmentally sound'' would be at no risk from judicial review.

We can do better, and we should. This debate will never lead us to actually fix these problems because a conference report cannot be amended. And putting this provision in a conference report constrains the way in which Senators who are concerned about these issues and who do not serve on the Appropriations Committee are able to address those issues on the floor.

I would caution all Members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to closely examine the language in this conference report.

Finally, I oppose including this in a conference report because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the Refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process.

Mrs. FEINSTEIN. Mr. President, I rise today to state my opposition to this cynical effort to add a very controversial provision to allow drilling in the Arctic National Wildlife Refuge and also adds a provision to grant unprecedented liability protection to vaccine manufacturers to a critical Defense appropriations bill.

Holding funding for our troops and relief for Hurricane Katrina victims hostage in this manner is just plain wrong and a violation of at least two Senate rules—XXVIII and a budget point of order—and cynical.

Rule XXVII prevents Senators from adding provisions that have not been included in either the House or Senate bill from being added to the conference report. Neither the House nor the Senate included any language on ANWR, so according to the Senate rules, it should not have been included in the conference report.

The provision also appears to violate section 311 of the Budget Act. The budget resolution which we passed in April assumed that the Treasury Department would raise about $2 billion from opening the Arctic for drilling. Yet the appropriations bill spends $5 billion of revenue from ANWR.

As far as I know, opening ANWR to drilling has not been rescored, so the score from earlier this year is still in effect. As a result, this provision is subject to a budget point of order.

It makes a mockery of the rules and procedures of the Senate and strikes a blow at the heart of collegiality.

The ANWR provision was originally added to the budget reconciliation bill. Courageous House Republicans stood up and said no. So when this route was closed, it was added to this important appropriations bill, in violation of at least one Senate Rule and the Budget Act.

To make matters worse, the vaccine proposal was added to the bill after the House-Senate Conference Committee concluded its meeting. This is outrageous.

I believe it is all being done with a cynical attitude that says unless we accept it, we are going to run the risk that we will vote against a major bill which funds all military operations at a critical time in our history.

ANWR is an issue that arouses great passion on both sides of the issue. There are strong arguments that underlie the belief that the opening of these critical 1.5 million acres of pristine wilderness is small from an oil production perspective and damaging environmentally.

First, the Artic Refuge's Coastal Plain, where the drilling would occur, is the ecological heart of the refuge.

It is the center of wildlife activity and the home of nearly 200 wildlife species, including polar bears, musk oxen, and porcupine caribou.

If ANWR were opened up for drilling, the wilderness would be crisscrossed by roads, pipelines, power plants, and other infrastructure.

In fact, the Department of the Interior estimated that 12,500 acres would be directly impacted by drilling.

I believe that destroying this wilderness does very little to reduce energy costs, nor does it do it very much for oil independence.

I also believe deeply that we cannot drill our way out of our Nation's over dependence on oil.

ANWR will produce too little oil to have a real impact on prices or overall supply. And it would offer a number of false hopes:

First, to those seeking lower gasoline prices: opening the Refuge would only lower gasoline prices only 1 cent per gallon 20 years from now.

Second, to those seeking a major boost in oil supply: the United States now consumes 20 million barrels of oil per day, a number that will climb every year unless we learn to conserve and recognize that we must find alternatives to fossil fuels.

On average, ANWR is expected to produce about 800,000 barrels per day. And in 2025, this 800,000 barrels per day would represent only 3 percent of the projected 25 million barrel a day U.S. daily consumption.

So, in essence, we would be sacrificing this cherished wilderness to obtain about 10.4 billion barrels of oil over the 35-year projected ANWR lifetime. This amounts to a little more than one year's supply of oil for the United States.

There are other things we can do to meet our energy needs, including raising fuel economy standards and drilling at alternative sites.

First, just changing the mileage of SUVs and light trucks from 21 to 27.5 miles per gallon would save the United States 1 million barrels of oil a day and reduce our dependence on oil imports by 10 percent.

This would save more oil in 1 day—1 million barrels—than ANWR would produce in one day 800,000 barrels.

Second, there are other important supplies of domestically produced oil.

The Minerals Management Service, MMS, has reported that there are 36.9 billion barrels of undiscovered, technically recoverable oil that exists in the Gulf of Mexico, much of which would likely be found under the 8,043 already leased blocks in the Gulf.

These already leased blocks can be drilled right now, without delay, if the oil companies were willing.

In addition, there are new technologies to produce oil from ''depleted'' oil fields throughout the United States.

According to scientists, using enhanced oil recovery could allow the United States to produce an additional 32 billion barrels of technically recoverable oil from already existing wells.

The bottom line is that it is hardly worthwhile to damage the Nation's only refuge that encompasses a complete range of arctic ecosystems and provides an essential habitat for many species for less than 1 percent of the world's oil output.

Drilling will not give us more energy security, but it will carry huge environmental costs.

We can start to address high energy prices, energy security and global warming by increasing fuel economy standards, encouraging energy efficiency, promoting the development of new and alternative fuels, and supporting the invention and commercialization of new vehicle technologies. Drilling in ANWR is not the answer.

Before I close, I also want to say a few words about another problematic provision in the bill.

I was quite surprised to discover yesterday that after the conference on Sunday had been closed, new liability protections for pharmaceutical companies were added to the conference report.

Over 30 pages of new language were included that provide essentially complete immunity from civil liability for drug companies and medical device manufacturers even when there is reckless disregard or gross negligence in developing or manufacturing these products—so long as the Secretary of HHS has made a ''Declaration.''

In addition, pharmaceutical and medical device companies are protected even when there are criminal violations of FDA standards so long as the administration has not taken action to enforce the violations.

The bill does appear to allow for a lawsuit if an injured patient can demonstrate willful misconduct on the part of the company.

However, the language is unclear as to whether the Secretary has to first approve regulations before even these suits may go forward.

In addition, the bill literally directs the Secretary to promulgate regulations to further restrict the definition of willful misconduct—a decision that is usually left up to a court.

Even more disturbing is that none of the Secretary's decisions are subject to review by a court, essentially wiping out individual's access to an impartial forum.

I am also concerned that this legislation preempts State laws. If States have stronger laws to protect consumers from defective drugs or devices those laws are pre-empted, as we do in California, those laws are wiped out.

Finally, the bill does create a trust fund to pay patients who cannot meet these severely restrictive standards based on the Smallpox Emergency Personnel Protection Act.

However, that act is meant as a supplemental benefits program for health care workers administering the potentially deadly smallpox vaccine. And more importantly, there is no money for the trust.

I am very disturbed that this egregious provision was added to the conference report. I am disturbed both by the process in which it was added, and by the substantive impact it could have if enacted into law.

It is with a heavy heart that I will vote against cloture on this bill. I support the military 100 percent. I support our efforts to help the victims of Hurricane Katrina 100 percent. But I cannot support the manner in which this important bill was hijacked in an effort to get several very controversial provisions enacted despite widespread opposition.

In an article that appeared in the Fairbanks Daily News-Miner, Senator STEVENS was quoted saying that if a Senate filibuster over ANWR stops this bill, the legislation can be modified and passed so it has no impact on military finances. He said, ''If we lose, then we'll reconstitute the conference and ANWR will be out.'' I would hope that is the result. It would be the best course for this Congress and the Nation.

Mr. KENNEDY. Mr. President, I support the Defense authorization bill as a strong expression of our support in the Senate for our Armed Forces at this difficult point in our history. We are proud of the courage of our troops in Iraq and their extraordinary dedication in carrying out their mission.

But I strongly object to the action of the conferees in including a last-minute rider to the bill that received little debate and that would drastically restrict the fundamental right to habeas corpus for aliens detained by the Department of Defense at Guantanamo Bay, Cuba. Section 1405 of the bill amends the habeas corpus statute in the U.S. Code by adding these words: ''Except as provided in section 1405 of the National Defense Authorization Act for Fiscal Year 2006, no court, justice, or judge shall have jurisdiction to hear'' any habeas corpus claim or any other action relating to the detention of an alien at Guantanamo.

For centuries, the writ of habeas corpus has been a cornerstone of the rule of law in Anglo-American jurisprudence. Since the Second Magna Carta in 1679, it has served as the primary means to challenge unlawful government detention. Literally, the writ means ''have the body,'' i.e. the person detained, brought before a court or judge to consider the legality of detention. The writ was used to prevent indefinite detention, and ensured that individuals could be held no longer than 3 to 6 months without indictment or trial for felony or treason. In other words, it requires the Government to provide a court with a legal basis for its decision to deprive persons of their liberty.

This provision strikes at one of the basic principles of liberty enshrined in the Anglo-Saxon system of government that the executive may not arbitrarily deprive persons of liberty for an indefinite period. As Blackstone wrote in his commentaries:

> To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm or tyranny throughout the whole kingdom. But confinement of a person, by secretly hurrying him to gaol, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.

This principle was so important to the Framers that ''the great writ'' was the only common law writ enshrined in the Constitution. Article I, section 9 of the Constitution states, that ''The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public safety may require it.''

Any changes to the writ of habeas corpus, this most fundamental of rights, should be made carefully, through open debate, and with a full understanding of the implications of the change. The Senate did not hold a

single hearing on the need for this drastic change. In fact, the sponsor of the amendment, Senator GRAHAM, admitted that some of his comments during the debate were not accurate statements of law. Senator SPECTER, the chairman of the Judiciary Committee, opposed the provision, and spoke eloquently on the lack of appropriate process for its consideration. The provision was adopted by the Senate with less than 2 hours of debate. Since its passage, all negotiations on this provision have occurred in back rooms, without the involvement of the vast majority of Congress, and without even consulting most of the conferees. Such a cavalier treatment of the basic right to habeas corpus is appalling.

The constitutional writ of habeas corpus deserves better than that. Justices Scalia and Stevens, dissenting in the recent case of Hamdi v. Rumsfeld, acknowledged the power of Congress to suspend the writ of habeas corpus, but they noted the limits on that power embedded in the Constitution. In this dissent, they said:

> To be sure, suspension is limited by the Constitution to cases of rebellion or invasion. But whether the attacks of September 11, 2001, constitute an ''invasion,'' and whether those attacks still justify suspension several years later, are questions for Congress.

Here, neither the legislation nor the report language makes any findings that would satisfy the requirements of the Suspension clause. Without such a record, it would be preposterous for Senators to claim that somehow their actions fulfilled the constitutional requirement for suspending habeas corpus. Section 1405, therefore, can be treated only as a modification of the statutory provisions for habeas corpus in the U.S. Code. In Rasul v. Bush, for example, decided last year, the Supreme Court made clear that it was considering the statutory right to habeas corpus, not the constitutional right. They did not determine whether the constitutional right to habeas corpus was reached. Since Congress cannot act in violation of the Constitution to prohibit judicial review, the courts still have the power to determine whether the constitutional right of habeas corpus is available in cases where section 1405 deprives a detainee of the statutory right. So this unseemly action may well not have achieved its purpose.

Some may claim that the right of habeas corpus does not apply to Guantanamo because Section 1405 defines the United States specifically to exclude Guatanamo Bay, Cuba. But as the Supreme Court found in Rasul, the common law right of habeas corpus is not limited to the formal territorial boundaries of a nation, but is defined by ''the practical question of 'the exact extent and nature of the jurisdiction or dominion exercised in fact by the Crown.' '' It is this common law right which our founders enshrined in the Constitution. Thus, the scope of the constitutional right to corpus habeas is the same as the common law right. In Rasul, the Supreme Court stated that the United States ''exercises 'complete jurisdiction and control' over Guanatanamo Naval Base, and may continue to exercise such control permanently. . .''

Supporters of this provision argue that after stripping the courts of jurisdiction for habeas corpus claims, the provision adds back limited appeal rights for detainees in two classes: No. 1, those who have had a Combatant Status Review Tribunal, which serves as an initial designation of enemy combatant status but is not a final judgment; and No. 2, those who have received a final decision from a military commission. Over 500 detainees in the first category, those who have had a CSRT—many of them have already filed a petition to challenge their designation as enemy combatants. We are not aware of any detainees in the second category.

For the first category, section 1405 does not apply the habeas-stripping provision to pending cases, so the courts retain jurisdiction to consider these petitions—in addition to pending military commission cases—consistent with Lindh v. Murphy. During deliberations on the floor for this provision, the Senate specifically rejected language from the original Graham amendment, which would have brought these categories of cases within its reach.

Section 1405 also leaves completely undisturbed a challenge to the military commission process now pending in the Supreme Court in the case of Hamdan v. Rumsfeld. The sponsors of the original amendment made it clear on the floor of the Senate that the provision has prospective application only, which is what my colleagues and I understood to be the drafters' intent.

When Congress authorizes a procedure to challenge military commissions or the tribunals, Congress is clearly not endorsing or authorizing the use of commissions or tribunals themselves. The Senate has numerous bills before it to authorize military commissions, and it has not acted on any of them.

In addition, section 1405 in no way endorses the amorphous and unlimited definition of enemy combatant currently used by the Bush administration. We all hope that the administration will soon provide Congress and the American people with a definition of who is an ''enemy combatant,'' with clear limits on who is subject to such a designation and is subject to indefinite detention as a result.

Sadly, section 1405 also undermines the giant step forward we took in giving such overwhelming support to the McCain amendment and its prohibitions on abusive interrogation techniques. Yet section 1405 appears to undermine that amendment. We have established clear rules, but the Graham amendment is a flagrant attempt to prevent their enforcement. That is not what we intended when nearly all of us voted for Senator MCCAIN's prohibition and that is not the message we intend to send to the world when we did so. In this devious maneuver, Congress has slammed the front door on torture, then surreptitiously opened a back door to it. This legislation obviously raises larger policy concerns in addition to its ambiguous statutory language and the constitutional concerns. America was founded on the principle that no one, especially not the President, is above the law.

Section 1405, however, sends exactly the wrong message. By barring claims from the detainees, it creates a legal black hole in Guantnanamo where detainees can be abused and tortured. We can't continue to turn a blind eye to the treatment of detainees at Guantanamo. The actions of our Government, wherever they are taken, should be limited by the rule of law.

Yet this provision attempts to put Guantanamo above the rule of law. As we try to build democratic societies in Iraq and Afghanistan, how can we possibly prove to them that arbitrary imprisonment is wrong and that all persons are entitled to humane treatment, when Congress so blatantly refuses to practice what it preaches? The hypocrisy is as breathtaking as it is shameful.

It is an outrage that the conferees have included this irresponsible provision in this must-pass bill, and I hope the Senate will do all it can to remove it in the new session that begins in January.

DEFENSE CONTRACTING

Mr. KENNEDY. Mr. President, I commend the House and Senate conferees for their agreement to extend the Defense Department program to prevent defense contracting firms supporting or subsidizing the kind of discrimination that has long been a problem in such contracting. The extension through September 2009 is clearly needed to achieve that important goal.

Defense contracting has long been dominated by old-boy networks that make it very difficult for African-Americans, Latinos, Asians, and Native Americans to participate fairly in these opportunities, or even obtain information about them. Minorities historically have been excluded from both public and private construction contracts in general, and from Federal defense contracts in particular. Since its adoption, the Defense Department's effort, called the 1207 program, has helped level the playing field for minority contractors. Extending the program was a priority, since it's clear there is much more to do.

Since the program was first enacted in 1986, racial and ethnic discrimination has continued to be a substantial obstacle to minority participation in Federal contracts. In some cases, overt discrimination prevents minority-

owned businesses from obtaining needed loans and bonds. Prime contractors, unions, and suppliers of goods and materials have consistently preferred to do business with white contractors rather than minority firms.

Minorities have been consistently underutilized in government contracting. In 1996, the Urban Institute released a report documenting minority firms received only 57 cents in government contracts for every dollar they should have received based upon their eligibility.

For specific racial groups and women, the disparities were even greater. African-American owned firms received only 49 cents on the dollar; Latino-owned firms, 44 cents; Asian-American owned firms, 39 cents; Native American-owned firms, 18 cents.

These statistics are particularly troubling, because they exist despite affirmative action programs in many jurisdictions. Without such programs, the problem would be worse. The Urban Institute report found that disparities for minority- and women-owned firms were greatest in the areas where no affirmative action program was in place. For African Americans, the percentage dropped from 49 percent to 22 percent, for Latinos from 44 percent to 26 percent, for Asians from 39 percent to 13 percent, and for Native Americans from 18 percent to 4 percent. These figures show that affirmative action is not only effective, but still urgently needed.

We've also seen repeated reports of bid shopping and of minority businesses being denied contracts despite submitting the lowest bid.

Also, the Department's decision to award a growing number of defense contracts noncompetitively has excluded minority-owned businesses from a significant number of contracting opportunities. No-bid contracts also hurt white-owned businesses, but they disadvantage minority-owned firms in particular.

These problems affect a wide variety of areas in which the Department offers contracts, and the problems are detailed in recent studies.

A 2002 Dallas study found that minority business enterprises were significantly disadvantaged in obtaining contract work. Evidence in that report also suggests that discrimination takes place in subtle ways, such as by making unrealistic demands on minority contractors, or refusing to pay them on time. A Hispanic-American contractor noted that on several occasions, he and other minority contractors were not informed of bid opportunities with government agencies, even though they performed services in the field. A Native American contractor in goods and other services noted that some customers visit his company and walk out, once they see the owner is not a white man. Many minority firms reported being consistently underestimated by white prime contractors who assume they are not capable of doing the work because they are minority-owned. Minority firms expressed concern that they will never become large enough to compete for larger contracts if they are denied a chance to prove themselves on smaller contracts.

In Cincinnati, a 2002 study found that ''bid shopping'' by prime contractors continues to harm minority firms. The firms also reported numerous obstacles in seeking work in the city, such as denial of opportunities to bid, lack of response to minority presentations for bidding, limited financing, problems obtaining bonds, slow pay, predatory business practices, and stereotypical attitudes that minorities are incapable of performing good work.

A 2003 study of contracting in Ohio found racial prejudice in both the public and private sectors. A State inspector was alleged to have expressed hatred for African Americans in ugly terms. An African-American professional service contractor said that his prime contractor deliberately sabotaged his work by breaking his equipment. A state inspector conceded to an African-American contractor that he was requiring him to do more expensive work than he would have required of a large white-owned contractor doing an identical job nearby. Banks and unions sometimes contribute to the obstacles by discriminating against minorities in awarding financing.

A 2004 study in Alameda, CA, also found significant underutilization of minority-owned firms.

I have received a letter from an African-American business owner, Mr. John McDonald, explaining the difficulties minority firms face in the contracting business and I ask unanimous consent to have it printed in the RECORD.

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

DECEMBER 18, 2005.

Senator EDWARD M. KENNEDY,
Senate Armed Services Committee,
U.S. Senate, Washington DC.

DEAR SENATOR KENNEDY: My name is John McDonald and I am an African-American business owner. I understand that the Senate will soon consider the reauthorization of the Department of Defense's 1207 program. I want to urge you to make sure that program continues. As my own experience over the last few years makes clear, discrimination is still a serious and pervasive problem for business owners in America. The unfortunate reality today is that the playing field is still not level for businessmen like me.

I work in the fields of institutional real estate acquisition, development and construction. I am very good at what I do and very proud of the quality of my work. Like most businesspeople. I want to grow my company and succeed. This desire comes both from pride in my business and from my desire to give my family, that includes my five beautiful children the best opportunity to succeed in life. I know that the Department of Defense has spent millions of dollars on contracts for the type of work that I do and while I have not worked for DOD in the past, I would welcome the chance to do so.

The problem for me, and many businesspeople like me, is that discrimination often stands in our way. I would like to share with you just one example of the seriousness of discrimination against minority business people. A few years ago, I entered into four triple net leases with Domino's Pizza to purchase land and build four prototype corporate leased stores in Las Vegas, Nevada. I purchased the sites they selected, and spent hundreds of thousands of dollars towards completing these stores based on a 30 year, triple net lease. The money was from loans and personal funds invested in my company it also included bank financing which I personally guaranteed. The restaurants were beautiful, top of the line establishments and Domino's even featured my work at their convection in Las Vegas that year. I admit that I was startled to find that I was the only African-American in attendance at the convention, but I was so proud of my work that I didn't think much of it at the time. That was soon to change.

Soon after the convention, a senior Domino's official, Debbie Pear called me and told me we had to amend our leases in a way that no businessman in my position could do. She wanted me to give Domino's the right to opt out of the lease with a simple 30 day notice, reneging on the initial 30 year obligation. In my field this is unheard of. When I refused to do this, she made clear tbat she wasn't very concerned at my objections and she said frankly ''I don't like doing business with you people. anyway''. It was her position that I would make the change as I couldn't afford not to. Domino's had more money and could tie the matter up in court and I would either be forced to make the change, or loose my business, either way they would prevail. Sadly, that is exactly what they did.

Domino's stopped paying rent to me on the very profitable stores that were built by my company. They stifled construction on stores by removing my name as landowner with local county municipalities. They blocked financing as well as the sale of these properties, making my company income void. Within months, I had to file for bankruptcy. Domino's slandered my name in an organized effort to have a Trustee appointed to the case. who intentionally settled the company claim with Domino's for a mere $45,000. As you could imagine these tactics hit my business hard, and caused emotional and financial trauma for me and my family. The fact is, big corporate conglomerates such as Domino's Pizza, make fairness in business impossible. As Americans, where free enterprise is suppose to prevail, we cannot allow these businesses to put small business out of business.

I am not a man who stands still in the face of injustice. I have filed a lawsuit and my chum has been litigated all the way to the U.S. Supreme Court which beard oral argument in my case on December 6, 2005. The problem is that I do not want to be in court while I am willing to stand up and fight for my rights, I would rather spend my time building a business, doing high quality work and providing for my family. Unfortunately in my case, ongoing discrimination has made that impossible.

Hopefully my story has made it clear how important these types of programs are. There is such pervasive discrimination in the private markets that we must have assistance from programs like the 1207 program. Help us help all minority and small business survive and fulfill the American dream. Please ensure that this important program is continued.

Sincerely,

JOHN MCDONALD.

Mr. KENNEDY. One of the purposes of this program is to ensure that government contracting does not subsidize—even indirectly—private discrimination. Because discrimination affects contracting by private firms as well as State and local governments, and all contractors bid in for these contracts as well as for Federal defense contracts, it is important to ensure a level playing field in Federal contracting.

Finally, the data in the Department of Commerce benchmark study supports the need to improve contracting opportunities for minority-owned businesses.

The 1207 program helps to correct these pervasive problems of discrimination without imposing an undue burden on white-owned businesses. Small businesses owned by white contractors are eligible to receive the benefits of the program if they are socially or economically disadvantaged.

All of us benefit when recipients of Federal opportunities reflect America's diversity, and I'm proud to support the reauthorization of the 1207 program.

CLIMATE NEGOTIATIONS IN MONTREAL

Mr. JEFFORDS. Mr. President, I rise to speak on behalf of myself and Senators LIEBERMAN, BIDEN, CARPER, FEINGOLD, FEINSTEIN, KERRY, LAUTENBERG, OBAMA, REED, REID, SARBANES, and WYDEN.

Over the last 2 weeks, 189 countries, including the United States, met in Montreal, Canada, to discuss the issue of global climate change. These countries are all signatories to the United Nations Framework Convention on Climate Change. The Montreal talks also included discussions by the 157 countries that are signatories to the Kyoto Protocol.

A key topic of the discussion was whether future talks could include discussions of additional commitments under the Framework Convention or the Kyoto Protocol. The Bush administration's position from the outset was that such discussions were a ''nonstarter'' and that the United States would not engage in any such talks.

On December 5, 2005, 24 members of the Senate wrote to the Bush administration to note that the United States remains a signatory to the Framework Convention and thus is obligated to take actions to ''prevent dangerous anthropogenic interference with the climate system.'' In the view of those Senators and others, blocking such talks would be inconsistent with the international obligations of the United States under the Framework Treaty.

The letter, which I submit for the RECORD, also noted that in June of 2005, a bi-partisan majority of the Senate approved a resolution calling for domestic legislation to achieve mandatory reductions in greenhouse gas, GHG, emissions and recognizing the need for comparable action by major GHG emitters nations worldwide. It urged the Bush administration to be mindful of this fact and to conduct its negotiations accordingly. The signers of this letter hoped that it would be useful in making clear that many in the United States, including a majority of members of the Senate, do not agree with the Bush administration's position.

Despite the letter, the Bush delegation did their best to block and stall the negotiations and to send the message that the United States will not take mandatory action to reduce greenhouse gas emissions for many years to come. When it was time to actually negotiate about further commitment discussions, the chief negotiator of the United States bluntly indicated that such discussions were unacceptable and abruptly walked away from the negotiating table.

The good news is that the rest of the countries involved were not deterred by the U.S. walkout and ultimately reached agreement on a set of decisions that will allow initiation of further talks next year. Only when confronted with this agreement in a public way did the United States ultimately accept a version of those agreements.

This means that we have made progress and that further discussions will take place under both the Framework Treaty and the Kyoto Treaty about additional commitments. The clear message from the rest of the world to the Bush administration is that we are moving forward. Such progress can take place with or without the United States at the table.

The results of these negotiations are encouraging and open a variety of pathways to future U.S. engagement. The developments expand the opportunities available to the U.S. to fulfill its Framework Convention obligations to engage the international community prior to the Framework Convention and Kyoto Protocol meetings in 2006—in meeting the Convention's goal of ''preventing dangerous anthropogenic interference with the climate system.''

Even without the United States, those nations that are parties to the Kyoto protocol have agreed to initiate a process by which commitments will be established for the period following 2012, when the first commitment phase of the Protocol ends. Contrary to the claims of some, the Framework Convention process and the Kyoto process remain as viable legal vehicles for future reductions of greenhouse gases.

It is also worth noting that the parties to the Framework Convention, including the United States, also agreed to initiate a process for considering reductions in greenhouse gas emissions through avoided deforestation. As much as 25 percent of global GHG emissions are generated by tropical deforestation. The avoided deforestation initiative, prompted by the efforts of Papua New Guinea and Costa Rica and endorsed by the G77 Group of Developing Nations and China, means that developing countries are open to ways in which they could reduce their greenhouse gases emissions, consistent with the Framework Convention principle of ''common but differentiated responsibilities and respective capabilities.''

The United States is the largest emitter of greenhouse gases and has been for some time. We have an obligation to be a leader in the fight to reduce greenhouse gases. We have an obligation under the Framework Convention to take actions to ''prevent dangerous anthropogenic interference with the climate system.'' We have not yet honored those obligations, even as other countries, including developing countries, move forward.

A majority of Americans support taking some form of action on climate change. A recent poll by the Program on International Policy Attitudes, sponsored by the Center for International and Security Studies at the University of Maryland, found that 86 percent of Americans think that President Bush should act to limit greenhouse gases in the United States if the G–8 countries are willing to act to reduce such gases. All the G–8 countries except the United States are signatories to the Kyoto Treaty. Finally, the study found that 83 percent of Americans favor ''legislation requiring large companies to reduce greenhouse gas emissions to 2000 levels by 2010 and to 1990 levels by 2020.''

We cannot afford further delay on climate change, which appears to be the desired outcome of the Bush administration policy. The Montreal talks are a positive step forward, but we need to do much more, much faster. Climate change is here and it will accelerate the longer we wait. The time has come for the United States to adopt mandatory legislation to reduce greenhouse gases and for the United States to reengage in the international negotiation process in a constructive way.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, December 5, 2005.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, as you know, one of the most pressing issues facing humankind is the problem of human-induced global climate change. Between November 28 and December 9, 2005, 189 countries, including the United States, are meeting in Montreal, Canada to discuss future actions that can be taken under the United Nations Framework Convention on Climate Change (UNFCCC). That conference will be the 11th UNFCCC Conference of the Parties (COP 11). Simultaneously, 157 parties to the Kyoto Protocol, an extension of the UNFCCC, will be meeting and the United States will participate as an observer in that process, which will be the first Meeting of the Parties (MOP1).

The United States is a signatory to the UNFCCC treaty, which the Senate ratified in

1992 and which entered into force in 1994. Article 2 of that Convention commits the parties to achieving ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.'' In addition, Article 4.2(d) requires that the parties review the adequacy of measures relating to the mitigation of climate change, beginning in 1998 and ''thereafter at regular intervals.''

We are writing to remind the Administration of its continuing legal obligation to participate in the COP negotiations in a constructive way that will aid in meeting the agreed-upon goal of ''preventing dangerous anthropogenic interference with the climate system.'' In our view, a deliberate decision by the Administration not to engage in such discussions, solely because they may include the topic of future binding emissions reductions requirements, is inconsistent with the obligations of the United States as set forth in the UNFCCC treaty. In any event, the United States should, at a minimum, refrain from blocking or obstructing such discussions amongst parties to the Convention, since that would be inconsistent with its ongoing treaty obligations.

We would also like you to be aware that a bipartisan majority of the United States Senate has now agreed that human-induced climate change is real and that ''mandatory steps will be required to slow or stop the growth of greenhouse gas emissions into the atmosphere.'' On June 22, 2005, the Senate went on Record for the first time in support of mandatory limits on greenhouse gases by a vote of 53–44. The Resolution states that:

''It is the sense of the Senate that Congress should enact a comprehensive and effective national program of mandatory, market-based limits and incentives on emissions of greenhouse gases that slow, stop, and reverse the growth of such emissions at a rate and in a manner that—

(1) will not significantly harm the United States economy; and

(2) will encourage comparable action by other nations that are major trading partners and key contributors to global emissions.''

As this Sense of the Senate Resolution makes clear, the Senate intends, at some future date, to require a program of mandatory greenhouse gas limits and incentives for the United States. Moreover, that system will be designed to ensure comparable action by other nations that trade with the United States. This system, therefore, will build on the actions of the United States and other countries in implementing the UNFCCC. It is only a matter of time before Congress takes such action.

The United States Senate is on the path towards requiring mandatory commitments and reductions of greenhouse gases and supports working through and alongside the Framework Convention process. The Administration should remain mindful of that key fact in its negotiations with all Parties and comport any discussions about future obligations accordingly.

Sincerely,

Olympia Snowe, Jim Jeffords, John McCain, Jeff Bingaman, Susan M. Collins, Lincoln D. Chafee, Tom Carper, Chris Dodd, Daniel Inouye, Charles Schumer, Frank R. Lautenberg, Paul Sarbanes, Ken Salazar, Hillary Rodham Clinton, Joe Biden, Carl Levin, Jack Reed, Joe Lieberman, Maria Cantwell, Russell D. Feingold, Dick Durbin, Dianne Feinstein, Tom Harkin, John F. Kerry.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On Aug. 17, 2001 in Reno, NV, police and the F.B.I. arrested Adam Ezerksi for the murders of several gay men in Florida and San Francisco, CA. Ezerksi, a teenager, was suspected of being a serial killer of gay men. He confessed to the murder of Anthony Martilotto, a gay man in Weston, FL. who was found dead in a Fort Lauderdale hotel room. Police have linked Ezerksi to another murder of a gay man in Florida. Ezerksi was discovered while the police and the F.B.I. were pursuing another serial killer of gay men in the San Francisco area.

Our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN ACT

Mrs. MURRAY. Mr. President, I rise today to speak about the Violence Against Women Act, which Congress has finally reauthorized after many delays. As my colleagues know, the final bill passed the Senate on Friday, it passed the House on Saturday, and it is now headed to the President for his signature.

As domestic violence leaders in my home State of Washington will tell you, this reauthorization is long overdue. VAWA has been a critical tool for fighting domestic violence, and it should have never been allowed to expire. The Republican leadership finally recognized that, and now we will strengthen and expand that critical law.

Today I want to discuss some of the improvements we have passed—including new tools related to health care, housing, and abuse that involves police officers. I also want to share my disappointment that the economic protections I have worked to include were removed when this bill was considered by the Senate Judiciary Committee.

I have tried to advance critical economic protections at every turn, and I want to update my colleagues—and advocates in Washington State—about where those efforts stand. I do want to thank several of my colleagues for their hard work on this bill, including Senators LEAHY, SPECTER, BIDEN, HATCH, and KENNEDY.

The original Violence Against Women Act, VAWA, created a national strategy for dealing with domestic violence. And that strategy has been very successful. VAWA brought together victims' advocates, social service providers, and law enforcement professionals to meet the immediate challenges of domestic violence. This bill reauthorizes and strengthens those core programs.

This bill also creates new programs that represent important steps forward in areas such as health care, housing and officer-involved abuse.

The first new step concerns health care. For the first time, VAWA includes a national health care response to domestic violence, dating violence, sexual assault and stalking. It authorizes new grants to train health care providers to recognize and respond to domestic or sexual violence. These grants will help establish partnerships between victims service providers and health care providers in State hospitals and public health departments. It also provides funding for direct services for sexual assault victims, including 24-hour emergency and support services.

Second, this law now addresses housing inequities for victims by providing new grants to help victims find long-term housing. It also protects the confidentiality of victims who are receiving assistance from Department of Housing and Urban Development-funded programs. VAWA also now includes provisions to protect mail-order brides and expands protections for immigrant victims.

This legislation also addresses the issue of police officer-involved domestic violence. I have spoken about this issue on the Senate floor before because of a terrifying case in Washington state. In April 2003, Tacoma police chief David Brame shot and killed his wife, Crystal Judson Brame. Then he took his own life, all while their two young children watched. The final tragic act was the last in a long history of abusive events.

In response to this incident, the City of Tacoma, the Tacoma Police Department, and others formed a task force to examine officer-involved domestic violence. They created a new policy for the Tacoma Police Department, and they helped pass a State law which requires that departments have policies on officer-involved abuse.

This VAWA bill gives local communities new resources to deal with abuse that involves police officers. It funds the Crystal Judson Domestic Violence Protocol Program. It allows law enforcement agencies, victim service providers, and Federal, State and local governments to use STOP grant funds to create new protocols for handling officer-involved domestic violence.

What happened in Tacoma is a tragedy that cannot be weighed. Out of that tragedy, Washington State changed its laws, and now the Federal Government is giving communities across the country new tools to address

officer-involved abuse. So that new provision—along with the healthcare and housing measures—represent new progress in fighting domestic violence. But frankly, we have got a lot more work to do. I am deeply disappointment that the economic protections I have been fighting for since 1998 were not included in this reauthorization—despite some early progress.

If we are going to break the cycle of violence, we need to address the economic barriers that trap victims in abusive relationships.

We know that financial insecurity is a major factor in ongoing domestic violence. Too often, victims don't have the financial strength to leave a violent relationship. As a result, they are forced to choose between protecting themselves and keeping a roof over their heads. When a victim cannot afford to move out, or cannot afford to pay the rent, or has lost a job because of abuse, that person is trapped, and Congress needs to help free them from that trap.

In this bill, we had an opportunity to help victims. In the Senate version of the bill, I worked to include an unpaid leave provision. It was in the Senate version, but it was dropped by the Senate Judiciary Committee.

In my view, that was wrong. It is like leaving someone trapped in a burning building. We should have knocked down the barriers and thrown open the exit doors, but the Senate failed and that will have a real impact on people trapped in abusive relationships.

The protections I sought were reasonable. It would have allowed victims to take up to 10 days of unpaid leave per year to address domestic violence. Over 40 percent of American workers get no paid time off. They cannot use vacation time to address abuse, and missing work puts them in danger of losing their job. My provision would have allowed victims to take unpaid leave to get a protective order, see a doctor, or make a safety plan.

But unfortunately, there was opposition and complaints about jurisdiction, and these protections were stripped from the bill during consideration in the Judiciary Committee.

Once those protections were dropped, I kept fighting. I offered another tool to help victims escape abusive relationships. I asked the managers of the bill to include a provision on unemployment insurance. I asked them to provide victims of domestic violence, dating violence, sexual assault, or stalking with unemployment insurance if they have to leave their job or are fired because of abuse.

We know that a job is often the only way for victims to build up the resources to leave a violent relationship, but abuse and stalking can make it impossible for a victim to keep a job.

Many of my colleagues may recall the story of Yvette Cade, of Maryland. As reported in the Washington Post, Ms. Cade's estranged husband showed up at her job at a wireless phone store, threw gasoline on her, and lit her on fire. A restraining order against her estranged husband had been dropped shortly before the incident, even though she had indicated he was still threatening her.

Ms. Cade was burned over 60 percent of her body and remains in the hospital.

There are many more cases of abusers who deliberately sabotage a victim's ability to work, placing harassing phone calls, cutting off their transportation, and showing up at the workplace and threatening other employees. When a victim loses a job because of violence, that victim should have access to unemployment compensation benefits.

Some people might claim that it is too expensive to allow victims to access unpaid leave. But I would remind my colleagues that domestic violence imposes costs on a workplace too. When violence follows victims into the workplace, it doesn't just hurt victims—it hurts their employers. It means less productivity and higher insurance costs.

So anyone who says it is too expensive to provide unpaid leave should also remember that domestic violence is expensive to businesses to in both lives and dollars. Providing the tools that will allow abused women to escape abusive relationships can help offset billions of dollars in costs that domestic violence imposes on businesses.

Unfortunately, my efforts to include unpaid leave provisions were rejected as well. But I am not giving up. I have been at this since 1998 and I know who I am fighting for. I have been to the shelters in my State, and I have talked with the victims. I have met with their advocates, and I am not giving up on them.

I am going to keep pushing for my SAFE Act, which stands for the Security and Financial Empowerment Act. It contains the protections victims need to break the cycle of violence. I thank Senators LEAHY, CORZINE, DAYTON and DODD for signing on as original cosponsors, and would invite all of my colleagues to sign on as well.

I am going to continue to tell their stories because we need to hear their voices here in the Senate. It is easy to argue about jurisdiction, but that doesn't mean anything to someone who is getting beaten up every night. It is easy to argue about the cost of unpaid leave—but that doesn't mean anything to someone who needs to get a protective order so they can escape a violent relationship.

This Congress has a lot of work to do to help victims, and I will come to this Senate floor as many times as it takes, until we finally give victims the help they need and deserve.

IRAQ

Mr. INOUYE. Mr. President I ask that the following editorial which was written by my good friend, former Senator Fritz Hollings, and published in the Charleston Post and Courier on October 27, 2005, be printed in the RECORD.

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

MISLED ABOUT IRAQ, SECURE IT OR LEAVE

A G.I. with his legs blown away in Iraq asks, ''Senator, why did we go into Iraq?'' Answer: ''to secure Israel by democratizing the Mideast.'' Immediately my over-sensitive Jewish friends withdraw in horror: ''There you go, blaming Israel.'' Not at all. The fact is that Israel opposed the plan. Now, with our unwarranted invasion and al-Jazeera reporting daily on U.S. ''atrocities,'' we are spreading terrorism and have damaged the security of Israel.

In 1996, incoming Prime Minister Benjamin Netanyahu of Israel commissioned a think-tank headed by Richard Pearle, Douglas Feith and David Wurmser. The three submitted the plan ''Clean Break'': Negotiating with Arafat is futile. Instead, secure Israel by democratizing the Middle East.

First bomb Lebanon. Next invade Syria on the pretext of it possessing weapons of mass destruction. Then replace Saddam with a Hashemite ruler favorable to Israel. Netanyahu rejected ''Clean Break.''

Determined, Pearle, Feith and Wurmser returned to the United States and joined in the Project for the New American Century with Dick Cheney, Paul Wolfowitz, Donald Rumsfeld and Scooter Libby, among others. In 1998, the group prevailed on Congress for regime change in Iraq, and the Senate by a voice vote adopted such a resolution. At the time, no senator thought we were endorsing an invasion—just encouraging resistance in Iraq. But when George W. Bush was elected president ''Clean Break'' hit pay dirt.

The Project for the New American Century crowd took office. Richard Cheney became vice president, Rumsfeld, Wolfowitz and Feith took the number first, second and third positions in the Department of Defense. Richard Pearle became chairman of the Defense Advisory Board. ''Scooter'' Libby and David Wurmser were advising Cheney.

President Bush, days before taking office in 2001, sought a briefing on, of all things, Iraq from then Secretary of Defense William Cohen.

Secretary of Treasury Paul O'Neill tells in ''The Price of Loyalty'' how he was astonished at the first meeting of the National Security Council. He went to discuss the recession but all talk was about Iraq. The day after 9/11, President Bush turned to Secretary of Defense Donald Rumsfeld, requesting a plan to invade Iraq even though Iraq had nothing to do with 9/11. The administration was determined to invade Iraq.

Jason Leopold and Larisa Alexandrovna in ''Raw Story'' now report: ''Although the CIA documents that Wurmser and his staff pored over showed Iraq as being an immediate threat, Wurmser was dead-set on finding and presenting evidence to Vice President Dick Cheney that suggested as much, even if the veracity of such intelligence was questionable.

''Wurmser helped Cheney's office, particularly ''Scooter'' Libby, construct a case for war. He met frequently with Cheney, Libby, Feith and Richard Pearle, the former head of the Defense Policy Board, to go over the ''evidence'' of the threat posed by Saddam Hussein that could then be used by the White House to build public support. Wurmser routinely butted heads with the CIA over the veracity of the intelligence he was providing to Cheney's office.''

In short, the invasion of Iraq was not based on intelligence but was contrived. ''But Senator why did you vote to go into Iraq?'' Answer: I followed the rationale of the White

House for invasion carefully. Having served on the Hoover Commission investigating the intelligence activities of the United States with Gen. Mark Clark, I learned that Israel's intelligence, Mossad, is the best on the Middle East. As an island of democracy in a sea of hostility, Israel has to know what is going on in Baghdad. Israel has no time to call for a summit meeting or to go to the United Nations. Any real threat must be knocked out immediately.

This is why Israel knocked out Iraq's nuclear facility without warning in 1981. Days before we voted, President Bush said, ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud.'' When the commander-in-chief says this, he's got my vote.

I was sure Mossad had found nuclear weapons and we were knocking them out and eliminating Saddam.

Now we're waiting for Iraqis to do what we've never done—secure Iraq; secure the Syrian and Iranian borders immediately; and clean out the Sunni triangle. It would cause casualties but to fight a war you have to fight a war. Either get in or get out.

If we're not going to secure Iraq, then the next best thing is to get Ayatollah Ali al-Sistani to ask us to leave.

Ernest F. Hollings, a Democrat, served as a U.S. senator for South Carolina from 1966 to 2003.

CONGRESSMAN MURTHA

Mr. KERRY. Mr. President, one of the reasons I love and respect my wife Teresa Heinz Kerry so very much is because she has always maintained the strength of her convictions. She speaks her mind, and she speaks the truth. I am especially proud of her passionate defense of her fellow Pennsylvanian—the decorated veteran and respected military expert, Representative JACK MURTHA. In a recent essay, Teresa's powerful words spoke of JACK MURTHA's courage and integrity rose above the disparaging and unconscionable words of those who smeared him. As I read what she wrote, I realized why this issue had struck such a chord with her—and why she was able to speak with such incredible clarity—because, as someone who grew up under a dictatorship, Teresa believes deeply in the freedom of every American to speak their mind without fear of condemnation.

The characteristics we all admire in Representative MURTHA—honesty, compassion, strength and patriotism—are the characteristics that make Teresa such an incredible citizen. I am glad she spoke out, and for that reason, I ask that her words be printed in the RECORD.

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

[From CNHI News Service]

(By Teresa Heinz Kerry)

ASSAULT ON MURTHA SHOULD ALARM US ALL

''Because we in Congress are charged with sending our sons and daughters into battle, it is our responsibility, our obligation, to speak out for them. That's why I am speaking out.''

U.S. Rep. John Murtha, Nov. 17, ''War In Iraq.''

U.S. Rep. John Murtha completely changed the public debate in our country by calling for an immediate redeployment of our troops in Iraq. Whether you agree or disagree with his specific proposal is not the point—but his critics' words demand a response. Murtha speaks with special authority.

His national security credentials are impeccable. His patriotism is unwavering. His influence on national defense is unsurpassed. None in Congress spends as much time as Murtha with the wounded from the Iraq war. His voice on matters of national defense deserves—indeed, commands—great respect. This is why his political opponents think him so dangerous. The orchestrated assault on Murtha should alarm us all. Just when you thought the debate could sink no lower, the politicians committed to staying the course in Iraq turned the fire hoses of smear and intimidation on this icon of national security. Listen to what they said:

They said he had given aid and comfort to the enemy. They accused him of abandoning the troops. And one rookie representative, the most junior member in the House, so lost any decency or sense of decorum that she called Murtha a coward.

I think they smeared the wrong representative. Murtha's history is one of heroism and leadership. He served in the Marine Corps from 1952 to 1955. He served as a Marine Corps drill instructor and a reservist. He reupped so he could serve in Vietnam. He was wounded twice while serving as a Marine intelligence officer, and then went back into the reserves from 1967 to 1990. He was the first Vietnam veteran elected to the Congress, where he has served with honor and distinction as a bipartisan advocate of national defense ever since.

How bipartisan? When President Reagan wanted to build the MX missile, Murtha broke with his party to fight for what Reagan called the ''peacekeeper.'' Reagan sent him to El Salvador and the Philippines as an election observer and, as an official representative of the United States, to Pakistan to attend President Zia's funeral. When President George H.W. Bush said of the Iraqi invasion of Kuwait, ''this will not stand,'' Murtha stood with him and voted to use military force to drive Iraq out.

His credentials on national defense are unimpeachable. He has been named Minuteman of the Year by the Reserve Officers Association of the United States. He has been honored by the Blinded American Veterans Foundation. He is a winner of the Henry M. Jackson Distinguished Service Award, and an honoree of the Association of the United States Army. When Murtha received the distinguished public service award from the American Legion, he was praised by the national commander as a veteran, supporter of a strong national defense and holder of an outstanding track record on veterans' issues.

That is Jack Murtha's history, and the summer soldiers and the sunshine patriots who attack him cannot rewrite it. That's why they resort instead to the most reprehensible type of personal attacks. We've seen this before. I know and love another Vietnam veteran who served our country with distinction and honor—who suffered the slings and arrows of distortions, half-truths and falsehoods.

Scoundrels who would stifle debate and smear dissenters weaken our democracy and diminish our Nation's ability to make decisions and change course when circumstances demand.

This war is hard—hard to win, hard to support, and for most, hard to figure out. We all want the best for our troops, our country, the Iraqi people and what is best for the Middle East. Much is at stake.

But if we want the best outcome, the best minds we have must be free to express their strongest beliefs and best advice. Murtha has earned our respect. His right to speak out is an intrinsic component of our democracy. It should be honored—we should hold that right sacred—even if his words deviate from the party line, the president's talking points, or public opinion.

I think Murtha did our country an enormous public service for speaking out as he did, and I support for him for exercising his right. A courageous person is always to be admired.

HUGS NOT BULLETS CAMPAIGN 2006

Mr. LEVIN. Mr. President, I would like to commend an outstanding group of young people in Detroit, MI, for their efforts to reduce gun violence as part of the Neighborhood Service Organization's Youth Initiatives Project. Their dedication to this admirable cause is certainly worthy of our recognition and appreciation.

The Youth Initiatives Project was created in 1999 to address growing community issues including violence and substance abuse in Detroit. For 6 years, students, community organizations, and local police have been involved in a coordinated effort to accomplish the goals of the project. Many of these goals are centered on the need to reduce gun violence.

Hundreds of Detroit teenagers have been involved in the Youth Initiatives Project through activities such as afterschool programs to reduce gun violence, gun buybacks, anti-violence rallies, and gun safety workshops. As part of these activities, the Youth Initiatives Project has been responsible in the last 3 years for handing out more than 5,000 free trigger locks to Detroit gun owners.

The Youth Initiatives Project's ''Hugs Not Bullets'' campaign for 2005 built upon their overall theme of reducing gun violence, while also putting a specific focus on the use of firearms during the celebration of the New Year's holiday. In addition to hosting a number of public forums and rallies, the Hugs Not Bullets campaign used several 4-foot by 8-foot cards to collect signatures of those who pledge not to engage in gun violence. To date, more than 3,000 Detroiters have signed these cards. These cards serve as a powerful symbol of the community's determination to fight gun violence.

For 2006, the Youth Initiatives Project plans to expand the Hugs Not Bullets campaign into a comprehensive grass roots and media campaign against gun violence. This year, more than 200 Youth Initiatives Project participants will reach out to their peers by visiting community centers, schools, and churches, as well as social clubs and events widely attended by other teenagers. In addition, the Hugs Not Bullets campaign will amplify its antigun violence message through public service announcements and appearances on local television and radio. This is an ambitious next step, which will build upon the previous success of the campaign.

It is important to also recognize the contributions these young people are making in their communities outside of their official participation in the Youth Initiatives Project. The Youth Initiatives Project gives young people valuable knowledge and experience, thereby enabling them to push for change in their own neighborhoods and communities on a daily basis. For the rest of their lives, these teenagers will be able to draw on the communications and conflict resolution skills they have gained through the Youth Initiatives Project to make a difference in their own lives and those around them.

I know my colleagues will join me in thanking the participants, organizers, and supporters of the Youth Initiatives Project for their outstanding dedication to the worthwhile goal of reducing gun violence. This is a program which can serve as an appropriate model to be followed in many cities across the Nation. I hope my colleagues will also join me in working to pass commonsense gun safety legislation to more adequately support their efforts.

POPULATION EXPLOSION

Mrs. MURRAY. Mr. President, I rise today to speak about developing countries around the world that are dealing with population explosions. As we near the end of the year, we are trying to wrap things up before the Senate goes out of session. But we continue to ignore this important issue.

This topic does not get very much attention here on the Senate floor, but in the developing world, there is a population explosion. Some experts believe that the population of Earth may top 9 billion by 2050. Eighty-eight percent of Americans believe that international population growth is either a major problem right now or that it will become one in the future. Almost all of the growth is occurring in countries that are the least able to govern, ensure jobs for, and care for their citizens.

But this is also about safe access to health care for women. Even though these countries are experiencing huge population growths, hundreds of thousands of women are dying each year from complications from pregnancy. These women do not have access to the health care that they need, especially reproductive health care.

In many poor countries around the world, nongovernmental organizations and medical professionals are working to make things better. They have set up clinics and reached out to the women and families in poor communities. They are doing great work. But their hands are tied because the Bush administration has imposed a political ideology on the world.

When President Bush took office in 2001, he signed an Executive order known as the global gag rule. It denies U.S. funds to any overseas health clinic unless it agrees not to use its own private, non-U.S. funds for anything related to abortion. What that means, is that if you are a medical professional living in an impoverished country trying to help people and save their lives, you are gagged from even talking about certain reproductive health services. The gag rule places limits on women and doctors that we would never accept here in the United States.

Earlier this year, the Senate passed an amendment to the Foreign Affairs Authorization Act to reverse the President's policy and ensure that health care clinics for women and families receive this much-needed funding. Unfortunately, this legislation has not passed by the full Senate. I am pleased that the Foreign Operations appropriations bill contains $34 million for the United Nations Populations Fund, UNPA, for this purpose. But in order to ensure that this money goes toward funding health care clinics for women and families in poor countries, we must overturn this global gag rule.

In closing, I would like to share the following article, which ran on December 3, 2005, with my colleagues because I believe that it provides some important food for thought as we continue to work on this important issue.

I ask unanimous consent that my remarks and the following article be printed in the RECORD.

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

DOES POPULATION EXPLOSION THREATEN U.S.?

(By David Horsey)

Flying in or out of Mexico City, the traveler can look down on the human sprawl metastasizing in every direction. The Mexican megalopolis is now home to 25 million people and vies for first place among the world's most gigantic cities. From a bird's eye view, it's easy to conclude that the planet has more than enough homo sapiens taking up space.

Having just flown back from a study tour in Mexico that focused on issues of overpopulation, family planning and development, I can report positive news on the population front. In the developed world, population growth has been put in check. Birth rates are roughly at replacement levels and no higher.

An even better story is Mexico. Not that long ago, the Mexican population was spiraling out of control with an average seven children per family. The population doubled between 1950 and 1970 and doubled again by the end of the 20th century. Today, though, thanks in large part to government commitment and successful family-planning measures, the fertility rate has dropped to about 2.1, putting Mexico on track to see a leveling off of population by 2015.

However, this good news is qualified by a disturbing caveat. The successes of recent years have created complacency. Some people think the population bomb has been defused while in reality only the easier part of the job has been done.

In the developing world, the numbers continue to explode. Earth's current human population of 6.5 billion may top 9 billion by 2050 and 99 percent of the growth will be in the least developed nations. If these countries fail to follow Mexico's path, calamity may be just around the corner. In the regions of the world that are the most poor and the least able to care for, employ or govern their rapidly expanding populations, widespread famine, environmental destruction and social collapse are inevitable.

Most countries have reached agreement on what needs to be done to avert such disaster, but, in recent years, the United States has been a maverick on the population issue. The politics of abortion and religion have given current leaders reason to act as if it is not our problem.

Is this an area where self-interest and traditional values dictate that we let less fortunate countries find a way to cope on their own? Here's my Burning Question:

Is the developing world's population explosion a threat to America?

PAKISTAN EARTHQUAKE RELIEF

Mr. ALLEN. Mr. President, I rise today to salute the outstanding ambassadors for our enduring principles of freedom, justice, and individual rights—our brave men and women in uniform who show the heart of America by their good deeds.

As the Iraqi people slowly count the ballots from their historic parliamentary election, we are reminded once again of America's far-reaching power to be a force for good in this world. Over the past 2½ years, our brave soldiers have fought courageously and nobly sacrificed to extend the sphere of liberty into what was—up until their arrival—one of the darkest, most despotic alleys on Earth. Their heroic work has helped deliver a new free and just country into the family of nations.

We here at home watch the developments in Iraq with a feeling of pride. We are proud of our troops who have borne so much to advance the cause of freedom. We are proud of the Iraqi people, who risked their own lives to cast ballots three times this year for a better future. And we are proud of the heritage of our country—from the American Revolutionary secession from the British monarchy to the Second World War against fascism to the Cold War against imperial communism to today's fight against global terrorists, America has been the shining city on a hill—an ally to all men and women—on every continent, in every country—who yearn to breathe free.

In addition to Iraq, we have extended our hand of friendship to the people of Pakistan. A little more than 2 months ago, a devastating earthquake ripped through northern Pakistan. The toll from this tragedy is almost impossible to comprehend: 79,000 men and women lost their lives, an additional 72,000 were injured, and a total of 2.9 million people are now homeless.

Last month, my wife Susan cochaired a charity event near our home in Virginia to raise money for the earthquake victims. She then joined me when I traveled to Pakistan to visit some of the victims, and the 1,200 U.S. troops who are now stationed in Pakistan to assist in the recovery.

We presented a check to the Citizens Foundations charity, which will use the money to rebuild the Bagh School for Girls and other schools. When we visited a Pakistani classroom for children needing medical treatment, we

saw children on the floor, singing in English, learning new words, and painting artwork as well. On the wall behind the teacher was a drawing of a green Chinook helicopter and on the side of the helicopter was a big painted smile across the length of the helicopter.

That is the way these young people look at the United States. They are looking at these vessels of our military not as weapons of war but as machines that bring relief, and help. Later, Susan and I had supper with our troops there at the airfield. We told them how proud we are of their outstanding relief effort, about what great ambassadors they are, not just for the strength of America but also for the caring heart of America.

Today, in Pakistan, the heart of America is needed more than ever. As international attention fades and funds dry up, millions of earthquake survivors are now facing a harsh, cold winter. In the remote Himalayan region, villages at altitudes of 5,000 to 7,000 feet will soon be covered in snow. By leaving the earthquake victims exposed to the Himalayan winter, there is the real risk of seeing perhaps hundreds of thousands of preventable deaths.

We should not let such deaths happen. And thankfully, avoiding this tragic scenario is in our power. Our U.S. administration has pledged over $500 million in aid, but these funds are urgently needed today and must reach the devastated people of Pakistan as soon as possible.

During this holiday season, and beyond, we should continue to help Americans in Louisiana and Mississippi and extend our arms to the people of Pakistan. By saving hundreds of thousands of lives during the harsh Himalayan winter, we can transform this tragic event into a story of hope, courage and perseverance.

INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, I would like to explain my action today related to S. 1057, a bill to amend the Indian Health Care Improvement Act. I requested that Leader FRIST inform me prior to entering into any unanimous consent agreement relating to any amendments, motions, or any other actions relating to consideration of this bill.

This legislation exempts American Indians/Alaskan Natives from being charged a deductible, copayment, or coinsurance for an item or service for which payment may be made under the Medicaid or SCHIP programs in the Social Security Act. I am reluctant to treat one group differently from other groups. In my opinion, this is a precedent setting change. If we start by exempting one group from costsharing, then many other groups may start asking for the same exemption.

This legislation also exempts several types of property from being considered in Medicaid eligibility. We understand that there may be special circumstances that may necessitate the need for these provisions. We have requested additional information from the Indian Affairs Committee to facilitate our understanding of these exemptions. However, we have not yet received the requested information. In my opinion, without further information, these provisions send the message that resources are irrelevant to a determination of Medicaid eligibility. I don't believe that individuals should have significant resources and still be eligible for Medicaid. These provisions would create an imbalance by allowing a loophole solely for one group.

I want to be clear: it is not that I am concerned about making these changes for American Indians/Alaskan Natives, I am concerned about making these changes for any group. I welcome the opportunity to continue to work with the sponsors of this legislation, Senators MCCAIN and DORGAN, and with members of the Indian Affairs Committee on this matter. My staff has been working with staff from the Indian Affairs Committee, but they have not yet resolved my concerns.

ADDITIONAL STATEMENTS

COMMENDING THE SERVICE OF JAMES D.E. JONES

• Mr. LAUTENBERG. Mr. President, I rise to speak about the departure of Mr. James D.E. Jones from the Port Authority of New York and New Jersey. A native of Morristown, NJ, Mr. Jones has served with the Port Authority for 20 years, 19 of them in the Washington, DC, office. During this time, he served as liaison with Congress and several administrations on issues involving aviation, surface transportation, economic development, and public finance. I know Mr. Jones primarily for his efforts and expertise on aviation matters.

As a former Port Authority commissioner, I can tell you that the Port Authority is the most complex regional transportation agency in the country. It runs three major airports where almost 100 million passengers traveled in and out of last year. It operates the largest seaport on east coast of the United States and the second largest container port in the country. It runs a bistate mass transit system and maintains under its care and responsibility such landmark assets as the Lincoln Tunnel, the Holland Tunnel, the Bayonne Bridge, the George Washington Bridge, and the World Trade Center complex in lower Manhattan.

During his service at the Port Authority, Mr. Jones assisted policymakers in Washington as our country debated such ideas as deregulation of the airline industry to responding to the 9/11 terror attacks, which involved a substantial modification of how we provide for aviation security in our country.

Previously, Mr. Jones served as a senior staff member in the U.S. Department of Transportation's Office of the Secretary, where he focused on policy development and international agreements. In that capacity, he represented the U.S. Secretary of Transportation in dozens of bilateral international negotiations on aviation, taking him to 20 foreign countries.

Mr. Jones completed his undergraduate work at Howard University and received his MBA degree from Harvard University Business School. His accomplishments are evidence that his skills have certainly served him well throughout his career.

I am thankful for Mr. Jones' service at the Port Authority. His talents were a great asset to policymakers and lawmakers throughout the Federal Government, and his services helped shape policies for our country that make our aviation system the envy of the world.

On behalf of many New Jersey travelers, I thank Mr. Jones, and I wish him continued success.•

CONGRATULATING THE UNIVERSITY OF WASHINGTON WOMEN'S VOLLEYBALL TEAM

• Mrs. MURRAY. Mr. President, I am excited to congratulate the women Huskies on their terrific win in the NCAA Championships. Not only has UW's women's volleyball team given the University a new championship trophy, but they have given young girls across our State new role-models and proof that they can reach their dreams.

We need to ensure that any young girl who dreams of making the team, wearing a sports jersey or winning a college championship has the opportunity to succeed. That's why—as a Congress—we need to protect Title IX and the future of every girl in Washington State and around the country who wants to play sports.

For the past 33 years, Title IX has opened doors to athletics, education and success for millions of young women across America. Title IX is not about politics, it is about helping young women—like the members of UW's women's volleyball team—achieve their dreams.

I am proud of the UW women's volleyball team, their 32–1 record, and the fact that they became the first team in a 64–team NCAA tournament format to win all six matches by a sweep. I know I join volleyball fans statewide—and young female athletes everywhere—in congratulating them on their accomplishment.•

TRIBUTE TO STAN AND EUNICE KIMMITT

• Mr. BAUCUS. Mr. President, I rise today to honor the lives of two people very close to me, Montana, and the Senate. Stan and Eunice Kimmitt were both remarkable individuals and touched many lives over the years. In an effort to preserve their memory, I

think it is fitting that I share the kind remarks made at their funerals with the full Senate.

Mr. President, I ask unanimous consent that the material be printed in the RECORD.

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

EULOGY TO J. STANLEY KIMMITT

(December 21, 2004, Ft. Myer Memorial Chapel)

The poet and dramatist William Butler Yeats once wrote: ''Being Irish, you know that in times of great joy you're comforted by the thought that tragedy lurks around the corner.'' Stan Kimmitt had a lot of Irishman in him. On March 20, 1972, my siblings and I threw a surprise 25th wedding anniversary reception for my parents, during which I said a few words. Driving to dinner that evening, my father was as happy as I had ever seen him, so he returned to his Irish roots and said, ''Let's talk about my funeral.'' ''Bob,'' he said, ''I really liked your words today. For my funeral Mass, I would like you to write the eulogy—but have your brother Tom deliver it.'' In the ensuing 32 years, I never mustered enough courage to ask what my delivery deficiencies were on that March day long ago. But, since Dr. Tom is watching today with Dad and our sisters Kathy and Margaret from premier upper deck seats, the honor of both composing and delivering brief remarks falls to me.

The first thing Dad would want me to do is to thank all of you for joining us today. He would be humbled, but also very pleased, by this turnout. Second, he would ask me to thank all those who are involved in today's events, especially the soldiers of the Old Guard, the Congressional Chorus, his partner Deacon Vinnie Coates, and especially Archbishop Edwin O'Brien of the Military Archdiocese. Archbishop O'Brien first met my dad when serving as a young priest at West Point during my years as a cadet. The Archbishop later volunteered for military service himself, went to jump school, and served as a combat chaplain in Vietnam with many of us in attendance today in the 173rd Airborne Brigade and 1st Cavalry Division. What a wonderful person not only to celebrate today's Mass, but also to help provide spiritual direction to our brave young servicewomen and men both at home and abroad.

We Catholics use the term ''celebrate'' even for funeral Masses. We celebrate, because we firmly believe that our father Stan is now in a better, more peaceful place. And that is how I think of today, celebrating an extraordinary man and the exemplary life of service he lived.

Dad did not come from a government or service background, far from it. He was born in 1918 in Lewistown, Montana, the son of a prosperous wheat farmer who was the largest landowner in the fertile Judith Basin, and he later moved to Great Falls. With the Great Depression, however, all material wealth was lost, and his family's life story went from riches to rags. However, he was firmly determined to be the first in his family to attend college, which he did at the University of Montana in Missoula. He admitted that he majored in football and minored in bartending, but fortunately for his later career, one class he did attend was an Asian History course taught by a young professor named Mike Mansfield.

Dad was drafted in 1941 and was assigned to the mule-drawn pack artillery of what would become the 10th Mountain Division. Not wanting, as he said, to ''spend the war on the south end of a mule,'' he went to Officer Candidate School at Fort Sill and then trained and led Battery C, 309th Field Artillery of the 78th ''Lightning'' Division from 1942 to 1945. Sixty years ago today, the battery was fighting in the Battle of the Bulge, then proceeded to the Hürtgen Forest, crossed the Rhine River at Remagen, and became the first American division to occupy Berlin. Alongside him throughout was then Colonel, later Major General Bob Schellman, my parents' best man and my namesake and godfather, whose widow Helen and son Jim are here today. In the recently written words of Len Cravath, one of Dad's soldiers: ''Stan Kimmitt was my Captain, our leader, and our inspiration.'' Lewis Guidry, another soldier, called me and said: ''Your father took a bunch of boys and turned us into men. We will never forget him.''

In the Korean War, Dad commanded the 48th Field Artillery Battalion of the 7th Infantry Division. His bravery during the Battle of Pork Chop Hill was immortalized in S.L.A. Marshall's book of the same name. Less well known is an incident recounted in a recently-published book called ''On Hallowed Ground, the Last Battle for Pork Chop Hill:'' ''Lieutenant Colonel Kimmitt was an aggressive, hard-charging artillery commander who always worked closely with the infantry. He was at the infantry battalion CP when the personnel carrier brought Ray Barry . . . to the nearby battalion aid station. Kimmitt went into the aid station, and saw his former battery commander, Ray Barry, on a table, obviously critically wounded and near death. . . . A few minutes earlier, the 7th Division G–2 had arrived by helicopter. Kimmitt, seeing the severity of Barry's wounds, went immediately to the helicopter and told the waiting pilot to fly the wounded officer to the MASH. . . . At first the pilot balked, and told Kimmitt the helicopter belonged to the division G–2. With a few choice, sharp words Kimmitt said he did not give a damn who it belonged to, the pilot would fly the wounded Ray Barry to a MASH, right now. When Kimmitt told the battalion surgeon who examined Barry he had a helicopter to evacuate him, the doctor's words were less than encouraging. 'He won't make it to the MASH. He's lost too much blood.' '' Ray Barry, who won a Silver Star for his bravery that day, is today alive, well, and a retired Colonel in Texas.

In 1955, Dad was assigned to the Office of the Chief of Legislative Liaison, ''Army L&L,'' where he reacquainted himself with Mike Mansfield and befriended such titans as Richard Russell, John Stennis, Everett Dirksen, John Pastore, Theodore Francis Green, Stuart Symington, and Scoop Jackson. In 1960 we moved to Germany, first to Heidelberg then to Baumholder. In August 1961, he was with the battle group of the 8th Infantry Division that drove from the Soviet checkpoint at Helmstedt to Berlin shortly after the Wall went up to assert Allied transit rights. He later commanded the 8th Division Artillery, which included an Airborne Artillery Battalion, so he started the family's airborne heritage by going to jump school at age 44.

In 1966 he accepted Mike Mansfield's offer to retire from the Army to become Secretary for the Majority, where he served for 11 years; then he won a contested vote and was Secretary of the Senate from 1977 to 1981. The Wall Street Journal wrote a piece during this time, describing him as ''The Man at the Senate's Back Door,'' and, though always a loyal Democrat, his approach to his work in the Senate was nicely summarized in a letter Bob Dole sent to my mother: ''So sorry to learn of Stan's passing. I need not tell you what a good man he was. I can tell you he was loved and respected by all the 'Senate family' regardless of party.''

One of Dad's proudest achievements in the Senate was when he, together with Senators Warner and Mathias, got all 100 Senators to sponsor the bill granting land on the Mall for the Vietnam Veterans Memorial. Next time you are there, please look for the small brass marker at the back of the Wall's apex and you will see Dad's name. He was particularly pleased that the Vietnam Memorial helped pave the way for his generation's memorials: Korean War, FDR, and World War II, the dedication of which he attended with our son Mac, who was born on his grandfather's birthday. Mac told us later that his grandfather asked if it were OK to leave the ceremony a bit early, because Dad was embarrassed by so many people thanking him for his service. (He probably also wanted to beat the traffic!)

Dad's third career, as a company Washington representative, lasted 10 years, during which time he worked on the Apache attack helicopter and other programs for Hughes Helicopter Company, which was acquired by McDonnell Douglas and later by The Boeing Company. In 1991, he then started the consulting firm of Kimmitt, Coates & McCarthy with his friends George McCarthy and Vinnie Coates, and after George's death, Dad and Vinnie joined David Senter and John Weinfurter in forming Kimmitt, Senter, Coates & Weinfurter, for which he was Chairman until the day he died.

To give you an idea of the pace at which Dad lived his life, I would note that this year alone, at age 86, he had visited his beloved Montana seven times, including just two weeks before he died. He had also traveled in August to Belgium to celebrate with his friend, U.S. Ambassador Tom Korologos, the 60th anniversary of the liberation of Hoeselt, a small town east of Brussels, and in November he attended the 78th Division Reunion in Biloxi, Mississippi. On the last day of his life, December 7, he organized his desk, stopped in at Boeing, dropped by the Senate Democratic cloakroom, shopped at the Ft. Myer Commissary for my mother, went by his office, then went to a farewell reception for Senator John Breaux, whom Dad admired from the day he arrived in the Senate. If Dad could not be with his natural family at his death, he would have wanted to go just as he did—surrounded by Democrats, with no pain or struggle, with his boots on.

Debbie Boylan, of the Democratic Leadership Council, wrote: ''I was with him on Tuesday at the party for Senator Breaux, and thought you'd like to know that he seemed like a very happy man that night: He was the first to arrive, had a smile and a chuckle for everyone he met, and—as he put it, 'as the senior Democrat in the room'—made short, eloquent remarks about the Senate and Senator Breaux. Please know this: On that night, as I'm sure on many others, he was surrounded by people who loved him.'' Jodi Bannerman, who was also there that evening, wrote: ''Stan told an anecdote to the DLC and its guests of Russell Long, saying Long once said: 'When I have a friend, I have a friend. I'll fight for him or her until hell freezes over. And then, I'll fight on the ice.' ''

And Dad fought on the ice for many people. If you were down, in trouble, or just in need of a friendly, non-judgmental listener, he was your man. He looked up to many, down to none, and right in the eye to all. Even after almost 50 years in Washington, he never looked over your shoulder to see if someone ''more important'' were approaching. At a 78th Division reunion in Pittsburgh several years ago, he was with his friend and divisionmate, former Congressman Lionel Van Deerlin and his daughters. Liz Van Deerlin recounted in a recent note: ''My sister, my dad, and I walked Stan back to his hotel which was about 6 blocks away. There was a guy on crutches with one leg who had

a cup out for some cash. Stan was ahead of us in his stride and he went right up to this guy, gave him some money and they talked a bit, but I was moved at how Stan treated him. He didn't avoid eye contact and hurriedly drop cash into his cup, he lingered a while and had somewhat of a conversation with this man, who thanked him heartily. If I didn't know better, I would have thought they knew one another.''

My wife Holly captured this sentiment when discussing which photograph we should use for Dad's obituary in the Washington Post, one from his younger days or a more recent one: ''I would not use the younger one. That was definitely Stan, but of a younger, different time, at the height of his professional prime. I like the older one because, to me, that is who he really was. He came into his own as an older man, still busy, productive, and effective, but he had a more loving and lovable way about him, a person who knows how great his life has been, how good he has it, has taken the sadness in stride and still looked forward to every moment of every day and reveled in contact with every person he met.''

In the hundreds of cards, e-mails, phone messages, and visits since Dad's death, the most heartwarming and humbling words have been how his family—children, grandchildren, great grandson—are reflections of his life well lived. I know how very proud Dad was that government service was and is an essential element of the professional careers of his children. He was very proud of Judy's long service in the Senate, most recently with Senator CARPER; Mary's time with both the National Park Service and now ministering to the health needs of the women and men and families of the 1st Infantry Division as an Army Physician's Assistant in Bamberg, Germany; Mark's military career and especially his recent service in Iraq and the Gulf; Jay's time both in the House and Senate and the Army; and my service in the Army and the White House and several departments—even in Republican Administrations! Dad's pride in his children knew no political boundaries.

Dad was a man of character, but no eulogy would be complete without mentioning that he also was a character. Just saying the following words will bring smiles to many faces here today: gutters; leg wrestling; frequent flyer miles; tennis shorts & black socks; large paper napkins, especially if embossed; and Unterberg. And several of you have shared some of the phrases we heard so often from him:

''Enunciate !''
''Wheels rolling.''
''Plan your work and work your plan!''
''Do something, even if it's wrong!''
''You decide what you want to be in life; then be the best at it.''
''Into every life a little rain must fall, but we don't have to be drenched by it.''
And, the one all the grandchildren know by heart: ''An excuse is an opiate
administered by nature to deaden the pain of mediocrity.''

Archbishop, two days before Dad died, he went to his last Mass at the Chapel at Georgetown University Hospital. Why, you might ask, would he drive from McLean to the District for Mass? Well, the Mass at Georgetown Hospital is never more than 35 minutes long; there is no music and no collection; and they validate your parking ticket. That was his kind of Mass. And, in another vein, I am sure that I know my Dad's last two thoughts before dying. One would surely have been of Mom and the family, but I am equally sure the other would have been: ''Thank God I mailed the Christmas letters!''

My brother Jay asked me to note that the vast majority of the Washington legislative community treated Dad with respect and inclusion to the day he passed. As we all know, one becomes less relevant the longer one is away from positions of power in I this town. On the day Dad died, he was leaving Boeing and he turned to a receptionist and said, ''Thanks for putting up with an old soldier.'' Actually, Dad may have used a noun other than ''soldier.'' The Kimmitt family would like to thank the entire legislative community for their kindness to and respect for Dad over all these years.

Let me close with one final anecdote. In 1978, at the peak of Dad's career in the Senate, Holly and I were introduced to Congressman and Mrs. Lucien Nedzi at a Christmas party. Mrs. Nedzi's eyes lit up, and she asked, ''Are you related to . . . Eunice Kimmitt, the school bus driver?'' No one would have been more pleased than Dad to hear Mom's service as a St. John's School bus driver in the 1950's recognized. In discussing preparations for his funeral after my brother Tom's interment last December, he said he had only three requests: (1) to be buried in Arlington Cemetery at the site where our sister Margaret was buried in 1959; (2) to have ''Oh, Shenandoah'' sung during the service, as was done so splendidly by the members of the Congressional Chorus as we entered the chapel; and (3) to make sure that Mom as well as he was recognized in these remarks.

Eunice Wegener Kimmitt also led a life of service, both as a young Red Cross girl in Europe during World War II and as an Army wife and mother who sent her husband and sons off to wars in Korea, Vietnam, and Iraq. But even more, she was and is the firm foundation of our family—no matter how many times we moved to new houses, we always knew that home was where Mom was. Dad would have said that this eulogy is as much about Mom's service and contributions as his—and he felt that way for all their nearly six decades together. Mom, thanks for what you meant to Dad and still mean to all of us.

Please note in your program that you are welcome either to join us at the graveside service immediately following this Mass or to proceed directly to the Officers Club, where the family looks forward to greeting you after the interment. Whether you are at the gravesite today or later, you will see that there is a clear view of the Capitol Building from the site, which was selected serendipitously 45 years ago when our sister died. We will also be burying with Dad soil from Lewistown and Great Falls, Montana; Baumholder, Germany; and the Capitol grounds. Only symbols, but powerful symbols, of the life and life of service you have kindly allowed me to share with you today.

I can almost hear Dad tapping his feet and saying: ''Let's get moving so these good people can get back to work!'' In such moments, there is just one reply: ''Yes, sir, Colonel!'' Dad, thank you for the life of service you lived and for the example that will inspire many more such lives in generations today and to come. We love you, we miss you, we will see you again.

Well done, Soldier. Be thou at peace.

EULOGY TO EUNICE L. KIMMITT

(December 3, 2005, St. Agnes Catholic Church, Arlington, Virginia)

Shortly after Mom and Dad were married, she wrote in their brand new family album that her favorite poem was entitled ''If'' by Rudyard Kipling. That poem, which is printed in full on the back of your program, captures the spirit of the mother, grandmother, and friend whom we remember today. Let me read just several lines from the poem:

If you can keep your head when all about you
Are losing theirs and blaming it on you
If you can meet with Triumph and Disaster
And treat those two imposters just the same
If you can force your heart and nerve and sinew
To serve your turn long after they are gone
If you can talk with crowds and keep your virtue
Or walk with kings—nor lose the common touch
Yours is the Earth and everything that's in it

The earth was Mom's, and now so much more.

Even though Mom was among the first in her family to go to college and had worked both at home and abroad for six years before she was married, she wrote in that same album that her goal in life was ''to be a good wife and mother.'' She achieved that goal, and so much more.

In the words of the Old Testament, our mother was ''a wife of noble character''—and she lived with a noble character. No man ever had a more faithful, hardworking, and devoted spouse than did our father, even though he delighted in expressing his respect and appreciation in unusual ways. Though she had to call the Senate Cloakroom most nights to overcome the uncertainty of when he would be home, there was no uncertainty when he called to ask, ''Old Mother, do you have any steaks defrosted?'' That meant at least one, and more likely a half dozen, Montanans were about to descend on Mom for the evening. Once there, they got a great steak dinner (2½″ New York strips, specially cut at Safeway). Drinks continued after dinner, but only with Mom—since Dad would have left her and his friends as soon as his steak was down.

It is a great honor to us, but especially to Mom, that the senior Montanan in Washington, Senator Max Baucus, is with us today. Senator, thank you for your service to our country and your friendship to our family.

But it wasn't just Montanans. Former Senator Fritz Hollings from South Carolina was among the many Senators who called to express his condolences, and he related the following about his first night in Washington as a new Senator forty years ago, ''Your Daddy asked me what I was doing for dinner, and an hour later I was eating a big Montana steak with him and that dear, strong Eunice.'' On our honeymoon a decade later, Holly and I stayed with friends of my parents in Dublin. On arrival—I think even before hello—Frank Fitzpatrick said, ''My God, we're still talking about those steaks.''

Senator and Mrs. Hollings were with Mom and Dad on their trip to Paris, mentioned in the obituary in The Washington Post, during which Mom injured herself in a fall. To paraphrase Paul Harvey, you will now know the rest of the story. Mom and Dad had gone to Mass at Sacre Coeur on the Montmarte one rainy evening, and, because Dad was not one to take a cab, they were hustling (he was always hustling) down wet, steep, centuries-old steps to the Metro, and my mother took a hard fall, breaking her upper arm and knee. When we saw her at Walter Reed after her Medevac trip home, Dad was at her bedside and, in his most compassionate and understanding way, said, ''Well, they told me Paris would cost me an arm and a leg, but I didn't believe that till now.'' Mom's reaction to hearing this comment, I am sure not for the first time, was a wan smile through her casts and bandages.

Everyone who knew my mother knew how much she loved sports. She herself played basketball, tennis, and golf when she was younger, and she swatted a mean ping pong

paddle later in life. While she loved any sport on television, watching her beloved Redskins was her real passion. Once in the 1970's, during the Redskins' heyday, she and Dad were in Europe when the Redskins were playing an important Monday night game. My Dad awoke about 5 a.m. on the Tuesday morning—11 p.m. Monday night Washington time—to find Mom lying very still on the floor next to their bed. Alarmed, he called out to her, only to be told to ''Be quiet, Stan!''—because she was listening to the 'Skins on the Armed Forces Network using a transistor radio she brought for the occasion, and reception was better on the floor.

But, as much as we laugh about those stories now, the most remarkable thing is that Mom's role as spouse never once kept her from performing well her other life's goal as a mother. In the first twenty years of their marriage, the family lived in ten different houses, in four states, and on two continents. Change was a constant in our lives, as it was for all service families of that era and today. But no matter where we were or what house we were in, we always knew that home was where Mom was. Dad traveled or was deployed frequently in those years, and though his strong persona was never far from our thoughts, Mom was never far from our sides—and always on our side. I remember Dad at many of my Little League games, but I remember Mom at all of them, and I can still see her, vividly, running along the fence with her arms held high as I circled the bases after my first home run at the McLean Little League fields.

But one thing Mom left out of the album those many years ago was a goal she achieved nonetheless—world's greatest grandmother. While I do not recall a lot of gum, candy, soft drinks, or Pringles in our home growing up, there were entire shelves—lower shelves, of course—and a separate refrigerator filled with whatever her grandchildren's little hearts desired. For those who can join us at our home for the reception after Mass, you will be treated to a Eunice Kimmitt menu that will include these and many more of her favorites. What a gift it was and is that the grandchildren and she—as well as my Dad—got to know each other so well. And she was so very proud of her grandchildren, and fiercely protective of each of them.

Mom was a person of deep and abiding faith. She was raised Methodist in Napoleon, Missouri, in a church whose hymnals were in German, so it was big news in that small town when she returned from Germany in 1947 as a pregnant Catholic married to an Irishman from Montana. And, just like naturalized American citizenship, no one appreciates the Catholic faith like a convert who embraces the faith later in life on their own initiative. From weekly confession—even when my Dad was in Korea and the confessional sessions must have been brief—through weekly Holy Communion when she was homebound, and then Last Rites just before she died, Mom's faith was an integral part of her being and thus the legacy she leaves to all of us.

Indeed, I am firmly of the view that my mother was and is a saint. I am as sure of that fact as I am of any tenet of my faith. For 16 of the 18 years our brother Tom lived after his accident in 1985, Mom spent an average of six hours a day with him, every day of every year, whether in Arlington, Washington, Alexandria, or Richmond, as we, led by her, sought the best possible care for Tom. That is over 35,000 hours, or 4 full years, at Tom's side. Many in the Church today visited Mom and Tom at some point during that period, and I am sure felt, as did I, that we were privileged to be in the presence of two of God's most blessed children, now reunited by and with Him. And I would like to offer particular thanks to Father Roos and the St. Agnes community, who were so attentive to Tom and Mom during those many years when Tom was just down the road at Cherrydale Nursing Home.

So, if Holly is right—that Dad met Mom at the Pearly Gates last Friday with a cigarette, glass of wine, and a to-do list—I am pretty sure that Mom told Dad, after hugging him, Kathy, Margaret, and Joe, that sitting down to continue her personal Scrabble tournament with Tom was at the top of her to-do list. And as they sat down for their first game after a twenty-year break, I know Tom's first words to her were, ''Mom, thanks. I always knew you were there.''

And I also know that at 2:30 p.m. this afternoon, they and Dad will all say, as they did so many years in person, ''Go Army, Beat Navy!''●

COMMENDING THE SERVICE OF PAUL H. BEA, JR.

● Mr. LAUTENBERG. Mr. President, I rise to thank a dedicated public servant for his service to the people of New Jersey. Mr. Paul H. Bea, Jr., has been Washington representative for the Port Authority of New York and New Jersey for over 25 years, serving as a voice of the Port Authority here in Washington, DC.

As a former Port Authority Commissioner, I can tell you that this agency is the most complex regional transportation agency in the country. It runs three major airports that handled almost 100 million passengers last year. It operates the largest seaport on the east coast of the United States and the second largest container gateway in the country. It runs a bi-state mass transit system and maintains under its care and responsibility such landmark assets as the Lincoln Tunnel, the Holland Tunnel, the Bayonne Bridge, the George Washington Bridge, and the World Trade Center complex in lower Manhattan.

Mr. Bea has provided lawmakers and policy makers advice and information on a variety of topics including the Federal budget, aviation, surface transportation, tax, and trade issues, but he has developed a particular expertise in the field of maritime, port security, and environmental matters. Through Paul's work with the New Jersey and New York congressional delegations on behalf of the Port of New York-New Jersey, he has contributed to the improvement of both the underwater infrastructure and the Hudson-Raritan estuary.

In 2002, Paul became chairman of the Coastwise Coalition, a public-private sector partnership that works to educate policy makers on the potential of domestic waterborne transportation to enhance the capacity of the national transportation system.

In 2004, he was invited by the U.S. Secretary of Transportation, Norman Y. Mineta serve on the Maritime Transportation System National Advisory Council. His principal efforts on that panel involve coastwise shipping, intermodal freight transportation, and waterway issues.

Mr. Bea's experience in Washington dates back to 1970, when he arrived to work on the staff of the late Congressman Edward J. Patten from New Jersey. He was responsible for Federal budget, appropriations, energy, environment, transportation and other issue areas.

In 1978, Mr. Bea went to work as a Washington representative for New Jersey Governor Brendan T. Byrne on environmental and energy concerns, which were a focus of President Carter's administration at the time.

I am very grateful for Mr. Bea's service at the Port Authority. His capable representation has helped the Federal Government navigate through some very tumultuous times for our country, including the 9/11 terror attack on the World Trade Center, and the bombings at the same location in 1993.

On behalf of the people of New Jersey, I thank Mr. Bea for all he has done and will continue to do to make our country a safer, more secure, and efficient place to live and conduct business, and I wish him well.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5075. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Veterans Recruitment Appointments'' (RIN3206-AJ90) received on December 12, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5076. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report regarding accounts containing unvouchered expenditures that are potentially subject to audit; to the Committee on Homeland Security and Governmental Affairs.

EC–5077. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''Reference Checking in Federal Hiring: Making the Call'' to the Committee on Homeland Security and Governmental Affairs.

EC–5078. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council,

transmitting, pursuant to law, the report of the Office of the Inspector General and the Council's combined annual report; to the Committee on Homeland Security and Governmental Affairs.

EC–5079. A communication from the Acting Administrator, General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5080. A communication from the Attorney General, transmitting, pursuant to law, the report of the Office of the Inspector General and the Attorney General's Semiannual Report for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5081. A communication from the Administrator, United States Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5082. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5083. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, the Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–5084. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the Counsel's Report on Occupational Safety and Health Inspections for the 108th Congress; to the Committee on Homeland Security and Governmental Affairs.

EC–5085. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the Counsel's Report on Americans with Disabilities Act inspections conducted during the 108th Congress; to the Committee on Homeland Security and Governmental Affairs.

EC–5086. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report for 2004 as required by Public Law 106–107; to the Committee on Armed Services.

EC–5087. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Period for Task and Delivery Order Contracts'' (DFARS Case 2003-D097/2004-D023) received on December 8, 2005; to the Committee on Armed Services.

EC–5088. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Environment, Occupational Safety, and Drug-Free Workplace'' (DFARS Case 2003-D039) received on December 8, 2005; to the Committee on Armed Services.

EC–5089. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Free Trade Agreements—Australia and Morocco'' (DFARS Case 2004-D013) received on December 8, 2005; to the Committee on Armed Services.

EC–5090. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Foreign Acquisition'' (DFARS Case 2003-D008) received on December 8, 2005; to the Committee on Armed Services.

EC–5091. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Socioeconomic Programs'' (DFARS Case 2003-D029) received on December 8, 2005; to the Committee on Armed Services.

EC–5092. A communication from the Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Munitions Response Site Prioritization Protocol'' (RIN0790-AG94) received on December 8, 2005; to the Committee on Armed Services.

EC–5093. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: British Aerospace Model HS 748 Airplanes'' (RIN2120-AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5094. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McCauley Propeller Systems Five-Blade Propeller Assemblies'' (RIN2120-AA64) received on December 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–5095. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McCauley Propeller Assemblies Models 2D34C53/74E-X; D2A34C58/90AT-X; 3AF32C87/82NC-X; D3AF3C87/82NC-X; D2A32C88/82NC-X; D3A32C90/82NC-X; and 3AF34C92/90LF-X'' (RIN2120-AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5096. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A340-200 and A340-300 Series Airplanes'' (RIN2120-AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5097. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace: Eau Claire, WI'' (RIN2120-AA66) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5098. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (69)'' (RIN-AA65) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5099. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (45)'' (RIN2120-AA65) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5100. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitude; Miscellaneous Amendments (20)'' (RIN2120-AA63) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5101. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Closure (Massachusetts Summer Flounder Commercial Fishery Closure—2005 Fishing Year'' received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5102. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of the Commercial Fishery for King Mackerel in the Exclusive Economic Zone in the Western Zone of the Gulf of Mexico'' received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5103. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2005 Tilefish Commercial Fishery'' received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5104. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Fisheries; Pacific Tuna Fisheries; Restriction for 2005 and 2006 Purse Seine and Longline Fisheries in the Eastern Tropical Pacific Ocean'' received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5105. A communication from the Assistant Administrator Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Shark Quotas and Season Lengths'' (RIN0648-AT74) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5106. A communication from the Director, Industry Programs International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Steel Import Licensing and Surge Monitoring'' (RIN0625-AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5107. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Import Certificate Requirements in the Export Administration Regulations'' (RIN0694-AD50) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5108. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report on ethanol market concentration; to the Committee on Commerce, Science, and Transportation.

EC–5109. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report concerning the effectiveness and enforcement of the CAN-SPAM Act; to the Committee on Commerce, Science, and Transportation.

EC–5110. A communication from the Director, Regulations Policy and Management,

Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3'' (Doc. No. 2004F–0374) received on December 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–5111. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Community Services Block Grant Statistical Report and Report on Performance Outcomes for Fiscal Years 2000–2003; to the Committee on Health Education, Labor, and Pensions.

EC–5112. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report regarding and Accountability Review Board concerning Iraq; to the Committee on Foreign Relations.

EC–5113. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5114. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Classification of Certain Foreign Entities'' ((RIN1545–BD77)(TD9235)) received on December 8, 2005; to the Committee on Finance.

EC–5115. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations Providing Guidance on the FICA Treatment of Accident or Disability Payments'' ((RIN1545–BC69)(TD9233)) received on December 8, 2005; to the Committee on Finance.

EC–5116. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Gulf Opportunity Pilot Loan Program'' (RIN3245–AF43) received on December 8, 2005; to the Committee on Small Business and Entrepreneurship.

EC–5117. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standard; Surety Bond Guarantee Program'' (RIN3245–AE81) received on December 8, 2005; to the Committee on Small Business and Entrepreneurship.

EC–5118. A communication from the Attorney, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Work for Others'' (RIN1991–AB64) received on December 8, 2005; to the Committee on Energy and Natural Resources.

EC–5119. A communication from the Director, Supplemental Food Programs Division, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment'' (RIN0584–AD71) received on December 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–244. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to enjoin the Federal Emergency Management Agency from mandating that structures rebuilt in the New Orleans area after Hurricane Katrina be elevated; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 41

Whereas, the system of levees meant to protect the greater New Orleans area has been deemed deficient, such levees having been constructed using standards developed to protect farmland rather than extensive residential and commercial development with millions of inhabitants; and

Whereas, it is the consensus opinion of experts in the engineering field across the United States that the safety factors considered by government agencies in the design of these levees were minimal, resulting in poor design and the resulting catastrophic failures of the levee systems around the New Orleans area; and

Whereas, the Federal Emergency Management Agency may mandate through administrative law, rule, or other fashion that structures rebuilt in the New Orleans area be constructed in an elevated manner, so as to be less vulnerable to flooding in the future; and

Whereas, the property owners in the flooded areas were not responsible for the levee failures, nor the resulting flooding, and as they begin to rebuild their homes and businesses they should not be further burdened and penalized by impossibly cumbersome and aesthetically displeasing requirements for rebuilding their structures in an elevated manner: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress take such actions as are necessary to enjoin the Federal Emergency Management Agency from mandating through administrative law, rule or other fashion that structures rebuilt in the New Orleans area be constructed in an elevated manner and to assure that residents and homeowners be allowed to retain flood insurance coverage at pre-Hurricane Katrina rates; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–245. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as necessary to develop and provide innovative solutions for financing housing in parishes in Louisiana devastated by Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 42

Whereas, Hurricanes Katrina and Rita displaced an unprecedented number of people and caused physical and economic devastation of such a magnitude that it will take many months and in some cases years before the affected region can be rebuilt and many of those displaced can return home; and

Whereas, following Hurricanes Katrina and Rita, many property owners in Louisiana face uncertainty about whether they can or should rebuild their homes; and

Whereas, many residents have lost jobs as a direct result of the storms, and a large percentage of them have little or no income and few assets on which they can rely to pay for housing over the coming months; and

Whereas, it is becoming increasingly clear that housing initiatives of the Federal Emergency Management Agency (FEMA) and the United States Department of Housing and Urban Development (HUD) are falling short in providing for lowest income households to afford safe and decent housing; and

Whereas, the primary mission of any redevelopment plan must be the economic stabilization and redevelopment of areas within Louisiana that were devastated or significantly distressed by the storms; and

Whereas, any comprehensive redevelopment plan must provide innovative solutions to financing homes for low-income families that are located in close proximity to viable transportation systems that provide easy access to jobs, schools, and other services; and

Whereas, any comprehensive redevelopment plan must clearly indicate that no powers of eminent domain shall be granted; and

Whereas, an effective redevelopment plan must assure that all efforts will be made in consultation with state and local officials in order to provide for the protection and preservation of historical and other sites of cultural significance in such a manner that promotes local heritage and interest; and

Whereas, investment in intelligent, thoughtful, and inclusive planning will pay off in permanent communities of high quality and economic sustainability: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to develop and provide innovative solutions for financing housing in parishes in Louisiana devastated by Hurricanes Katrina and Rita; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–246. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting comprehensive natural disaster insurance legislation affecting financial capacity that will address, encourage, and support insurance company reserving for future catastrophes by making such reserves deductible for federal income tax purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 43

Whereas, the loss of life and property from severe natural disasters, as evidenced by recent Hurricanes Katrina, Rita, and Wilma, represents a major national problem; and

Whereas, severe natural disasters, including but not limited to damages caused by windstorm and earthquake, can strike any state or several states at any time, with the potential of threatening large segments of the population of the United States; and

Whereas, severe natural disasters can cause losses in the tens of billions of dollars or more, threatening the solvency of insurers and the viability of insurance markets on a local, regional, and national level; and

Whereas, individual state responses are appropriate but limited in protecting against disasters, as state and private insurers lack the resources to cover catastrophic disasters; and

Whereas, the existing federal disaster programs rely a great degree on the congressional appropriation of disaster relief dollars on an ad hoc basis and at great and unnecessary cost to taxpayers; and

Whereas, states have documented that problems in the current insurance market are rooted in and exacerbated by federal tax policy which discourages reserving for future catastrophes; and

Whereas, federal tax laws and accounting principles do not permit deduction of reserves for future natural disaster losses and discourages insurers from accumulating assets to pay for future catastrophic losses; and

Whereas, some non-United States insurers are able to deduct reserves for future catastrophe losses free of tax, giving those insurers a competitive advantage over United States insurers by enabling them to attract insurance and reinsurance business that would otherwise be written by United States insurers; and

Whereas, the 1997 Coopers & Lybrand report entitled Analysis of Pre-Event Tax-Deductible Catastrophe Reserves underscored the following projections if congress were to enact legislation to encourage the use of pre-event tax deductible catastrophe reserves: that the property and casualty industry would build substantial catastrophe reserve funds; that overall industry assets would increase substantially; that the number of insolvencies taking place after a catastrophic disaster would significantly decrease, and that the magnitude of insolvencies taking place after a catastrophic disaster would significantly decrease; and

Whereas, the same Coopers & Lybrand report also underscored the further projections if congress were to enact legislation to encourage the use of pre-event tax deductible catastrophe reserves: that United States reinsurers would become more competitive in the global reinsurance marketplace; that United States insurers would likely cede monies to United States reinsurers rather than to foreign reinsurers; that federal tax receipts could dramatically increase due to increased tax revenue from underwriting profits associated with retained United States premium, investment income earned on that same premium, and profits from additional foreign premiums that would come onshore as United States reinsurers seek to diversify their catastrophic losses; and that the number of policyholders who lose insurance after a major event could decrease: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to enact comprehensive natural disaster insurance legislation affecting financial capacity that will address, encourage, and support insurance company reserving for future catastrophes by making such reserves deductible for federal income tax purposes; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–247. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting a health insurance premium reimbursement program and a federal income tax credit for the health insurance premiums for affected victims of Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 44

Whereas, the destruction left in the wake of Hurricanes Katrina and Rita poses a growing risk that hundreds of thousands of people in the most severely affected areas will soon lose their privately paid access to health care benefits; and

Whereas, this is particularly true for those individuals who work for small businesses facing financial difficulties and for those who have lost or are about to lose their jobs; and

Whereas, the Gulf Coast's health care system as a whole is already under considerable stress with few health care facilities in operation and thousands of medical professionals currently displaced; and

Whereas, if returning residents are not able to pay for required medical services after the current grace period instituted by the commissioner of insurance for payment of health insurance premiums in Louisiana which ends on November 30, 2005, the system could deteriorate further in the most severely affected areas; and

Whereas, a two-component program to provide interim support to those who are most at risk of losing their private health benefits coverage is needed; and

Whereas, the program would apply only to certain parishes within the Federal Emergency Management Agency (FEMA) orange zone in Louisiana for both Hurricane Katrina, specifically Orleans, St. Bernard, Plaquemines, Jefferson, St. Tammany, and Washington, and for Hurricane Rita, specifically Cameron, Vermilion, and Calcasieu; and

Whereas, the first component could be a federal premium reimbursement program to pay the premiums of individuals with personal policies and of small employers, those with fifty or fewer employees, with group policies by paying to insurers the premium amount fixed for August 2005 for the months of September, October, and November 2005; and

Whereas, the program could cover both paid and unpaid premiums to provide the same benefits to all defined individuals and small businesses, such that if a reimbursement payment duplicates a premium actually paid, that amount could be applied to future premiums or refunded to the insured upon request; and

Whereas, definitions of eligible individuals and small employers, along with administrative provisions, could be the same or similar to those in S. 1769; and

Whereas, the second component could be a federal income tax credit for eligible individuals who are unemployed due to Hurricane Katrina or Rita; and

Whereas, the tax credit could be sixty-five percent of premiums actually paid by eligible unemployed individuals to health insurers for the twelve months from December 2005 through November 2006; and

Whereas, the tax credit could be eighty percent for individuals who are at or below three hundred percent of the federal poverty level; and

Whereas, an eligible individual could be defined as a person who worked in one of the affected parishes at the time of the hurricane, was covered by health insurance at the time of the hurricane, and is determined to be unemployed during a premium period as a result of the hurricane; and

Whereas, former employees of companies of all sizes could be eligible, not just small businesses and individuals purchasing their own insurance; and

Whereas, the credit mechanism could be structured like the trade adjustment credit in Internal Revenue Code Section 35, which is applied to make federal payments directly to the health insurance company for individuals eligible for the credit: Therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to enact a health insurance premium reimbursement program and a federal income tax credit for the health insurance premiums for affected victims of Hurricanes Katrina and Rita; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–248. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to forgive the debt of Louisiana's local governments resulting from seven hundred fifty million dollars in loans made available to them as disaster relief; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 50

Whereas, the United States Congress has enacted legislation that allows seven hundred fifty million dollars to be transferred from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund to the Community Disaster Loan Program to assist parish governments in Louisiana that have suffered the effects of Hurricane Katrina and Hurricane Rita; and

Whereas, the parishes most severely affected by the hurricanes were left with little, if any, local tax revenue for the foreseeable future, and such revenue is normally used to pay the salaries of parish employees, such as law enforcement officers, firefighters, and other essential employees; and

Whereas, Community Disaster Loans apply to localities suffering decreased tax revenue as the result of a disaster, and FEMA is authorized to reallocate seven hundred fifty million dollars to this program to keep local governments operating and to help them avoid layoffs; and

Whereas, it is unfair to put the burden of a seven hundred fifty million dollar debt on local Louisiana governments that are struggling to recover economically while meeting the enormous costs of replacing infrastructure and such debt will not serve the purpose of achieving recovery, and thus it is only fitting that the seven hundred fifty million dollars be allocated as a grant program rather than a loan program and that measures be taken to forgive these loans; and

Whereas, local governments in other states who have received similar loans following disasters have done so with the option that such loans might be forgiven, and it is only appropriate that the local governments of Louisiana be given the same option; therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to forgive the debt resulting from the seven hundred fifty million dollars in loans made available to Louisiana's local governments as disaster relief; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–249. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or suspend provisions thereof, with respect to the requirement that the state of Louisiana reimburse the Federal Emergency Management Agency for a portion of the other assistance payments made to citizens of Louisiana due to Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 53

Whereas, the state of Louisiana has experienced in Hurricanes Katrina and Rita natural disaster of unprecedented proportions in American history; and

Whereas, the citizens and communities of Louisiana have suffered tremendous personal and economic loss, as reflected in an economic downturn which has affected the state fisc such that the state is experiencing nearly a one billion dollar operating deficit; and

Whereas, the Federal Emergency Management Agency expects to provide in excess of forty billion dollars of disaster relief payments for citizens of Louisiana; and

Whereas, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act the state of Louisiana would owe the federal government approximately three billion seven hundred million dollars as its portion of responsibility for the disaster relief assistance provided by the Federal Emergency Management Agency; and

Whereas, the largest portion of federal assistance for which the state is being held responsible for reimbursing the Federal Emergency Management Agency is that for other assistance payments, over which the state has no control whatsoever in the granting or amount of payments; and

Whereas, the citizens of Louisiana certainly should enjoy the benefit of assistance from the federal government during a crises such as Hurricane Katrina or Rita, and such benefit should be provided by the federal government without a requirement that the state provide reimbursement for provision of such federal benefits; therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or suspend provisions thereof, with respect to the requirement that the state of Louisiana reimburse the Federal Emergency Management Agency for a portion of the other assistance payments made to citizens of Louisiana due to Hurricanes Katrina and Rita; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–250. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to provide federal financial assistance to aid in rebuilding the investor-owned utility systems that are indispensable to the recovery efforts of the state of Louisiana and the city of New Orleans, including but not limited to providing funding through the United States Department of Housing and Urban Development in the form of Community Development Block Grants to investor-owned utilities for the restoration of electric and gas service damaged by Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 69

Whereas, on August 29, 2005, Hurricane Katrina, a category four storm with sustained winds of one hundred forty miles per hour, came ashore in Plaquemines Parish, Louisiana, near the city of Buras, causing unprecedented flooding and devastation in southeastern Louisiana, including breaches of the levee system and flood walls of the city of New Orleans, the death of more than one thousand state residents, the displacement and evacuation of hundreds of thousands more, and the widespread loss and destruction of businesses and property; and

Whereas, on September 24, 2005, Hurricane Rita, a category four storm with sustained winds of one hundred twenty-five miles per hour, came ashore near the Louisiana/Texas border, causing unprecedented flooding and devastation in southwestern Louisiana and southeastern Texas, the widespread loss and destruction of property, and total disruption of the lives of thousands, many of whom have no homes to which they may return; and

Whereas, Entergy Corporation (Entergy), through its subsidiaries, Entergy Louisiana (ELI), Entergy Gulf States (EGS), and Entergy New Orleans (ENO), is Louisiana's largest electric and gas utility, and the resulting wind and flooding of Hurricane Katrina significantly damaged major portions of Entergy's utility infrastructure; and

Whereas, in the aftermath of the disaster, Entergy and others worked rapidly to provide emergency and temporary services, and Entergy is currently working to restore permanent service to all customers in its service territory; and

Whereas, Entergy estimates that the total restoration costs for the repair or replacement of Entergy's electric and gas facilities damaged by Hurricanes Katrina and Rita and business continuity costs are in the range of 1.1 to 1.4 billion dollars and that the costs to Entergy New Orleans alone to repair its utility infrastructure exceed four hundred million dollars, not including potential incremental losses; and

Whereas, safe and reliable electric and gas utility service is vital to the state's post-hurricane recovery efforts, and the state of Louisiana deems it essential to keep Entergy and its subsidiaries as productive and financially viable companies that provide safe and reliable electric and gas utility service to the residents and businesses of Louisiana; and

Whereas, the legislature is committed to the protection of Entergy's residential and business customers from the tremendous costs associated with the necessary rebuilding efforts and in assisting Entergy and its subsidiaries, particularly Entergy New Orleans, in regaining their financial strength and stability so that they will be able to continue providing safe and reliable service to their customers; and

Whereas, the legislature notes that following the terrorist attacks of September 11, 2001, which caused catastrophic destruction of life and property, the loss of an untold number of jobs, and the displacement of many individuals and businesses, billions of dollars in funds and other forms of essential assistance were provided to the state of New York and New York City by the federal government; and

Whereas, the legislature notes that congress, in Public Law 107–206, passed on August 2, 2002, authorized the United States Department of Housing and Urban Development to provide seven hundred eighty-three million dollars in disaster assistance for damaged properties and businesses, including the restoration of utility infrastructure, and for economic revitalization directly related to the September 11, 2001, attacks; and

Whereas, the state of Louisiana has suffered similar if not greater human and economic losses as a result of Hurricanes Katrina and Rita, resulting in devastating loss of life, damage to businesses and property, and destruction of much of Entergy's utility infrastructure in Louisiana: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States of America to take all measures necessary to provide federal financial assistance to aid in rebuilding the investor-owned utility systems that are indispensable to the recovery efforts of the state of Louisiana and the city of New Orleans, including but not limited to providing funding through the United States Department of Housing and Urban Development in the form of Community Development Block Grants to investor-owned utilities for the restoration of electric and gas service damaged by Hurricanes Katrina and Rita; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–251. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to tasking the Government Accountability Office with a complete audit of expenditures by the Federal Emergency Management Agency on Katrina and Rita recovery efforts in Louisiana; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 72

Whereas, Louisiana is struggling to recover from the worst natural disaster ever to be endured by citizens of the United States, a disaster that left no aspect of life unscathed and shredded large swaths of the social fabric of the society of our state; and

Whereas, the challenges we face are so numerous and complex because the destruction was so complete and the diaspora of citizens so extensive; and

Whereas, the depth of the economic crisis alone is unimaginable, not only because of the need to pay for the extraordinary expenses associated with the storm, but also due to the decline of revenue from the economic center of the state, the New Orleans metropolitan area; and

Whereas, beyond our own economic crisis, the Federal Emergency Management Agency (FEMA) has submitted a request for the state to reimburse the agency for a significant portion of its Katrina and Rita recovery expenditures; and

Whereas, FEMA's initial estimates were that it would spend over $41 billion in Louisiana and that the state was obligated to pay more than $3.7 billion of that amount; and

Whereas, there is a prevailing perception among Louisiana leaders and citizens that FEMA has not spent money efficiently as there are reports of contract abuse in which contractors subcontracted for work for pennies on the dollar of what the prime contractor was being paid by FEMA, renting expensive cruise ships when other entities offered to loan ships, and more personal assistance checks being sent to a parish than the number of households in the parish; and

Whereas, not long after FEMA submitted its request for payment to the state, it was revealed that there were accounting errors in the agency's calculations resulting in significant overestimation of its expenditures; and

Whereas, in light of apparent inefficiencies and accounting errors, it is appropriate that the expenditures by FEMA on hurricane recovery in Louisiana be closely audited so as to instill confidence that the amounts Louisiana is expected to pay are fair and reasonable and to evaluate whether proper controls were in place regarding FEMA practices and expenditures; and

Whereas, the Government Accountability Office (GAO) is an independent and nonpartisan agency of the United States Congress that is responsible for evaluating federal government programs and auditing agency expenditures in order to ensure the efficiency of government operations, and the GAO is the appropriate agency to audit FEMA's hurricane recovery expenditures in Louisiana: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States

Congress to task the Government Accountability Office with a complete audit of expenditures, and the appropriateness and reasonableness thereof, and by the Federal Emergency Management Agency on Katrina and Rita recovery efforts in Louisiana; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–252. A resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enjoining the United States Army Corps of Engineers from engaging any contractor in the reconstruction of the levees in the New Orleans area if investigations of levee failures during Hurricanes Katrina and Rita indicate that such contractor performed substandard design or construction work on a portion of a levee that failed; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 18

Whereas, the catastrophic flooding of the city of New Orleans and the surrounding area has had a staggering human and economic impact on not only that region, but the entire state of Louisiana; and

Whereas, the areas which flooded were within a system of levees which ostensibly served to protect the citizens and property within them from flooding; and

Whereas, the American Society of Civil Engineers reported to the United States Congress with respect to poor design and construction of the levee systems in the New Orleans area; and

Whereas, the United States Army Corps of Engineers will be entering into many contracts to rebuild substantial portions of the levee system that protect the New Orleans area; and

Whereas, given the noted inadequacies in design and construction of those parts of the levees that failed, caution should be exercised so that those contractors who performed the work to build the deficient portions are not engaged again in the rebuilding efforts: Therefore, be it

Resolved, that the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to enjoin the United States Army Corps of Engineers from engaging any contractor in the reconstruction of the levees in the New Orleans area if investigations of levee failures during Hurricanes Katrina and Rita indicate that such contractor performed substandard design or construction work on a portion of a levee that failed; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–253. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to adopting S520 and HR 1070, the Constitution Restoration Act of 2005, which will limit the jurisdiction of the federal courts and preserve the right to acknowledge God to the states and to the people and resolve the issue of improper judicial intervention in matters relating to the acknowledgment of God; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 30

Whereas, on Monday, June 27, 2005, the U.S. Supreme Court in two razor thin majorities of 5–4 in Van Orden v. Perry (Texas) and ACLU v. McCreary County (Kentucky), concluded that it is consistent with the First Amendment to display the Ten Commandments in an outdoor public square in Texas, but not on the courthouse walls of two counties in Kentucky; and

Whereas, American citizens are concerned that the court has produced two opposite results involving the same Ten Commandments leading to the conclusion that, based on the Kentucky decision, the Ten Commandments may be displayed in a county courthouse provided it is not backed by a belief in God; and

Whereas, Supreme Justice Scalia emphasized the importance of the Ten Commandments when he stated in the Kentucky case ''The three most popular religions in the United States, Christianity, Judaism, and Islam which combined account for 97.7% of all believers are monotheistic. All of them, moreover, believe that the Ten Commandments were given by God to Moses, and are divine prescriptions for a virtuous life''; and

Whereas, Chief Justice Rehnquist in the Texas case referred to the duplicity of the United States Supreme Court in telling local governments in America that they may not display the Ten Commandments in public buildings in their communities while at the same time allowing these same Ten Commandments to be presented on these specific places on the building housing the U.S. Supreme Court stating ''Since 1935, Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten Commandments adorn the metal gates lining the north and south sides of the courtroom as well as the doors leading into the courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets''; and

Whereas, a recent poll by the First Amendment Center revealed that seventy percent of Americans would have no objection to posting the Ten Commandments in government buildings and eighty-five percent would approve if the Ten Commandments were included as one document among many historical documents when displayed in public buildings; and

Whereas, the First Amendment of the United States Constitution, which provides in part that ''Congress shall make no law respecting an establishment of religion'' is a specific and unequivocal instruction to only the United States Congress and the United States Constitution makes no restriction on the ability of states to acknowledge God, the Supreme Ruler of the Universe; and

Whereas, the federal judiciary has overstepped its constitutional boundaries and ruled against the acknowledgment of God as the sovereign source of law, liberty, and government by local and state officers and other state institutions, including state schools; and

Whereas, there is concern that recent decisions of the court will be used by litigants in an effort to remove God from the public square in America, including public buildings and public parks; and

Whereas, there is pending before the 1st Session of the 109th Congress the Constitution Restoration Act of 2005, which will limit the jurisdiction of the federal courts and preserve the right to acknowledge God to the states and to the people and resolve the issue of improper judicial intervention in matters relating to the acknowledgment of God: Therefore, be it

Resolved, that the Legislature of Louisiana memorializes the Congress of the United States to adopt S520 and HR 1070, the Constitution Restoration Act of 2005 and in doing so protecting the ability of the people of Louisiana to display the Ten Commandments in public placs, to express their faith in public, to retain God in the Pledge of Allegiance, to retain ''In God We Trust'' as our national motto, and to use Article III, Section 2.2 of the United States Constitution to except these areas from the jurisdiction of the United States Supreme Court: Therefore, be it

Resolved, that a copy of this Resolution shall be transmitted to the administrator of the General Services, Washington, D.C., to the secretary of the United States Senate and the clerk of the United States House of Representatives, and each member of the Louisiana delegation to the United States Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 967. A bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes (Rept. No. 109–210).

S. 1063. A bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services (Rept. No. 109–211).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2146. A bill to extend relocation expenses test programs for Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. MURRAY:

S. 2147. A bill to extend the period of time which a veteran's multiple sclerosis is to be considered to have been incurred in, or aggravated by, military service during a period of war; to the Committee on Veterans' Affairs.

By Mr. SESSIONS:

S. 2148. A bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing the Chattahoochee Trace National Heritage Corridor in Alabama and Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. OBAMA (for himself and Ms. MIKULSKI):

S. 2149. A bill to authorize resources to provide students with opportunities for summer learning through summer learning grants; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2150. A bill to direct the Secretary of the Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2151. A bill to authorize full funding of payments for eligible federally connected children under title VIII of the Elementary and Secondary Education Act of 1965 by fiscal year 2011, to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI:

S. 2152. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

By Mr. DORGAN:

S. 2153. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

By Mr. OBAMA (for himself, Mr. KERRY, Ms. STABENOW, Mr. KENNEDY, Mr. WYDEN, Ms. MIKULSKI, and Mr. DURBIN):

S. 2154. A bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KERRY (for himself and Mr. ISAKSON):

S. 2155. A bill to provide meaningful civil remedies for victims of the sexual exploitation of children; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 340. A resolution expressing the sense of the Senate that lenders holding mortgages on homes in communities of Louisiana devastated by Hurricanes Katrina and Rita should extend current mortgage payment forbearance periods and not foreclose on properties in those communities until such time that Congress can consider legislation to provide relief to those homeowners; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself, Mr. FRIST, Mr. REID, and Mr. CONRAD):

S. Res. 341. A resolution commending Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. DOLE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 424

At the request of Mr. BOND, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 512

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 769

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 1139

At the request of Mr. SANTORUM, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maine (Ms. SNOWE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1376

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1376, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1840

At the request of Mr. THUNE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1840, a bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals.

S. 1948

At the request of Mr. SUNUNU, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 1956

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1956, a bill to amend the Federal Food, Drug, and Cosmetic Act to create a new three-tiered approval system for drugs, biological products, and devices that is responsive to the needs of seriously ill patients, and for other purposes.

S. 1964

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1964, a bill to amend the Internal Revenue Code of 1986 to modify the determination and deduction of interest on qualified education loans.

S. 2075

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2075, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S.J. RES. 2

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S.J. Res. 2, a joint resolution proposing an amendment to the Constitution of the United States relative to require a balanced budget and protect Social Security surpluses.

S. RES. 253

At the request of Mr. SCHUMER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 253, a resolution designating October 7, 2005, as ''National 'It's Academic' Television Quiz Show Day''.

S. RES. 320

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 340—EXPRESSING THE SENSE OF THE SENATE THAT LENDERS HOLDING MORTGAGES ON HOMES IN COMMUNITIES OF LOUISIANA DEVASTATED BY HURRICANES KATRINA AND RITA SHOULD EXTEND CURRENT MORTGAGE PAYMENT FORBEARANCE PERIODS AND NOT FORECLOSE ON PROPERTIES IN THOSE COMMUNITIES UNTIL SUCH TIME THAT CONGRESS CAN CONSIDER LEGISLATION TO PROVIDE RELIEF TO THOSE HOMEOWNERS

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 340

Whereas the Gulf Coast of the United States has experienced one of the worst hurricane seasons on record;

Whereas Hurricane Katrina and multiple levee breaks destroyed an estimated 205,330 homes in Louisiana;

Whereas 18,752 businesses in Louisiana, 41 percent of the overall number of businesses in the State, sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas in the time since Hurricanes Katrina and Rita, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in Louisiana and has a backlog of more than 101,400 applications for this assistance as of December 20, 2005;

Whereas of the 11,644 homeowner disaster loan applications that have been approved in Louisiana by the Small Business Administration, only 835 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, credit unions, and other mortgage lenders instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in Louisiana to make mortgage payments until on or about December 1, 2005;

Whereas after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance; and

Whereas foreclosure on homes and businesses in Louisiana will have a detrimental impact on the economy of the State, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily saleable on the open market: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should consider legislation to provide relief to homeowners in Louisiana whose properties were devastated by Hurricanes Katrina and Rita; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

Ms. LANDRIEU. Mr. President, right after Katrina hit the financial services industry responded with compassion to their customers in Louisiana. Every bank, credit union, mortgage broker, and other mortgage holders instituted a 90 day forbearance period during which they did not collect mortgage payments. They deserve to be commended for this policy. They gave peace of mind to the thousands of families who lost their homes to Katrina and Rita, or whose homes were damaged by the storms.

Many of these forbearance periods have now ended, most effective December 1st. I have heard from homeowners throughout the state who are now being told by their lenders that in addition to making December's mortgage payment, they now also have to come up with a lump sum payment for the payments they missed. A lot of these people were under the impression that their loans would be restructured to add the three months on to the end of the loan term. Instead, they are getting a bill for thousands of dollars.

Can you imagine what it must be like for a person in New Orleans or St. Bernard Parish to get this notice from their lender? Their home is gone. Their community has been wiped out. We have lost over 200,000 homes in Louisiana to these storms and more than 18,000 businesses have been destroyed. Personal income in Louisiana has fallen by more than 25 percent in the third quarter of 2005. And now these homeowners—in this kind of situation—face foreclosure.

People in Louisiana are hard working and want to pay what they owe. Most lenders have reported that even with the forbearance period, close to 80 percent of borrowers continued to make their mortgage payments. People who have called my office have said that they can make the monthly payment, but the balloon payment is out of reach and will be for some time.

I was hoping that Congress could pass legislation before we adjourned to establish a Louisiana Recovery Corporation that would bring some stability and guide the redevelopment of the state after these storms. It would create an entity that will give homeowners the opportunity to sell destroyed properties if they feel that it would be in their best interest. The bill that we were working on with the leaders of the Senate Banking Committee—Chairman SHELBY and Ranking Member SARBANES—as well as Congressman BAKER in the House of Representatives, still needed a lot of work. We simply were not going to have time to complete the bill before the holidays. It will be one of my top priorities when we return in the Second Session.

In the meantime, homeowners in Louisiana need more time before they can begin making mortgage payments. Today I am submitting a sense of the Senate Resolution calling on mortgage lenders to continue their forbearance periods through March 31, 2006. This will give the Congress more time to consider and develop legislation to restore peace of mind to our homeowners.

It is my hope that this resolution will prompt the Senate to make passing legislation to give our homeowners peace of mind a priority when we return next year.

SENATE RESOLUTION 341—COMMENDING DR. DOUGLAS HOLTZ-EAKIN FOR HIS DEDICATED, FAITHFUL, AND OUTSTANDING SERVICE TO HIS COUNTRY AND TO THE SENATE

Mr. GREGG (for himself, Mr. FRIST, Mr. CONRAD) submitted the following resolution; which was considered and agreed to:

S. RES. 341

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. OBAMA (for himself and Ms. MIKULSKI):

S. 2149. A bill to authorize resources to provide students with opportunities for summer learning through summer learning grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, I rise today to introduce a bill—the ''STEP UP Act''—to establish grants for summer school enrichment programs to increase the academic skills of students in need.

According to the 2005 Nation's Report Card of Educational Progress, the gap in reading scores between fourth grade children in poverty and their more affluent peers did not decrease between 1998 and 2005. Fewer than half of the fourth graders eligible for free or reduced priced lunch are able to read at even the basic level—a level attained by more than three-quarters of wealthier students. This data confirms that too many of our children are not attaining skills at levels that will lead to success, and too often, it is the children most in need who are left behind by the educational system.

Teachers understand that students return to school in the fall at levels below their performance of the previous spring. Educators know this as summer learning loss. Research has shown that students, on average, lose more than one month of reading skills and two months of math skills over the summer. That is the average.

But the impact of summer learning loss is greatest for children living in poverty, children with learning disabilities, and children who do not speak English at home. Achievement levels for such children often plummet during the summer, so that that the reading skills of disadvantaged students can fall more that three months behind the scores of their more affluent peers. The summer learning losses for children in poverty accumulate over the elementary school years, so these students end up falling further and further behind in school.

Several programs have been successful in countering summer learning loss. The BELL programs and the Teach Baltimore Summer Academy provide evidence that students can achieve months of progress, rather than months of decline, when they participate in structured enrichment and education programs for several weeks during the summer. These programs are successful but reach too few of the students who need them.

The bill I am introducing today establishes a grant program for states to support summer learning in selected local districts. These grants would be used to help students in the early elementary grades who are living in poverty, by supporting their participation in six weeks of summer school. These summer opportunities could be offered by a variety of providers, including the public schools, but also by other community organizations that have shown success in providing educational enrichment, such as youth development organizations, nonprofits, and summer enrichment camps. These summer programs would be aligned with the school year curriculum to increase the reading and math skills of students in need and to provide them with learning opportunities to avoid a path that might otherwise lead to failure in school—a path that too often ends, years later, with these students dropping out of the educational system.

The achievement gap in education begins in the early grades and remains a burden for too many throughout their time in school. It is becoming increasingly clear that much of this early difference can be combated by structured summer learning opportunities. That is the purpose of this bill, and I hope my colleagues will support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2149

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Summer Term Education Programs for Upward Performance Act of 2005'' or the ''STEP UP Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) All students experience learning losses when they do not engage in educational activities during the summer.

(2) Students on average lose more than 1 month's worth of reading skills, and 2 months or more in mathematics facts and skills, during the summer.

(3) The impact of summer learning loss is greatest for children living in poverty, for children with learning disabilities, and for children who do not speak English at home.

(4) While middle-class children's test scores plateau or even rise during the summer months, scores plummet for children living in poverty. Disparities grow, so that reading scores of disadvantaged students can fall more than 3 months behind the scores of their middle-class peers.

(5) Summer learning losses by children living in poverty accumulate over the elementary school years, so that their achievement scores fall further and further behind the scores of their more advantaged peers as the children progress through school.

(6) This summer slide is costly for American education. Analysis by Professor Harris Cooper and his colleagues finds that 2 months of the school year are lost: 1 month spent in reteaching and 1 month spent not providing new instruction.

(7) Analysis of summer learning programs has demonstrated their effectiveness. In the BELL programs in Boston, New York, and Washington, DC, students gained several months' worth of reading and mathematics skills in 6 weeks, with a majority of those students moving to a higher performance category, as assessed by standardized mathematics and reading tests. In the Center for Summer Learning's Teach Baltimore Summer Academy, randomized studies show that students who regularly attended the program for not less than 2 summers gained advantages of 70 to 80 percent of 1 full grade level in reading over control-group peers who did not attend summer school.

(8) Summer learning programs are proven to remedy, reinforce, and accelerate learning, and can serve to close the achievement gap in education.

SEC. 3. PURPOSE.

The purpose of this Act is to create opportunities for summer learning by providing summer learning grants to eligible students, in order to—

(1) provide the students with access to summer learning;

(2) facilitate the enrollment of students in elementary schools or youth development organizations during the summer;

(3) promote collaboration between teachers and youth development professionals in order to bridge gaps between schools and youth programs; and

(4) encourage teachers to try new techniques, acquire new skills, and mentor new colleagues.

SEC. 4. DEFINITIONS.

In this Act:

(1) EDUCATIONAL SERVICE AGENCY.—The term ''educational service agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity that—

(A) desires to participate in a summer learning grant program under this Act by providing summer learning opportunities described in section 6(d)(1)(B) to eligible students; and

(B) is—

(i) a local educational agency;

(ii) a for-profit educational provider, nonprofit organization, or summer enrichment camp, that has been approved by the State educational agency to provide the summer learning opportunity described in section 6(d)(1)(B), including an entity that is in good standing that has been previously approved by a State educational agency to provide supplemental educational services; or

(iii) a consortium consisting of a local educational agency and 1 or more of the following entities:

(I) Another local educational agency.

(II) A community–based youth development organization with a demonstrated record of effectiveness in helping students learn.

(III) An institution of higher education.

(IV) An educational service agency.

(V) A for-profit educational provider described in clause (ii).

(VI) A nonprofit organization described in clause (ii).

(VII) A summer enrichment camp described in clause (ii)

(3) ELIGIBLE STUDENT.—The term ''eligible student'' means a student who—

(A) is eligible for a free lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) is served by a local educational agency identified by the State educational agency in the application described in section 5(b); or

(C)(i) in the case of a summer learning grant program authorized under this Act for fiscal year 2006, 2007, or 2008, is eligible to enroll in any of the grades kindergarten through grade 3 for the school year following participation in the program; or

(ii) in the case of a summer learning grant program authorized under this Act for fiscal year 2009 or 2010, is eligible to enroll in any of the grades kindergarten through grade 5 for the school year following participation in the program.

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(7) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(8) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 5. DEMONSTRATION GRANT PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From the funds appropriated under section 8 for a fiscal year, the Secretary shall carry out a demonstration grant program in which the Secretary awards grants, on a competitive basis, to State educational agencies to enable the

State educational agencies to pay the Federal share of summer learning grants for eligible students.

(2) NUMBER OF GRANTS.—For each fiscal year, the Secretary shall award not more than 5 grants under this section.

(b) APPLICATION.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall identify the areas in the State where the summer learning grant program will be offered and the local educational agencies that serve such areas.

(c) AWARD BASIS.—In awarding grants under this section, the Secretary shall take into consideration an equitable geographic distribution of the grants.

SEC. 6. SUMMER LEARNING GRANTS.

(a) USE OF GRANTS FOR SUMMER LEARNING GRANTS.—

(1) IN GENERAL.—Each State educational agency that receives a grant under section 5 for a fiscal year shall use the grant funds to provide summer learning grants for the fiscal year to eligible students in the State who desire to attend a summer learning opportunity offered by an eligible entity that enters into an agreement with the State educational agency under subsection (d)(1).

(2) AMOUNT; FEDERAL AND NON-FEDERAL SHARES.—

(A) AMOUNT.—The amount of a summer learning grant provided under this Act shall be—

(i) for each of the fiscal years 2006 through 2009, $1,600; and

(ii) for fiscal year 2010, $1,800.

(B) FEDERAL SHARE.—The Federal share of each summer learning grant shall be not more than 50 percent of the amount of the summer learning grant determined under subparagraph (A).

(C) NON-FEDERAL SHARE.—The non-Federal share of each summer learning grant shall be not less than 50 percent of the amount of the summer learning grant determined under subparagraph (A), and shall be provided from non-Federal sources, such as State or local sources.

(b) DESIGNATION OF SUMMER SCHOLARS.—Eligible students who receive summer learning grants under this Act shall be known as ''summer scholars''.

(c) SELECTION OF SUMMER LEARNING OPPORTUNITY.—

(1) DISSEMINATION OF INFORMATION.—A State educational agency that receives a grant under section 5 shall disseminate information about summer learning opportunities and summer learning grants to the families of eligible students in the State.

(2) APPLICATION.—The parents of an eligible student who are interested in having their child participate in a summer learning opportunity and receive a summer learning grant shall submit an application to the State educational agency that includes a ranked list of preferred summer learning opportunities.

(3) PROCESS.—A State educational agency that receives an application under paragraph (2) shall—

(A) process such application;

(B) determine whether the eligible student shall receive a summer learning grant;

(C) coordinate the assignment of eligible students receiving summer learning grants with summer learning opportunities; and

(D) if demand for a summer learning opportunity exceeds capacity—

(i) in a case where information on the school readiness (based on school records and assessments of student achievement) of the eligible students is available, give priority for the summer learning opportunity to eligible students with low levels of school readiness; or

(ii) in a case where such information on school readiness is not available, rely on randomization to assign the eligible students.

(4) FLEXIBILITY.—A State educational agency may assign a summer scholar to a summer learning opportunity program that is offered in an area served by a local educational agency that is not the local educational agency serving the area where such scholar resides.

(5) REQUIREMENT OF ACCEPTANCE.—An eligible entity shall accept, enroll, and provide the summer learning opportunity of such entity to, any summer scholar assigned to such summer learning opportunity by a State educational agency pursuant to this subsection.

(d) AGREEMENT WITH ELIGIBLE ENTITY.—

(1) IN GENERAL.—A State educational agency shall enter into an agreement with the eligible entity offering a summer learning opportunity, under which—

(A) the State educational agency shall agree to make payments to the eligible entity, in accordance with paragraph (2), for a summer scholar; and

(B) the eligible entity shall agree to provide the summer scholar with a summer learning opportunity that—

(i) provides a total of not less than the equivalent of 30 full days of instruction (or not less than the equivalent of 25 full days of instruction, if the equivalent of an additional 5 days is devoted to field trips or other enrichment opportunities) to the summer scholar;

(ii) employs small-group, research-based educational programs, materials, curricula, and practices;

(iii) provides a curriculum that—

(I) emphasizes reading and mathematics;

(II) is primarily designed to increase the literacy and numeracy of the summer scholar; and

(III) is aligned with the standards and goals of the school year curriculum of the local educational agency serving the summer scholar;

(iv) applies assessments to measure the skills taught in the summer learning opportunity and disaggregates the results of the assessments for summer scholars by race and ethnicity, economic status, limited English proficiency status, and disability category, in order to determine the opportunity's impact on each subgroup of summer scholars;

(v) collects daily attendance data on each summer scholar; and

(vi) meets all applicable Federal, State, and local civil rights laws.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State educational agency shall make a payment to an eligible entity for a summer scholar in the amount determined under subsection (a)(2)(A).

(B) ADJUSTMENT.—In the case in which a summer scholar does not attend the full summer learning opportunity, the State educational agency shall reduce the amount provided to the eligible entity pursuant to subparagraph (A) by a percentage that is equal to the percentage of the summer learning opportunity not attended by such scholar.

(e) USE OF SCHOOL FACILITIES.—State educational agencies are encouraged to require local educational agencies in the State to allow eligible entities, in offering summer learning opportunities, to make use of school facilities in schools served by such local educational agencies at reasonable or no cost.

(f) ACCESS OF RECORDS.—An eligible entity offering a summer learning opportunity under this Act is eligible to receive, upon request, the school records and any previous supplemental educational services assessment records of a summer scholar served by such entity.

(g) ADMINISTRATIVE COSTS.—A State educational agency or eligible entity receiving funding under this Act may use not more than 5 percent of such funding for administrative costs associated with carrying out this Act.

SEC. 7. EVALUATIONS; REPORT; WEBSITE.

(a) EVALUATION AND ASSESSMENT.—For each year that an eligible entity enters into an agreement under section 6(d), the eligible entity shall prepare and submit to the Secretary a report on the activities and outcomes of each summer learning opportunity that enrolled a summer scholar, including—

(1) information on the design of the summer learning opportunity;

(2) the alignment of the summer learning opportunity with State standards; and

(3) data from assessments of student mathematics and reading skills for the summer scholars and on the attendance of the scholars, disaggregated by the subgroups described in section 6(d)(1)(B)(iv).

(b) REPORT.—For each year funds are appropriated under section 8 for this Act, the Secretary shall prepare and submit a report to Congress on the summer learning grant programs, including the effectiveness of the summer learning opportunities in improving student achievement.

(c) SUMMER LEARNING GRANTS WEBSITE.—The Secretary shall make accessible, on the Department of Education website, information for parents and school personnel on successful programs and curricula, and best practices, for summer learning opportunities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $100,000,000 for fiscal year 2006 and such sums as may be necessary for each of the fiscal years 2007 through 2010.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2150. A bill to direct the Secretary of the Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I introduce, with my friend and colleague from Oregon, Senator SMITH, a small bill that should pack a big score for ecological education in the City of Eugene. This bill authorizes the transfer of 12 acres from the Bureau of Land Management (BLM) to the City of Eugene on which the City of Eugene plans to construct the West Eugene Environmental Education Center (WEEEC). The WEEEC is a planned campus that will eventually hold laboratories, greenhouses, a reference library, and public gathering places including an exhibit hall, auditorium, and three classrooms. Transfer of this acreage by this bill is the first step towards making the promise of this educational center a reality.

The WEEEC and this bill are supported by the West Eugene Wetland Partnership (Partnership). The Partnership is made up of the BLM, Eugene School Districts, Northwest Youth Corp, and the Willamette Resources and Educational Network (WREN) which was formed to assist in planning, funding, building, and operating portions of this education center. This bill

is also supported by the Oregon and California Counties (O&C counties) who originally had issue with the land transfer because they opposed loss of the 12 acres from the BLM land base. They are now in support of this bill because the City of Eugene has stepped up to the plate and is transferring land they currently own to the BLM to keep the public land roles consistent.

The WEEEC will be the culmination of over a decade of work on the part of local folks to preserve the West Eugene Wetlands. I urge its swift passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2150

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Eugene Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means the city of Eugene, Oregon.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE CITY OF EUGENE, OREGON.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall convey to the City, without consideration and subject to all valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)(1) for the purposes of—

(1) establishing a wildlife viewing area; and

(2) the construction and operation of an environmental education center.

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The land referred to in subsection (a) is the parcel of approximately 12 acres of land under the administrative jurisdiction of the Bureau of Land Management in Lane County, Oregon, as depicted on the map entitled ''Red House Property'' and dated April 11, 2005.

(2) SURVEY.—

(A) IN GENERAL.—The exact acreage and legal description of the land described in paragraph (1) shall be determined by a survey acceptable to the Secretary, including an existing survey.

(B) COST.—If the Secretary determines that a new survey of the land is required, the City shall be responsible for paying the cost of the survey.

(c) REVERSION.—

(1) IN GENERAL.—If the Secretary determines that the land conveyed under subsection (a) is not being used for the purposes described in that subsection—

(A) all right, title, and interest in and to the land (including any improvements to the land) shall revert to the United States; and

(B) the United States shall have the right of immediate entry to the land.

(2) HEARING.—Any determination of the Secretary under paragraph (1) shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2151. A bill to authorize full funding of payments for eligible federally connected children under title VIII of the Elementary and Secondary Education Act of 1965 by fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2151

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Share for Military Children in Public Schools Act''.

SEC. 2. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN UNDER TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Section 8014(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(b)) is amended to read as follows:

''(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8003(b), there are authorized to be appropriated—

''(1) for fiscal year 2007, such sums as may be necessary to pay to each local educational agency for such fiscal year 70.4 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(2) for fiscal year 2008, such sums as may be necessary to pay to each local educational agency for such fiscal year 77.8 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(3) for fiscal year 2009, such sums as may be necessary to pay to each local educational agency for such fiscal year 85.2 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

''(4) for fiscal year 2010, such sums as may be necessary to pay to each local educational agency for such fiscal year 92.6 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b); and

''(5) for fiscal year 2011, such sums as may be necessary to pay to each local educational agency for such fiscal year the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b).''.

Mr. ENZI:

S. 2152. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

Mr. ENZI. Mr. President, I rise today to introduce the Sales Tax Fairness and Simplification Act, a bill that will level the playing field for all retailers—in-store, catalog, and online—so each retailer has the same sales tax collection responsibility. All retail sales should be treated equally. The bill will also help States begin to recover from years of budgetary shortfalls.

This bill is not a disguised attempt to increase taxes or put a new tax on the Internet. Consumers are already supposed to pay sales and use taxes in most States for purchases made over the phone, by mail, or via the Internet. Unfortunately, most consumers are unaware they are required to pay this use tax on purchases the retailer does not choose to collect sales tax on at the time of purchase.

That means consumers who buy products online are required to keep track of their purchases and then pay the outstanding use tax obligation on their State tax forms. This has proven to be unrealistic, but what is real is most people do not know this or do not comply with the requirement. As such, States are losing billions of dollars in annual revenue. This legislation will help both consumers and States by reducing the burden on consumers and providing a mechanism that will allow States to systematically and fairly collect the taxes already owed to them.

This bill is not about new taxes. Simply put, if Congress continues to allow remote sales taxes to go uncollected and electronic commerce continues to grow as predicted, other taxes—such as income or property taxes—will have to be increased to offset the lost revenue. I want to avoid that. That is why we need to implement a plan that will allow States to generate revenue using mechanisms already approved by their local leaders.

This bill is about economic growth. Sales and use taxes provide critical revenue to pay for our schools, our police officers, firefighters, road construction, and more. It will bring more money—money that is already owed—into rural areas that are struggling economically. It will also help businesses comply with the complicated State sales tax systems. That means the business resources that have historically been spent on tax compliance could be used, among other things, to hire new people and buy new equipment.

This bill is about tax simplification. As the Supreme Court identified in the Quill versus North Dakota decision in 1992, the complicated State and local sales tax systems across this country have created an undue burden on sellers. The Quill decision stated that a multitude of complicated and diverse State sales tax rules made it too onerous to require retailers to collect sales taxes unless they had a physical presence in the State of the buyer. Local brick-and-mortar retailers collect sales taxes, while many online and catalog retailers are exempt from collecting the same taxes. This is not only fundamentally unfair to Main Street retailers, but it is costing States and localities billions in lost revenue.

The bill will help relieve this burden by requiring States to meet the simplification standards outlined in the Streamlined Sales and Use Tax Agreement. Working with the business community, the States developed the Agreement to harmonize State sales tax rules, bring uniformity to definitions of items in the sales tax base, significantly reduce the paperwork burden

on retailers, and incorporate new technology to modernize many administrative procedures. This unprecedented Agreement will increase our Nation's economic efficiency and facilitate the growth of commerce by dramatically reducing red-tape and administrative burdens on all businesses and consumers. However, most importantly, the Agreement removes the liability for collection errors from the retailer and places it with the State. This historic Agreement was approved by 34 States and the District of Columbia on November 12, 2002.

The States have made tremendous progress in changing their State tax laws to become compliant with the Agreement. Already, 19 States have enacted legislation to change their tax laws and implement the requirements of the Agreement. On October 3, 2005, the Streamlined Sales and Use Tax Agreement became effective.

This bill requires States to implement and maintain these simplification measures before they can require any seller to collect and remit sales tax. The Streamlined Sales and Use Tax Agreement includes dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for the sellers who sell their products in more than one State. Areas of simplification include exemption processing, uniform definitions, State level administration of local taxes, a reduced number of sales tax rates, determining the appropriate tax rate, and reduced audit burdens for sellers using the State-certified technology.

While the States have made great progress, the Quill decision held that allowing States to require collection is an issue that, ''Congress may be better qualified to resolve, and one that it has the ultimate power to resolve.'' The States have acted. It is now time for Congress to provide States that enact the Streamlined Sales and Use Tax Agreement with the authority to require remote retailers to collect sales taxes just as Main Street retailers do today.

Congress needs to ''level the playing field'' for all retailers—in-store, catalog, and online—so each has the same sales tax collection responsibility. All retail sales should be treated equally. I believe Congressional action is needed to provide States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales and use taxes from remote retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

Senator BYRON DORGAN of North Dakota and I have worked tirelessly to assist sellers and State and local governments to find true simplification in almost every aspect of sales and use tax collection and administration. I want to thank Senator DORGAN for working with me on this policy issue for so many years. We have been successful in moving this issue forward from discussing it at the Federal level with Members of Congress to the drafting of the Streamlined Sales and Use Tax Agreement to approving the Governing Board this year to push forward with implementation.

For the past eleven months, Senator DORGAN and I have worked with all interested parties to try to find a mutually agreeable legislative package to introduce this year. Many hours have been dedicated in trying to find the right solution to address all concerns. I appreciate everyone's hard work on this piece of legislation and believe it is time to introduce the bill before the end of the year.

Senator DORGAN and I will be introducing two separate bills this year, but will continue to work with each other and all interested parties to find compromise on the outstanding policy issues of concern to the stakeholders. Some of the issues that will be further discussed include, but are not limited to, modifications to the small business exception language, inclusion of tribal governments language, and modifications to the language about transactional taxes on telecommunications services. Bill introduction does not stop us from negotiating and working together to improve the final product that should be enacted into public law. I look forward to working with Senator DORGAN and all interested parties to produce a compromise bill in 2006 that addresses all concerns raised over the past year.

The Sales Tax Fairness and Simplification Act provides States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales or use taxes equally from all retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2152

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sales Tax Fairness and Simplification Act''.

SEC. 2. CONSENT OF CONGRESS.

The Congress consents to the Streamlined Sales and Use Tax Agreement.

SEC. 3. SENSE OF THE CONGRESS.

(a) SALES AND USE TAX SYSTEM.—It is the sense of the Congress that the sales and use tax system established by the Streamlined Sales and Use Tax Agreement, to the extent that it meets the minimum simplification requirements of section 6, provides sufficient simplification and uniformity to warrant Federal authorization to Member States that are parties to the Agreement to require remote sellers, subject to the conditions provided in this Act, to collect and remit the sales and use taxes of such Member States and of local taxing jurisdictions of such Member States.

(b) PURPOSE.—The purpose of this Act is to—

(1) effectuate the limited authority granted to Member States under the Streamlined Sales and Use Tax Agreement; and

(2) not grant additional authority unrelated to the accomplishment of the purpose described in paragraph (1).

SEC. 4. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) GRANT OF AUTHORITY.—

(1) IN GENERAL.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized, subject to the requirements of this section, to require all sellers not qualifying for the small business exception provided under subsection (d) to collect and remit sales and use taxes with respect to remote sales sourced to that Member State under the Agreement.

(2) REQUIREMENTS FOR AUTHORITY.—The authorization provided under paragraph (1) shall be granted once all of the following have occurred:

(A) 10 States comprising at least 20 percent of the total population of all States imposing a sales tax, as determined by the 2000 Federal census, have petitioned for membership and have become Member States under the Agreement.

(B) The following necessary operational aspects of the Agreement have been implemented by the Governing Board:

(i) Provider and system certification.

(ii) Setting of monetary allowance by contract with providers.

(iii) Implementation of an on-line multistate registration system.

(iv) Adoption of a standard form for claiming exemptions electronically.

(v) Establishment of advisory councils.

(vi) Promulgation of rules and procedures for dispute resolution.

(vii) Promulgation of rules and procedures for audits.

(viii) Provisions for funding and staffing the Governing Board.

(C) Each Member State has met the requirements to provide and maintain the databases and the taxability matrix described in the Agreement, pursuant to requirements of the Governing Board.

(3) LIMITATION OF AUTHORITY.—The authorization provided under paragraph (1)—

(A) shall be granted notwithstanding any other provision of law; and

(B) is dependent upon the Agreement, as amended, meeting the minimum simplification requirements of section 6.

(b) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authorization provided under subsection (a) shall terminate for all States if—

(A) the requirements contained in subsection (a) cease to be satisfied; or

(B) any amendment adopted to the Agreement after the date of enactment of this Act is not within the scope of the administration of sales and use taxes or taxes on telecommunications services by the Member States.

(2) LOSS OF MEMBER STATE STATUS.—The authorization provided under subsection (a) shall terminate for a Member State, if such Member State no longer meets the requirements for Member State status under the terms of the Agreement.

(c) DETERMINATION OF STATUS.—

(1) IN GENERAL.—The Governing Board shall determine if Member States are in compliance with the requirements of subsections (a) and (b).

(2) COMPLIANCE DETERMINATION.—Upon the determination of the Governing Board that all the requirements of subsection (a) have been satisfied, the authority of each Member

State to require a seller to collect and remit sales and use taxes shall commence on the first day of a calendar quarter at least 6 months after the date the Governing Board makes its determination.

(d) SMALL BUSINESS EXCEPTION.—No seller shall be subject to a requirement of any State to collect and remit sales and use taxes with respect to a remote sale if—

(1) the seller and its affiliates collectively had gross remote taxable sales nationwide of less than $5,000,000 in the calendar year preceding the date of such sale; or

(2) the seller and its affiliates collectively meet the $5,000,000 threshold of this subsection but the seller has less than $100,000 in gross remote taxable sales nationwide.

SEC. 5. DETERMINATIONS BY GOVERNING BOARD AND JUDICIAL REVIEW OF SUCH DETERMINATIONS.

(a) PETITION.—At any time after the Governing Board has made the determination required under section 4(c)(2), any person who may be affected by the Agreement may petition the Governing Board for a determination on any issue relating to the implementation of the Agreement.

(b) REVIEW IN COURT OF FEDERAL CLAIMS.—Any person who submits a petition under subsection (a) may bring an action against the Governing Board in the United States Court of Federal Claims for judicial review of the action of the Governing Board on that petition if—

(1) the petition relates to an issue of whether—

(A) a Member State has satisfied or continues to satisfy the requirements for Member State status under the Agreement;

(B) the Governing Board has performed a nondiscretionary duty of the Governing Board under the Agreement;

(C) the Agreement continues to satisfy the minimum simplification requirements set forth in section 6; or

(D) any other requirement of section 4 has been satisfied; and

(2) the petition is denied by the Governing Board in whole or in part with respect to that issue, or the Governing Board fails to act on the petition with respect to that issue not later than 6 months after the date on which the petition is submitted.

(c) TIMING OF ACTION FOR REVIEW.—An action for review under this section shall be initiated not later than 60 days after the denial of the petition by the Governing Board, or, if the Governing Board failed to act on the petition, not later than 60 days after the end of the 6-month period beginning on the day after the date on which the petition was submitted.

(d) STANDARD OF REVIEW.—

(1) IN GENERAL.—In any action for review under this section, the court shall set aside the actions, findings, and conclusions of the Governing Board found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) REMAND.—If the court sets aside any action, finding, or conclusion of the Governing Board under paragraph (1), the court shall remand the case to the Governing Board for further action consistent with the decision of the court.

(e) JURISDICTION.—

(1) GENERALLY.—Chapter 91 of title 28, United States Code, is amended by adding at the end the following:

"§ 1510. Jurisdiction regarding the Streamlined Sales and Use Tax Agreement

''The United States Court of Federal Claims shall have exclusive jurisdiction over actions for judicial review of determinations of the Governing Board of the Streamlined Sales and Use Tax Agreement under the terms and conditions provided in section 5 of the Sales Tax Fairness and Simplification Act.''.

(2) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by adding at the end the following new item:

''1510. Jurisdiction regarding the streamlined sales and use tax agreement.''.

SEC. 6. MINIMUM SIMPLIFICATION REQUIREMENTS.

(a) IN GENERAL.—The minimum simplification requirements for the Agreement, which shall relate to the conduct of Member States under the Agreement and to the administration and supervision of such conduct, are as follows:

(1) A centralized, one-stop, multistate registration system that a seller may elect to use to register with the Member States, provided a seller may also elect to register directly with a Member State, and further provided that privacy and confidentiality controls shall be placed on the multistate registration system so that it may not be used for any purpose other than the administration of sales and use taxes. Furthermore, no taxing authority within a Member State or a Member State that has withdrawn or been expelled from the Agreement may use registration with the centralized registration system for the purpose of, or as a factor in determining, whether a seller has a nexus with that Member State for any tax at any time.

(2) Uniform definitions of products and product-based exemptions from which a Member State may choose its individual tax base, provided, however, that all local jurisdictions in that Member State shall have a common tax base identical to the State tax base of that Member State. A Member State may enact other product-based exemptions without restriction if the Agreement does not have a definition for the product or for a term that includes the product. A Member State shall relax the good faith requirement for acceptance of exemption certificates in accordance with section 317 of the Agreement, as amended through the date of enactment of this Act.

(3) Uniform rules for sourcing and attributing transactions to particular taxing jurisdictions.

(4) Uniform procedures for the certification of service providers and software on which a seller may elect to rely in order to determine Member State sales and use tax rates and taxability.

(5) Uniform rules for bad debts and rounding.

(6) Uniform requirements for tax returns and remittances.

(7) Consistent electronic filing and remittance methods.

(8) Single, State-level administration of all Member State and local sales and use taxes, including a requirement for a State-level filing of tax returns in each Member State.

(9) A single sales and use tax rate per taxing jurisdiction, except that a State may impose a single additional rate, which may be zero, on food, food ingredients, and drugs, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(10) A Member State shall eliminate caps and thresholds on the application of sales and use tax rates and exemptions based on value, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(11) A provision requiring each Member State to complete a taxability matrix, as adopted by the Governing Board. The matrix shall include information regarding terms defined by the Agreement in the Library of Definitions. The matrix shall also include, pursuant to the requirements of the Governing Board, information on use, entity, and product based exemptions.

(12) A provision requiring that each Member State relieves a seller or service provider from liability to that Member State and local jurisdiction for collection of the incorrect amount of sales or use tax, and relieves the purchaser from penalties stemming from such liability, provided that collection of the improper amount is the result of relying on information provided by that Member State regarding tax rates, boundaries, or taxing jurisdiction assignments, or in the taxability matrix regarding terms defined by the Agreement in the Library of Definitions.

(13) Audit procedures for sellers, including an option under which a seller not qualifying for the small business exception in section 4(d) may request, by notifying the Governing Board, to be subject to a single audit on behalf of all Member States for sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller). The Governing Board, in its discretion, shall authorize such a single audit.

(14) As of the day that authority to require collection commences under section 4, each Member State shall provide reasonable compensation for expenses incurred by a seller directly in administering, collecting, and remitting sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller) to that Member State. Such compensation may vary in each Member State depending on the complexity of the sales and use tax laws in that Member State and may vary by the characteristics of sellers in order to reflect differences in collection costs. Such compensation may be provided to a seller or a third party service provider whom a seller has contracted with to perform all the sales and use tax responsibilities of a seller.

(15) Appropriate protections for consumer privacy.

(16) Governance procedures and mechanisms to ensure timely, consistent, and uniform implementation and adherence to the principles of the streamlined system and the terms of the Agreement.

(17) Each Member State shall apply the simplification requirements of the Agreement to taxes on telecommunications services, except as provided herein. This requirement is applicable to Member States as of July 1, 2008, except that sales and use taxes on telecommunications services shall be subject to the Agreement and the authority granted to the Member States when the requirements of section 4(a) are met. On or after July 1, 2008, for those Member States which meet the requirements of this paragraph, the authority granted such Member States under section 4 may be exercised by such Member States, pursuant to the terms of section 4 and section 5, with respect to taxes on telecommunications services other than sales and use taxes on such services. The following are exceptions to the requirement established under this paragraph:

(A) The requirement for one uniform return shall not apply, provided, however, there shall be one uniform return for each type of tax on telecommunications services within a State.

(B) The requirements for rate simplification are modified to require that each taxing jurisdiction shall have only one rate for each type of tax on telecommunications services.

(C) The requirements for tax base uniformity in section 302 of the Agreement shall apply to each type of tax on telecommunications services within a State, but shall not be construed to require that the tax base for

different types of taxes on telecommunications services must be identical to the tax base for sales and use taxes imposed on telecommunications services.

(18) Uniform rules and procedures for ''sales tax holidays''.

(19) Uniform rules and procedures to address refunds and credits for sales taxes relating to customer returns, restocking fees, discounts and coupons, and rules to address allocations of shipping and handling and discounts applied to multiple item and multiple seller orders.

(b) REQUIREMENT TO PROVIDE SIMPLIFIED TAX SYSTEMS.—

(1) IN GENERAL.—The requirements of this section are intended to ensure that each Member State provides and maintains the necessary simplifications to its sales and use tax system to warrant the collection authority granted to it in section 4.

(2) REDUCTION OF ADMINISTRATIVE BURDENS.—The requirements of this section should be construed—

(A) to require each Member State to substantially reduce the administrative burdens associated with sales and use taxes; and

(B) as allowing each Member State to exercise flexibility in how these requirements are satisfied.

(3) EXCEPTION.—In instances where exceptions to the requirements of this section can be exercised in a manner that does not materially increase the administrative burden on a seller obligated to collect or pay the taxes, such exceptions are permissible.

SEC. 7. LIMITATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller to franchise taxes, income taxes, or licensing requirements of a Member State or political subdivision thereof; or

(2) affecting the application of such taxes or requirements or enlarging or reducing the authority of any Member State to impose such taxes or requirements.

(b) NO EFFECT ON NEXUS, ETC.—

(1) IN GENERAL.—No obligation imposed by virtue of the authority granted by section 4 shall be considered in determining whether a seller has a nexus with any Member State for any other tax purpose.

(2) PERMISSIBLE MEMBER STATE AUTHORITY.—Except as provided in subsection (a), and in section 4, nothing in this Act permits or prohibits a Member State from—

(A) licensing or regulating any person;

(B) requiring any person to qualify to transact intrastate business;

(C) subjecting any person to State taxes not related to the sale of goods or services; or

(D) exercising authority over matters of interstate commerce.

SEC. 8. EXPEDITED JUDICIAL REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality of this Act, or any provision thereof, shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under subsection (a) holding this Act, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) 30-DAY TIME LIMIT.—Any appeal under paragraph (1) shall be filed not more than 30 days after the date of entry of such judgment, decree, or order.

SEC. 9. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) AFFILIATE.—The term ''affiliate'' means any entity that controls, is controlled by, or is under common control with a seller.

(2) GOVERNING BOARD.—The term ''Governing Board'' means the governing board established by the Streamlined Sales and Use Tax Agreement.

(3) MEMBER STATE.—The term ''Member State''—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as of the date of enactment of this Act; and

(B) does not include associate members under the Agreement.

(4) NATIONWIDE.—The term ''nationwide'' means throughout each of the several States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NONDISCRETIONARY DUTY OF THE GOVERNING BOARD.—The phrase ''nondiscretionary duty of the Governing Board'' means any duty of the Governing Board specified in the Agreement as a requirement for action by use of the term ''shall'', ''will'', or ''is required to''.

(6) PERSON.—The term ''person'' means an individual, trust, estate, fiduciary, partnership, corporation, or any other legal entity, and includes a State or local government.

(7) REMOTE SALE.—The term ''remote sale'' refers to a sale of goods or services attributed to a particular Member State with respect to which a seller does not have adequate physical presence to establish nexus under the law existing on the day before the date of enactment of this Act so as to allow such Member State to require, without regard to the authority granted by this Act, the seller to collect and remit sales or use taxes with respect to such sale.

(8) REMOTE SELLER.—The term ''remote seller'' means any seller who makes a remote sale.

(9) STATE.—The term ''State'' means any State of the United States of America and includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(10) STREAMLINED SALES AND USE TAX AGREEMENT.—The term ''Streamlined Sales and Use Tax Agreement'' (or ''the Agreement'') means the multistate agreement with that title adopted on November 12, 2002, as amended through the date of enactment of this Act and unless the context otherwise indicates as further amended from time to time.

(11) TAX ON TELECOMMUNICATIONS SERVICES.—The term ''tax on telecommunications services'' or ''taxes on telecommunication services'' shall encompass the same taxes, charges, or fees as are included in section 116 of title 4, United States Code, except that ''telecommunication services'' shall replace ''mobile telecommunications services'' whenever such term appears.

(12) TELECOMMUNICATIONS SERVICE.—

(A) IN GENERAL.—The term ''telecommunications service'' means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(B) INCLUSION.—The term ''telecommunication service''—

(i) includes transmission services in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such services are referred to as voice over Internet protocol services or are classified by the Federal Communications Commission as enhanced or value added services; and

(ii) does not include the data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the primary purpose of such purchaser for the underlying transaction is the processed data or information.

SEC. 10. SENSE OF THE CONGRESS ON DIGITAL GOODS AND SERVICES.

It is the sense of the Congress that each State that is a party to the Agreement should work with other States that are also party to the Agreement to prevent double taxation in situations where a foreign country has imposed a transaction tax on a digital good or service.

By Mr. DORGAN:

S. 2153. A bill to promote simplification and fairness in the administration and colleciton of sales and use taxes; to the Committee on Finance.

Mr. DORGAN. Mr. President, I have been working closely with Senator MIKE ENZI of Wyoming for several years now on Federal legislation that encourages and rewards State and local governments that radically simplify their sales tax systems by granting them authority to require large sellers to collect taxes on remote sales after substantial simplifications are implemented. This year we have delayed reintroducing related legislation that we cosponsored in the last Congress, S. 1736, primarily due to concerns that some parties have raised about the bill's small business exemption language.

After months of negotiation, there's still disagreement among the stakeholders about how the bill should define small remote sellers who would be exempted from the bill's sales tax collection requirements. Regrettably, the small business exemption issues have not been resolved to the satisfaction of all parties and Senator ENZI is re-introducing essentially our same proposal from the 108th Congress as he promised. I certainly respect his right and decision to do so.

However, I have been working on small business language that I think is a fair approach and will greatly improve the odds that this bill will become law.

The bill I am introducing today is identical to the bill that Senator ENZI is introducing today in every respect—except one. Instead of putting a small business exemption in the bill with a specific dollar threshold, my proposal sets up a process that I believe will help us get to the right answer. Under my proposal, the Small Business Administration (SBA) is required, after considering all relevant factors and soliciting input from the Treasury Department, the Streamlined Sales Tax Governing Board and others, to develop a rulemaking and propose to Congress a definition of those small sellers, including small businesses, which would not be required to collect and remit sales and use taxes. My bill provides

for the expedited consideration of SBA's proposal by the U.S. House and Senate and takes steps to ensure that a small sellers' exemption will ultimately be approved by Congress. States would be allowed to require impacted remote sellers to collect sales taxes only after federally mandated simplification is accomplished and a small business exemption is approved by Congress.

All of the other parts of my bill are identical to those included in Senator ENZI's bill. These provisions also deserve our immediate attention. There are over 7,000 tax jurisdictions across the country that rely on sales taxes to fund a range of local activities, from education and fire suppression to police protection and road construction. But billions of dollars in needed sales tax revenues go uncollected year after year in many jurisdictions due to a ruling by the U.S. Supreme Court in 1992 that said current State and local sales tax systems impose an undue burden on sellers without a physical presence in each State.

Internet and catalog sellers have argued that collecting and remitting sales taxes for thousands of different tax authorities is exceedingly complex. This is a legitimate complaint. And I understand why the U.S. Supreme Court in its Quill decision said that States and localities could not require sellers to collect sales tax on remote sales until the States and localities have first dramatically reduced the complexity and burden of collecting sales taxes.

The States and localities have stepped up to the challenge outlined in the Quill decision. For five years now, the States have been working with the retail community and local governments to develop a streamlined and uniform sales tax system agreement that will alleviate the burden of sales tax collection on local retailers and remote sellers.

The Streamlined Sales and Use Tax Agreement, which was approved by 34 States and the District of Columbia in November 2002, requires participating States to comply with dozens of stringent simplification requirements that streamline how State sales and use taxes are identified and collected. By early next year, 19 States will have enacted legislation to bring them into compliance with the Agreement and will be members of its Governing Board.

By harmonizing their State sales and use tax rules, bringing uniformity to definitions in the sales tax base, significantly reducing the paperwork burden on retailers, and incorporating a seamless electronic reporting process, compliance with the Agreement will result in a significantly reduced tax collection burden on all sellers.

As the volume of remote on-line retail sales grow, states are losing more and more sales tax revenues. An estimated $15 billion in sales and use taxes will go uncollected in 2005. This threatens the future ability of states and localities to make critical investments in even the most basic community services, while forcing local retailers who are required to collect sales taxes today to compete with large remote competitors who are not. Senator ENZI and I are determined to address this problem.

I think that the legislation I am introducing today strikes a reasonable balance between the interests of consumers, local retailers, remote sellers and the states. Having said that, I will be working with Senator ENZI early in the next session to see if we can put together a single approach that would address any remaining concerns about the small business exemption and help us move this legislative effort forward in the next session.

We will also have an opportunity to more fully examine some issues raised by the representatives of local governments and some Indian tribes about the impact of our initiative on their constituencies.

By Mr. KERRY (for himself and Mr. ISAKSON):

S. 2155. A bill to provide meaningful civil remedies for victims of the sexual exploitation of children; to the Committee on the Judiciary.

Mr. KERRY. Mr. President, today Senator ISAKSON and I introduce legislation to increase civil penalties for child exploitation. Our legislation is a small piece of a larger battle that we believe will stop would-be child predators and protect our children. Predators like the ones who exploited Masha, a little girl who was featured on Prime Time Live a few weeks ago, and the thousands of other children who are victims of these horrific crimes.

According to the National Center for Missing and Exploited Children, child pornography has become a multi-billion dollar internet business. With the increasingly sophisticated technology of digital media, child pornography has become easier to produce and purchase. Countless people around the world have instant access to pictures and videos posted on the Internet and, unfortunately, millions of these images are pornographic depictions of infants and children. Masha is one of these children, whose images—hundreds of them—are on the Internet and being downloaded around the world. And while the man who sexually abused Masha and posted the pictures on the web is in jail, the damage has been done and will continue until people stop downloading pictures of her off the internet.

Under current law, a victim of child exploitation is entitled to civil statutory damages in U.S. District Court in the amount of $50,000—less than the civil penalty for illegally downloading music off the internet. This penalty is far too low to effectively deter would-be child pornographers. This legislation increases the civil penalties recoverable by victims of child sexual exploitation, including internet child pornography, to at least $150,000. This increased penalty will serve as a deterrent to those who disseminate and possess child pornography, as well as a means of compensating victims of this terrible abuse. If someone downloads a song off the Internet, Federal copyright law provides for statutory damages to be awarded to the copyright holder in the amount of $150,000. Downloading child pornography is far more detrimental to the victim than downloading copyrighted music and, as a result, the penalty should reflect that.

But it is not only the statutory damages that are flawed. The current statute states that ''Any minor who is a victim of a violation [of the act] may sue in United States District Court''. This language has been interpreted literally by a Federal district court to restrict recovery to plaintiffs whose injuries occurred while they were minors. Thus, when victims turn 18 they cannot recover against their perpetrators even if pornographic images of them as children are still distributed via the internet. Our legislation would clarify the statute to include victims of child pornography who are injured as adults by the downloading of their pornographic images.

This bill takes an important step towards ensuring justice for victims of child exploitation. I would urge speedy passage of this legislation as a stand alone bill or encourage its inclusion in a larger child protection package. It is the very least Congress can do for Masha and the thousands of children like her who have suffered at the hands of these criminals. I thank Senator ISAKSON for his co-sponsorship, and I look forward to working with him and all my colleagues to see that it passes the Senate.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Dr. Marlene Watson and Dr. Gordon Day, fellows in the office of Senator ROCKEFELLER, be granted the privilege of the floor during the Senate's proceedings today.

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

Mr. GRASSLEY. I ask unanimous consent the following Senate Committee on Finance interns and fellows be granted floor privileges during the consideration of the conference report to accompany S. 1932, the Deficit Reduction Act: Melissa Atkinson, Brad Behan, and Amber Mackenzie.

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

COMMENDING DR. DOUGLAS HOLTZ-EAKIN

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 341, which was submitted earlier today. I ask the resolution be read.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 341) commending Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

S. RES. 341

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

There being no objection the Senate proceeded to consider the resolution.

Mr. GREGG. Mr. President, the executive branch agencies have many programs to recognize performance and talent. In the legislative branch, we too often take personal effort and hard work for granted. Unfortunately, the Senate does not possess many ways to recognize excellence, and thank the people who make this institution function so well.

Today, I would like to take a little time to mention something that is not debatable. I think this is simply stating something that all Members, on both sides of the aisle, know only too well.

In the three years that Dr. Douglas Holtz-Eakin has been Director of the Congressional Budget Office, he has led with dedication and integrity. He has provided the Members of Congress with impartial analyses of a wide array of budgetary and economic issues. He has never hesitated to meet with Members and staff regarding any issue. Douglas has always approached his responsibilities with enthusiasm and a desire to make sure that the information CBO provides leads decisionmakers to create better public policy outcomes.

Douglas Holtz-Eakin is the sixth Director of the Congressional Budget Office. He was appointed to that position on February 4, 2003; following an 18-month stint as chief economist for the President's Council of Economic Advisers.

During his tenure, he has certainly made an impression on CBO; leaving behind a legacy that Congress will benefit from for years to come. He has strengthened and improved the transparency of CBO's analytical methods by convening an annual Director's Conference to bring in outside experts to assist the agency in tackling complex economic issues. He also has enhanced the publication production effort by publishing background papers that explain CBO's models and methods, working papers that discuss new analytical developments and improvements, and issue briefs that communicate analyses in a concise manner for those unable to commit the time to more indepth research. Dr. Holtz-Eakin has devoted a great amount of attention to improving the clarity of CBO's work to make it more accessible to policymakers, professional analysts, and the public.

Under Doug's guidance, CBO extended its modeling and analytic capacity; most notably in the critical areas of dynamic analysis and long-term microsimulation. CBO also has begun to apply the tools of modern financial analysis to improve budgetary and economic cost measures.

Prior to his appointment as CBO Director, Dr. Holtz-Eakin already had a remarkable career, distinguishing himself in academia and as a public servant. He is a trustee professor of economics at the Maxwell School of Syracuse University, where he also served as chairman of the Department of Economics and as associate director of the Center for Policy Research. He held positions as editor of the National Tax Journal, associate editor of the Journal of Human Resources, and as a member of the editorial board for Public Budgeting & Finance, Economics and Politics, Journal of Sports Economics, Regional Science and Urban Economics, and Public Works Management and Policy.

Earlier in his career, he held academic appointments at Columbia University and at Princeton University. Since 1985, he has served as a faculty research fellow and research associate for the National Bureau of Economic Research. He has been a consultant to the New Jersey State and Local Expenditure and Revenue Policy Commission, the State of Arizona Joint Select Committee on State Revenues and Expenditures, and the New York State Office for the Aging. He also has served as the Executive Director, Tax Study Commission, New York State Assembly.

Dr. Holtz-Eakin's remarkable career in public service will not end with CBO. He will continue making positive contributions to public policy research as the next Paul A. Volcker fellow in international economics and as the director of the Maurice R. Greenberg Center for Geoeconomic Studies at the Council on Foreign Relations. The council is a nonpartisan research organization that is national in scope and global in its reach.

Doug's quick wit and sense of humor will be sorely missed in the Halls of the Capitol and on the fourth floor of the Ford House Office Building. We wish him good luck in his new endeavors and are grateful for his contributions and work on our behalf. He leaves behind a first-rate professional staff with high morale, testimony to his excellence in leadership. We wish him well.

Mr. CONRAD. Mr. President, I want to join Senator GREGG in commending the public service of Congressional Budget Office, CBO, Director Douglas Holtz-Eakin. Congress will lose a valuable member of the budget community when he leaves CBO at the end of this year to join the Council on Foreign Relations. He has been an exemplary leader for the agency and deserves to be recognized for his outstanding performance.

Director Holtz-Eakin has lived up to the high standards set by his predecessors at CBO. He will be remembered for leading the agency in an open, straightforward, professional, and nonpartisan manner. From day 1, Director Holtz-Eakin has been responsive and helpful on a wide range of requests. And he has repeatedly shown his considerable knowledge of the budget and economic affairs of the Nation.

I was initially concerned about Director Holtz-Eakin's appointment in 2003 to the nonpartisan CBO, because he was coming directly from an administration position, as the chief economist of the President's Council of Economic Advisers. However, Director Holtz-Eakin put my concerns to rest by demonstrating his desire and ability to rise above political pressures and focus on the best interests of the American people.

Notably, Director Holtz-Eakin took a balanced and scientific approach regarding the issue of dynamic scoring. Ultimately, he concluded that the dynamic impact of various fiscal policies could include a range of positive and negative effects and, in any case, was likely to be small.

Although we have faced difficult times for our Nation's budget, Director Holtz-Eakin has provided Congress with crucial information and insight. His expertise, honesty, and good humor will be missed. I commend Director Holtz-Eakin for his public service and wish him the best of luck in his new position.

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 341), was agreed to.

The preamble was agreed to.

ORDERS FOR WEDNESDAY, DECEMBER 21, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Wednesday, December 21. I further ask that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be

reserved, and the Senate then resume consideration of the conference report to accompany S. 1932 as under the previous order. I further ask consent that there be 10 minutes for each leader prior to the vote on the final action on S. 1932.

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

Mr. FRIST. I further ask consent that following the disposition of S. 1932, there then be 1 hour of debate equally divided between the two leaders or their designees for debate only and that following that time the Senate proceed to a vote on the motion to invoke cloture on the conference report to accompany H.R. 2863, the Defense appropriations bill; provided further that the live quorum be waived.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow we are moving to finish our final business. We have several critical matters to dispose of before we break for the holidays, and there will be, as we said earlier, a series of rollcall votes on the deficit reduction conference report starting sometime around 9:15 in the morning. Senators should be prepared for votes throughout the day on the deficit reduction bill, the remaining appropriations conference reports, and other legislative and executive matters which must be disposed of before we adjourn.

Again, as we have said earlier, Senators should stay close to the Chamber throughout the day. It will be a very busy day, and I thank all of my colleagues in advance for their patience. I know this is a very challenging time of year as we juggle planning for the holidays, constituent work, as well as completing our business here.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent in the hour that has been specified for debate following disposition of S. 1932 that the 30 minutes under the control of the Democrats be divided as follows: 2 minutes each for Senators FEINGOLD and BOXER, 3 minutes each for Senators BINGAMAN and LIEBERMAN; that Senator BYRD be extended 7½ minutes; Senator CANTWELL would have 12½ minutes under her control. That uses our 30 minutes.

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

Mr. FRIST. I ask unanimous consent the Senator from Louisiana be given 20 minutes, after which I will come back and close.

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

The Senator from Louisiana is recognized for 20 minutes.

HURRICANE KATRINA RELIEF

Ms. LANDRIEU. Mr. President, we do have some important work to finish tomorrow. That is why I thought I would spend a few minutes tonight reminding my colleagues of a very significant part of that work.

Before I came to work this morning, I spent a little time with our two children, our 8-year-old precious little angel girl, Mary Shannon, and our 12-year-old little boy. We spent some time at breakfast, and then we started doing what a lot of families do around this holiday, and that is listen to some Christmas music and some holiday music and wrap a few gifts that they had actually, amazingly picked out themselves for their Kris Kringles. We talked about how important it was going to be to see family over the holidays. As they struggled to wrap the gifts, with their tape and their scissors, we tried to spend a little family time together before I came to work today.

It reminded me of how simple but wonderfully special those moments are with families at this time of year, as moms and dads make their regular cookies and traditional dinners and recipes and wrap packages the same way and decorate the trees the same way and put out the nativity scenes. And all over the country that is happening.

There is one place that that is not happening the way it usually does and that is along the gulf coast of this country, and particularly in Louisiana.

About 3 months ago, two fierce storms hit our coast. We basically survived through the night, only to wake up the next morning and find the levees had broken, and 200,000-plus homes and 18,000 businesses were destroyed literally in a matter of a few hours.

The devastation was so great and so expansive and so unprecedented that it has literally taken the Nation and this Congress and even officials in the region, major business operations in the region, 3 months or more to actually realize the extent of the devastation.

I have spent a lot of time on the Senate floor with my colleague, Senator VITTER, showing pictures and graphs to try to explain what actually happened. This one isn't fancy. It is simple, but it is pretty clear. When we come down here to try to explain how much help the people of Louisiana need, the people of Mississippi, and to some extent a little bit in Alabama and Texas because of two killer storms, Katrina and Rita, and the multiple levee breaks that ensued, one figure that helped my staff and our people to understand is this chart that shows Hurricane Andrew as the most expensive storm ever to hit the coast of the United States in 1992. They are still recovering from it in Florida.

In that massive storm, 28,000 homes were destroyed—28,000, in Homestead, FL, and in places around. People are still living in trailers after 10-plus, 14 years.

But I have to show my colleagues right here, in Katrina, 3 months ago, a storm and levee break came through and around 275,000 homes, 10 times the amount of Hurricane Andrew, 10 times the amount of destruction.

I was sitting in my home just a few blocks from here with my children this morning, with three rolls of wrapping paper and a couple of pairs of scissors. And, thank goodness, we could find the Scotch tape which is always a challenge when you are wrapping gifts. I had to close my eyes and think about my mother's house that is not occupied now after 45 years of raising 9 children and 37 grandchildren. It had 7 feet of water in it.

And my sisters and our friends and people from all walks of life, rich and poor, Black and White, senior citizens and moms and dads who are looking forward to having their children and grandchildren with them, there are no homes to wrap these gifts or to put the tree or to hang the lights.

I just came tonight to tell my colleagues that while this bill looks like just sort of a regular package of lots of words and lines and fine print, what is in one of these bills tomorrow is a package of hope for the 275,000 families who lived in those homes that were completely destroyed—not a roof damaged, not a porch falling over, not a few steps missing but homes completely destroyed.

I want to show you what a home completely destroyed looks like; 275,000 homes along the gulf coast look something like this. Some of them look worse.

This picture was in the National Geographic a couple of weeks ago. This is what the homes along the gulf coast look like.

That is why I am not going home this Christmas while we will be working as many hours and days as it takes until people like this have some hope that they can get back to their home. It is not just Christmas, which would be impossible in this situation, but at least by next Christmas.

I am going to say again, for the one-hundredth time, FEMA is not sufficient to get us back to our homes, to build our churches again, to rebuild our schools and to rebuild our communities. It is an insufficient mechanism, and on its best day it could not accomplish this goal.

In this package tomorrow in the Defense appropriations bill, because of political concerns of the Congress, we find our $29 billion hope package in there that finally moves money from an agency that can't manage to spend it well into the hands of competent local officials and local entities and private businesses and faith-based organizations and individual Americans who show a lot of grit and a lot of heart to build their State and their community again.

We are not going home without the hope package. It is not fair and America can do better.

This is what the inside of many homes in New Orleans looks like because the water was so high in many of our neighborhoods, even neighborhoods

that had never flooded, neighborhoods that had never had a drop of water before. After several weeks and finally the water went down, this is what families saw all throughout south Louisiana and in New Orleans, St. Bernard Parish, parts of Jefferson Parish, in neighborhoods in some places where the average home is valued at $50,000 to $75,000. But there are also some neighborhoods where the average home is worth $1 million.

In all homes, large and small, rich and poor, this is what families are doing this holiday season. They come up here to Senator VITTER's office and to my office. ''Senator, does anybody know we are down here? Does anybody know we have lost our churches, our schools, our community? Does anybody care? What is Congress doing?''

Because of the good work of many Members of this body, particularly I have to say Senator THAD COCHRAN from Mississippi, who basically refused to accept an anemic and incomplete proposal from the administration that basically sent money to fix a few Federal buildings—I don't see a Federal building anywhere in this picture. I see a family's home. I see everything that they owned destroyed, impossible to reclaim. While you can buy a few sofas—let me assure you that there are many you can choose from—I promise you that the wedding album which was lost is irreplaceable. The pictures of the children are irreplaceable. The special mementos handed down from grandmother to mother to daughter are gone, are priceless and can't be replaced. And no insurance company can provide you sufficient funding for those things that have been lost.

This is what 250,000 homes in Louisiana look like. It is bad enough to lose your home. But I also want to try to impress upon the Members of Congress that losing your home is pretty bad because it is where most people have equity. Most of the net worth of Americans is in their homes. We pride ourselves on being homeowners and a nation of homeowners and middle-class families.

But let me show you what this hurricane and flood did. It destroyed 18,752 businesses, catastrophically destroyed, gone in Louisiana, compared to 1,912 in Mississippi, 295 in Texas, and 20 in Alabama; 18,700 businesses gone, no more; restaurants, cleaners, manufacturers, law firms, doctors' offices, clinics, just gone.

People who are cleaning out their houses are also cleaning out their businesses, and insurance checks are slow to come, and this hope package is stuck right here in Congress.

Last week we had some, I guess, good news about the economic front in America. I think you can read statistics many different ways. But for the RECORD tonight—this came out yesterday—I saw one or two submitted for the RECORD. The Bureau of Economic Analysis in the U.S. Department of Commerce, which issued the growth rate of State personal income, says the hurricane slowed personal income growth.

You can see in a different case, but there is an absolutely dead, stop, halt, reverse taking place in Louisiana. There is a 25 percent reduction in personal income growth in Louisiana. There is no State in the Nation even close.

Mississippi was hard hit, and I do not underestimate the destruction along that gulf coast which we love, as I have said as many times as I can, almost as much as we love Louisiana because many people in Louisiana grew up on the gulf coast and spent many happy days on those beaches. Mississippi has grown .8 percent. The national average was something closer to 1.8 percent. Look at the dramatic fall in Louisiana. There is nothing close: 25 percent reduction.

What we are trying to say is it was not just a regular hurricane. It was not just the second hurricane. It was a multiple break of Federal levees that this Congress had the responsibility to build, to design, and to maintain, which we utterly failed to do, and we lost 250,000 homes.

What do we tell those people? You are on your own? Go gather up your church members and see if you can raise a roof? The churches are not there, either. Go to your school and gather up your community and let's just be self-reliant and raise ourselves up by our bootstraps. The school is gone. There is no cafeteria. There is no multipurpose room. There is no auditorium.

Least week, I went home and attended a church service briefly. It was amazing to walk into a church where the roof was still sort of caved in halfway—not dangerous but hanging; you could see the top of the roof, the inside of the roof was damaged—with 1,500 people in this church. You look out the front door of the church, and there are no homes anywhere around that are inhabitable. You wonder, Where did the people come from? People drove, from what Father Vien told me, 2 and 3 hours to come to Mass. People are driving half a day to go back to their church to say Mass and to be in church with their community—that is how meaningful it is—with the hope that maybe someday they can get back to their neighborhood.

I am not saying that Members of this Congress individually have not tried. There have been heroic efforts made, I believe, with what Senator ENZI has done in our education package; Senator KENNEDY. Senator COCHRAN and Senator LOTT have worked tirelessly. Senator VITTER has been in this Senate and in many meetings and has taken Senators to Louisiana.

We cannot go home without help. We cannot go home without help. If this package is not passed tomorrow—and I didn't package it in the bill it is packaged in, which is Defense—we cannot go home without our $29 billion hope package, moving money from FEMA, finally, thank goodness; not adding money to the deficit but moving that money to community development block grants to use in an expanded way; $3 billion to protect our levee system, to give people hope and security that as we begin the plan for rebuilding, they will not be flooded again; help for our universities; help for our medical schools; help for the infrastructure, the major highways that have been destroyed. We cannot go home without that hope package.

I hope my colleagues know what is at stake. I know everyone is anxious to get home to their families and to their children. I am looking forward to spending some off time with my family. We cannot leave without passing that package of hope for the people on the gulf coast. I am prepared to work through Thursday, Friday, Saturday, and into Christmas on Sunday if we have to until we can get this package done. If I thought we could wait until January, we could take a break and come back—we cannot. People are holding on by a thread.

Banks are threatening to foreclose on people's houses. Having given them forbearance for 3 months, they are now sending people notices that they will have to pay their mortgage in January. But not just the January mortgage; they have to pay four mortgages in the month of January. So the people who have lost 1 of the 18,000 businesses, the people whose homes look like this, they are being asked to pay 4 months of a mortgage on this home. This family is having trouble getting a trailer to live in. Meanwhile, they have to pay mortgages on this home. If not, they will be foreclosed. All the equity they built up, which could be considerable—several hundred thousand in some cases, sometimes more, maybe even over $1 billion of equity—lost, not because there isn't a solution to their dilemma but because this Congress and this administration haven't figured out, haven't worked hard enough to give them a helping hand.

These people aren't looking for charity. They give to charity. Most of the people in Louisiana who have lost their homes have never asked for a penny from anybody. All they have been doing is digging in their pocket for the last 50 years as a family. They make a little bit of money and give to people in more need. Now the middle-class families who never asked for a thing need help from us, and we can't figure out how to get their hope package through?

I express that I am prepared to stay through Christmas day, if need be, and beyond, to get this package through. I will read into the record a beautifully written paragraph from a new book that is out which is written by Tom Piazza, ''Why New Orleans Matters.''

I am the Senator for the whole State, and I love all 64 parishes. It is quite a special place and one we will fight hard to restore. The southern part of our

State has been very hard hit. Thank goodness our capital city of Baton Rouge is standing up very strongly. They have grown from a city of 350,000 to a city of 500,000 over the weekend, 3 months ago. The mayor of that city, ''Kip'' Holden, has now had to take on an additional 150,000 citizens and is managing very well under the circumstances. Lafayette is in the southwest and is part of Cajun Country. They have probably increased 50,000 or 60,000. New Orleans is my hometown, and it is something we will fight hard to restore. It is representative of the spirit of all of Louisiana.

I will read into the record in closing why this fight is worth having and why we are not going to give up until we get the help, the money, the tools, and the support.

He writes:

New Orleans is not just a list of attractions or restaurants or ceremonies, no matter how sublime and subtle. New Orleans is the interaction among all these things and countless more. It gains its character from the spirit that is summoned, like a hologram, in the midst all these elements, and that comes, ultimately, from the people who live there, and from those whose parents and grandparents and ancestors lived there. That spirit, as much as, or more than, the city's physical and economic infrastructure, is what is in jeopardy right now. In the wake of the worst natural disaster in this country's history, one from which New Orleans, and the rest of the country, will be digging out for years, it may be good to remember what has been lost, and to think hard about what is worth fighting to save.

I plan to fight with all of my strength and energy and commitment to save this wonderful city, to save south Louisiana, which has given so much, and to fight hard for people who only ever expected their Government to meet them halfway, for this Federal Government to be what it was created to be, which is a help to people in time of need. We are going to be here through Christmas if we have to.

I thank all of my colleagues for their patience and forbearance. Many of them have stepped up beyond the call of duty to help a State they do not even represent. But, of course, as Senators, they know the need of people in times like these.

I look forward to the debate tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands in adjournment until 9 a.m. tomorrow.

Thereupon, the Senate, at 8:59 p.m., adjourned until Wednesday, December 21, 2005, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 20, 2005:

DEPARTMENT OF DEFENSE

JAMES I. FINLEY, OF MINNESOTA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY, VICE MICHAEL W. WYNNE.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

STEPHEN GOLDSMITH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2010. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

SHAREE M. FREEMAN, OF VIRGINIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

CONNIE M. ROOKE, 4089

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

To be lieutenant

JOSEPH T. BENIN, 6446

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL J. OSBURN, 0220

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MARGARETT E. BARNES, 5587
DAVID E. UPCHURCH, 2784