THE BUDGET

Mr. MCCONNELL. Mr. President, I understand this is fiscal responsibility week on the Democratic side of the aisle. It is a good time to talk about that and to talk about the strength of the American economy. It is certainly no secret to any in Congress or to the American people that when the President came to office we had a terrorist attack, we have had corporate accounting scandals, a bursting stock bubble, and, of course, our share of natural disasters.

In spite of all that, our economy is in extraordinarily good shape. It is very strong, and it is not by accident. It is a direct result of the policies of the President of the United States and of the Republican Congress.

Since the enactment of the Jobs and Growth Act of 2003, more Americans are working than ever before. Five million new jobs have been created since May 2003 alone. Unemployment is at 4.8 percent. That is lower than the average of the 1970s, the 1980s, and even the boom 1990s that our good friends on the other side of the aisle claim is the best the economy could ever do. Current unemployment is lower than the average of the 1990s.

Home ownership, the American dream, has reached an all-time high and remains near that high today. The stock market, a good way to measure prosperity, is up more than 2,500 points since May 1, of 2003. That is nearly a 30-percent increase in the stock market since we passed the Jobs and Growth Act of 2003.

Americans have more money in their pockets. Aftertax income is up 7.9 percent since President Bush took office. We cut the capital gains tax rate. I remember all the comments on the other side of the aisle about how this was a tax cut for the rich and how it was going to cost the Government all kinds of revenue. The results are in. By cutting the capital gains tax rate, we increased the revenues to the Federal Government by $20 billion. In other words, the receipts from capital gains went from $58 billion, when we had a higher rate, to $78 billion with a lower rate, exactly as the occupant of the chair, myself, and these in the Bush administration predicted. Cutting capital gains tax produces more revenue for the Government. Now we have proven that to be the case.

We are taking more important steps to put our fiscal house in order. The deficit reduction bill which the President signed within the last month actually reduces the deficit by $40 billion for the first time since the late 1990s. It is an actual deficit reduction bill, a reduction in the entitlement spending, one of the hardest things to do around here. We did not pass it by a landslide, but we got it done.

What is this all about? It is all about the American people. The Government does not create jobs and opportunity; the private sector does. The policies of the President and the Republican Congress have stimulated the private sector, allowed our country to work its way through some of the most dramatic setbacks imaginable, from the first big terrorist attack—hopefully the last one on our soil—corporate scandals, the stock market bubble bursting, all of that, and yet our economy is roaring.

What do our good friends on the other side of the aisle think the prescription is in the wake of this riproaring economy and all of this success? We saw some of it in the Committee on the Budget last week. First, they want to increase the discretionary cap on this budget we are now considering, increase that by $19 billion. In other words, have some more spending over and above what the President has recommended and what the budget that came out of the Committee on the Budget recommends, $873 billion. They want to increase that by $19 billion. They also would have mandatory spending increases of $109 billion. The President just got through signing, after Congress passed, a deficit reduction bill to reduce mandatory spending by $40 billion over the next 5 years and the Democrats on the Committee on the Budget want to increase it by $109 billion. That will wipe out all those savings and add another $50 billion or so on top of it.

Our Democratic friends also proposed tax increases of $134 billion in the committee last week. It strikes me that their solution in the wake of this stunningly robust economy we find ourselves with is to tax and spend, the old formula.

I hope we will not go down that road as we move toward passing the budget this week. We have an opportunity to demonstrate that we are willing to restrain ourselves, that we are willing to cap the rate of discretionary spending. We will have that vote at the end of the week. I hope it will be successful.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2007—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 p.m. having arrived, the Senate will resume consideration of the budget resolution, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 83), setting forth the congressional budgets of the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I listened to the very able Senator from Kentucky. His description of this budget does not quite fit the budget I have seen, both in the Senate and in the committee. He talks about deficit reduction. There is no deficit reduction here. Let's be clear with people. There is no deficit reduction.

He talks about the deficit reduction bill offered last year by the Republicans. They called it ''deficit reduction,'' but there was no deficit reduction. They cut taxes $70 billion, cut spending $40 billion. Do the math. That did not reduce the deficit. It increased the deficit. Is the deficit going to be lower this year after their deficit reduction bill? Or is it going to be higher? It is going to be higher. There is more deficit after their deficit reduction bill of last year. Not only is there more deficit, but there is a whole lot more debt.

Let me say to my colleagues, here is what is happening under our colleagues' fiscal plan. Here is what is happening to the debt of the country. When President Bush came in at the end of his first year—we do not hold him responsible for the first year because that is operating under the previous year's Presidency—at the end of his first year the debt was $5.8 trillion. At the end of this year, the debt will be $8.6 trillion. If this budget is adopted, this 5-year budget, at the end of the 5 years the debt will be $11.8 trillion. And they are talking about deficit reduction? Where? Where is it? Show me. Show me where they are reducing the deficit. This is the debt of the country. The debt is skyrocketing under their plans.

Now the Senator talks about their deficit reduction plan of last year. This is last year. The deficit was $319 billion, one of the biggest ever. In fact, in the 5 years of this Presidency, he has had—count them—four, when this year is complete, four of the biggest deficits in the history of the country. In dollar terms, the four biggest.

Last year, the deficit was $319 billion. The Congressional Budget Office says if this budget is agreed to, this year the budget will be $371 billion based on the President's proposal. Actually, the proposal in the Senate is a little worse, at $371 billion. Is $371 billion more of a deficit than $319 billion or less? This is after their big deficit reduction plan. There is no deficit reduction.

What about going forward? What will happen going forward? Here is what will happen, going forward, to the debt of the country. They say the deficit will go down each and every year of this budget. Well, not quite. The last year they say it blips up a little. They claim the deficit will be going down. But, of course, they have left out some pretty big things. They have left out any war costs past 2007. They have left out any cost to fix the alternative minimum tax passed this year. Over 10 years, that costs $1 trillion to fix. That is a big item. They have left out the associated interest costs of those items,

which is ''other'' on the chart. They have also left out the money they are taking from Social Security each and every year of this budget, all of which gets added to the debt, all of which has to be paid back.

So when we add it all up, here is how much the debt is going to grow under the plan before the Senate: In 2007, it will go up $680 billion. Not the deficit they are talking about of $319 billion; the debt will go up $680 billion. The next year it will go up $656 billion; the next year it will go up $635 billion; the next year it will go up $622 billion; the next year it is going up to $662 billion.

Is there any improvement here? They are talking about deficit reduction, they are talking about their improving the fiscal picture of the country. No, they are not. The debt is going to grow every year by more than $600 billion. The result is going to be at the end of this period, the debt of our Nation will reach $11.8 trillion. Now I project at the end of this year it will be $8.6 trillion. By the way, they are getting ready to increase the debt limit by almost $800 billion in 1 year. We are going to have that vote this week.

So when they say they are reducing the deficit, it is just talk. There is no reduction in the deficit going on here. In the deficit reduction package they say they had last year, the deficit went up, and the deficit is going up under their deficit reduction package. So let's be straight with people.

Now, my colleague called the economy ''stunningly robust.'' No, the economy is not stunningly robust. In fact, the unemployment rate just went up. The unemployment rate just went up from 4.7 to 4.8 percent. That is not good news. That is going the wrong way.

But I think of more concern is, if you compare this recovery to the nine previous recoveries since World War II, what you see is this one is far weaker than the average of the nine previous recoveries.

Let's look at what the numbers show. Here is real median household income, as shown on this chart. Now, this would tell us whether the economy is doing well. If this is such a robust economy, why isn't household income going up? It is not going up. It is going down. Real median household income has declined 4 years in a row.

To try to determine what is happening with this economy, we went and looked at all the recoveries since World War II. Here is what we found. On average, at this stage of recovery, the economy would be growing at 3.2 percent a year. That is what we have seen in the previous recoveries: 3.2 percent growth; this recovery: 2.8 percent. It is weaker than the average of the nine previous recoveries.

That is not the only indicator that things are not going as well as we have seen in other recoveries. For the nine other recoveries since World War II, this dotted line on the chart shows business investment. The black line shows this recovery. It is 62 percent behind the average of the nine previous recoveries.

My colleague just talked about how strong job growth has been. No, job growth has not been strong. We went and looked at the nine previous recoveries since World War II. This dotted red line on the chart shows the average. This black line shows this recovery. And, look, we are 6.6 million private sector jobs short of the typical recovery. So when they say things are going great, that is not what any serious analysis reveals.

What any serious analysis reveals is that this recovery is lagging in a substantial way behind the nine recoveries since World War II. It is lagging in business investment by 62 percent. It is lagging in economic growth—3.2 percent is the average of the nine previous recoveries, and in this period, 2.8 percent. On job creation, we are 6.6 million private sector jobs behind the average of the nine other recoveries since World War II.

But I said this morning the debt is the threat. And here it is, as shown on this chart. Our friends on the other side have been in charge since 2001. This is their record. This is what has happened under their fiscal plan.

The President told us if we adopted his fiscal plan, he would have maximum paydown of the debt. Remember? He was going to virtually eliminate the debt. It has not worked out that way. Not only has there been no reduction in the debt, the debt has skyrocketed, and the debt has gone up approaching—well, with this latest increase that is being sought that they want to vote on this week—the debt under this President will have gone up $3 trillion. If we adopt this plan, it is going to go up another $3 trillion.

That is the hard reality of what we see before us. If you love debt, you are going to love this budget plan. Our friends on the other side accuse us of tax and spend. They are guilty of spend and borrow. Borrow and spend, borrow and spend, spend and borrow, borrow and spend, spend and borrow—that is their policy, to drive us deep into debt.

As I showed on the Senate floor, one of the most alarming things is, increasingly, this debt is financed by foreigners. About half of our debt now is held abroad. This morning I showed what an incredible legacy this President is going to leave because it took 42 Presidents 224 years to run up $1 trillion of external debt, debt held by foreigners. This President has more than doubled that in 5 years. That is truly stunning.

Let me repeat, it took 42 Presidents 224 years—in fact, here is the chart I used this morning that shows it—it took all these Presidents, from George Washington to Bill Clinton—42 Presidents—224 years. Some of them were sons of Virginia. The occupant of the chair is a proud representative of Virginia. They were much more careful with public money than this President. It took all these Presidents—42 of them—224 years to run up $1 trillion of external debt. This President has more than doubled it, in fact, substantially more than doubled it, in just 5 years.

Now, as a result of this, we owe Japan over $700 billion. We owe China over $250 billion. Here it is, as shown on this chart: Japan; China; the United Kingdom, my favorite; the Caribbean banking centers. We owe the Caribbean banking centers $111 billion. I sometimes ask audiences back home: Are any of you doing your banking in the Caribbean? I get very few takers on that. Somebody is doing their banking in the Caribbean, and we are borrowing huge amounts of money from them. We owe Taiwan over $70 billion. We owe South Korea over $66 billion.

Now, whatever else is going on, No. 1, this fiscal plan is not working as advertised. The President said, very clearly, he was going to have maximum paydown of the debt. The debt is skyrocketing, and when our friends come out here and say, well, they have a deficit-reduction plan, where is it? It certainly is not in this budget that is going to increase the debt over $3 trillion over the next 5 years.

This year, the deficit, according to the Congressional Budget Office, is going to be bigger than the deficit last year, after our friends came out here and said they had a deficit reduction plan. In fact, they passed it and they labeled it ''deficit reduction,'' but the deficit is going up, not down. So their deficit reduction plan, like all these other plans they have come out with, has not worked.

The President said he was going to have maximum paydown of the debt. The debt is increasing. They say they have a deficit reduction plan. The deficit is increasing, not being reduced.

And talk about economic recoveries, this is one of the weakest economic recoveries of the nine we have had since World War II. Something is not working. I believe one of the things that is not working is that this pileup of debt is creating an enormous weight on our country. At some point we have to take this on. This budget does not do it. My own belief is, the only way we are going to take this on is to do it together, Democrats and Republicans. Democrats certainly cannot do it. We are in the minority. I do not think Republicans can do it alone because they have proven they are not going to do it. And if they wanted to do it, I do not believe they could do it on their own. I think this is going to take us working together. And the sooner we get together and the sooner we face up to this, the better off our country will be.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join in the desire of the Senator from North Dakota to move forward in a bipartisan way.

We could start by approving this budget in a bipartisan way. But independent of that, I agree, we—and we

have talked about this; actually I think we are the only two people talking about this, but we have talked about trying to develop a framework where we could actually address this issue.

But that is a global settlement. I would like to see it done. It is going to have to address Medicare. It is going to have to address Medicaid. It is going to have to address Social Security. It is going to have to address revenues. And it needs to be done sooner rather than later. But it is such a large idea that it is not going to occur this week.

This week, what is going to occur, hopefully, is a step forward in the exercise of disciplining ourselves through budget processing, setting out a blueprint which defines where the Federal Government is going to spend money, how it is going to spend money, and constrains the Federal Government, especially on the discretionary side of the ledger. I would like to have constrained the Federal Government a little bit in its rate of growth on the entitlement side of the ledger, but that is not possible, primarily because I get no votes from the other side of the aisle.

The Senator from North Dakota has made a point of talking about economic statistics relative to what the Bush administration and the Republican leadership have done relative to this economy. His structure and definition of this is, it is sort of dire, this economy. Well, that is hard to accept on its face. This is not a dire economy. In fact, it is a fairly robust economy that has gone through very significant growth now for 5 years.

We have had 17 consecutive quarters of expansion of this economy. That is big, 17 consecutive quarters. We came out of one of the most difficult times, from an economic standpoint, in the history of this country, probably the most difficult time in the postdepression period, when we had the largest bubble in history, the Internet bubble collapse, and when we were attacked and America was at war and found the essence of our economy—Wall Street—basically destroyed in the World Trade attack.

So they were double blows to our economy, and yet we have responded as a government the right way. We cut taxes. We gave people an incentive to go out there and be productive and create jobs. The response has been that people have gone out, risked their capital, taken risks, been entrepreneurs, created small business, and created jobs.

We have had 17 consecutive quarters of expansion of this economy, which is a lot of growth. We had a 3.5-percent rate of growth in 2005. That is higher, as an average, than the 20-year average of the prior 20 years. We are growing at a rate faster than the average over the last 20 years.

Just last month, the Bureau of Labor Statistics announced we created 243,000 new jobs. That is a huge jump in new jobs when you put it in the context of the fact that for 30 straight months we have been creating new jobs in this economy. Literally, 5 million new jobs have been created in this economy since 2003. It is a result, in large part, of the economic engine created by giving people the right to be investors and entrepreneurs and capitalists and market-oriented, taking risks and creating jobs—5 million new jobs. Do you know how many jobs that is? That is more jobs than was created in Japan and Europe combined. I would point out that Japan and Europe combined have a population which is about half, again, larger than the United States.

So we have had 17 quarters of consecutive growth. We have had 3.5 percent GDP growth, which is above the economic average for the last 20 years. We have had 5 million new jobs created. Just last month, we added 243,000 jobs. Those are pretty good numbers.

Let's put it in the context of the Bush administration versus the Clinton administration.

Real disposable income—which is basically the essence of what you really look at when you are talking about how people's lives are getting better or worse—has increased $1,905 since President Bush has been in office, which has been for about 5 years, 4½ years.

Under President Clinton, what was the increase? For the last term of his office, the last 4 years when he was in office, during this period, when we were going through this economic bubble, real disposable income only went up $1,500.

So this President has exceeded the rate of growth, in real disposable income, of the Clinton final 4 years, for which we hear so much about what a great job President Clinton did on the economy. And except for the fact he did not control the bubble, the fact is, the economy did pretty well during his administration.

Real hourly compensation has gone up 8.9 percent during this same period, whereas if you compare it to President Clinton's second term, real hourly wage growth went up only three-tenths of 1 percent.

The rate of growth of a person's actual wages has jumped dramatically in comparison to the Bush years versus the last 4 years of President Clinton. This is true economic growth. It is hard to deny that. You can deny it, you can be pessimistic about it, but the fact is the economy is doing very well, especially in the context of the fact that we are fighting a war on terrorism in the middle of all this, which has been a fairly significant stress on our economy, and that we had the largest natural disaster in the history of our Nation—exceeding even the San Francisco earthquake of 1906—in the Katrina and Rita storms in the Gulf States which essentially wiped out one of the great engines of our economy, the Gulf States, especially in the area of energy production. Still the economy grows.

In fact, interest rates—I remember the Senator from North Dakota making a statement, I think it was last year, maybe the year before, saying that interest rates were going to have to go up because the Federal Government was crowding out borrowing—haven't gone up. Interest rates continue basically to be affordable in the context of historical interest rates. Yes, they are off a historic low, but they are still well below what is the historic mean for interest rates.

So the economy is not only not dire, it is rather robust. It is robust in large part because of the fact that we made the right decisions at the beginning of this administration on the issue of tax policy. We gave people an incentive to be productive, an incentive to invest, to take risks, all of which translates into jobs, and jobs translate into more revenue for the Federal Government.

We have gone through the charts of how much the revenue to the Federal Government is jumping as a result of this economic activity. It is a consistent statement made by the Senator from North Dakota that the economy is terrible, but I don't think it is a correct statement.

Furthermore, this budget is obviously not a magic wand. It doesn't have the capacity to say: Eliminate the debt or eliminate the growth of the debt as we fight this war and we face issues of financial pressure. But without this budget, the debt will be significantly larger. In fact, as has been said before, spending will go up if the Democratic proposals that came out of committee are allowed to pass. Taxes will also go up because they propose tax increases. But that will have no impact on the debt. That is a wash, according to their representation. They spend $120 billion, and they raise taxes $125 billion or something like that, so they may have gotten $5 billion over 5 years back for deficit reduction. We usually underestimate the spending in those programs and we usually overestimate the revenue, especially when you are talking about loophole closing. That definitely usually overestimates revenue. So I suspect we would have found the debt would have increased, too.

But giving them the benefit of the doubt, there is no initiative here on the floor—and there was no initiative in committee—which significantly addresses the debt other than the budget that is before us which puts a hard freeze on nondefense discretionary spending. That addresses the debt. That means that next year you will add less to the deficit than you would have if you didn't have that hard freeze. It is not a big number in the context of the overall issue, but it is a big number by New Hampshire standards. It represents billions of dollars which will not be added to the deficit and therefore not added to the debt. That is a positive.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the Senator from New Hampshire has very

ably used the oldest debate tactic known to man, which is the straw man argument. He suggested I have said that the economy is terrible. Those are not my words. I have not described the economy as terrible. I have described the economy as not performing as well as it has in other recoveries since World War II.

Let me repeat: Real median household income has declined 4 straight years. That is not a sign of economic strength; that is a sign of economic weakness. The economic growth in this recovery has substantially lagged the economic growth we saw in the other nine recoveries since World War II. In the other recoveries since World War II, economic growth averaged 3.2 percent. In this recovery, it is averaging 2.8 percent.

On business investment, this dotted line is the average of nine previous recessions. This recovery is the black line. It is 62 percent behind what we have seen in the other nine recoveries since World War II. That is also true of job creation. The red dotted line is job creation and the average of nine recessions since World War II. The black line is this recovery, 6.6 million private sector jobs behind.

The most dramatic result is this: This is how our friends have propped up the economy. They have done it by running up the biggest debt in the history of America. Their proposal in this budget is to keep on doing it, more debt on top of debt that is already at record levels. When this President came in, at the end of his first year the debt was $5.8 trillion. At the end of this year, it will be $8.6 trillion, headed for $11.8 trillion if this budget is adopted. That is the wrong course for America. It is a mistake, and we will regret it deeply if we allow this to go forward. That is why this budget ought to be defeated. Only if this budget is defeated are we going to have a chance to change course and get America on a firmer fiscal footing.

I yield the floor.

AMENDMENT NO. 3002

The PRESIDING OFFICER. The Senator from New Hampshire.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 3002.

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

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

The amendment is as follows:

(Purpose: To make technical and conforming amendments)

On page 3, line 11, strike ''$1,694,445,000,000'' and insert ''$1,694,455,000,000''.

On page 3, line 23, strike ''reduced'' and insert ''changed''.

On page 21, line 3, strike ''$441,150,000,000'' and insert ''$411,150,000,000''.

On page 28, line 15, after ''000'' insert '',000''.

On page 28, line 16, after ''000'' insert '',000''.

On page 29, line 18, strike ''by $0 for fiscal year 2007 and''.

On page 42, strike beginning with line 11 and all that follows through page 43, line 4, and insert the following:

SEC. 311. DEFICIT-NEUTRAL RESERVE FUND FOR CHRONIC CARE CASE MANAGEMENT.

If the Senate Committee on Finance reports a bill or joint resolution, or an amendment is offered thereto or a conference report is submitted thereon, that would provide $1,750,000,000 to the Centers for Medicare and Medicaid Services (CMS) to create a demonstration project or program that assigns a case manager to coordinate the care of chronically-ill and other high-cost Medicare beneficiaries in traditional fee-for-service Medicare, the Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other appropriate levels and limits in this resolution by the amount provided in such measure for that purpose, provided that such legislation would not increase the deficit for the period of fiscal years 2007 through 2011.

Mr. GREGG. This is an amendment to make corrections to the resolution so it conforms to the resolution as ordered reported by the committee. It has been agreed to by both sides. I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, reserving the right to object—I certainly will not object—this is something both sides are in complete agreement on. I ask my colleagues to understand that this is a technical matter to make certain that the resolution conforms to what was done in committee.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 3002.

The amendment (No. 3002) was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. CONRAD. I see the Senator from Massachusetts seeking recognition. I yield the Senator 20 minutes off the resolution.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank our friend and colleague from North Dakota for his leadership on this issue. I hope that those who have had the chance to listen to opening debate will pay close attention over the next 4 days. This is an enormously important document we are debating. It is an indication of a nation's priorities. It is important that we listen with care to the discussion.

Money isn't everything, but it is a measure of a nation's priorities. Budgets are moral documents. They represent who we are and what we value. Just 6 weeks ago, the President delivered a State of the Union Address that gave hope to many of us in Congress for a budget that meets the needs of the American people. The President told us that night that a hopeful society comes to the aid of fellow citizens in times of suffering and emergency and stays at it until they are back on their feet. But the budget before us tells a different story. It fails to meet the security needs of Americans who are looking for real security in the face of terrorism.

We have seen the failed response to Hurricane Katrina, the failure in Iraq, a failing grade from the 9/11 Commission, failure on the security of our ports, failure in curbing nuclear power in Iran and North Korea, failure after failure when it comes to our national security. But you would never know it from this budget. Does it prepare us for the next disaster? Does it support a winning strategy in Iraq? Does it fully invest in the recommendations of the 9/11 Commission? Does it secure our ports and inspect every shipping container crossing our shore? When it comes to nuclear weapons, does it provide the resources needed for real nonproliferation? The answer to each one of these questions is no. The administration and the Republicans may talk about national security, but the real record is one of mistake and failure.

This budget is a failure, too, when it comes to meeting the needs of our families here at home. When it comes to healing the sick, feeding the hungry, caring for the poor, the elderly, or the disabled, this budget falls short. When it comes to strengthening our economy, opening the doors of opportunity, creating new jobs, and equipping America to compete in the global economy, this budget again falls short. Instead, it cuts vital programs on which people rely and offers even more tax cuts to the wealthy.

Franklin Roosevelt had it right: The test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little. This budget does none of that. Countless families are facing serious problems. They are being hit on all sides with higher health costs, higher heating costs, higher college costs, higher gas prices. Their jobs and pensions are in danger. Their savings are at an all-time low. They are caught in a prescription drug nightmare because of a bill that put the drug industry and the insurance industry ahead of patients.

These are hard-working men and women who play by the rules and take care of their families, but this budget lets them down. Instead of investing in education, it cuts school programs. Instead of helping the elderly with their heating bills, it slashes funding for low-income heating programs. Instead of training workers for new jobs, it eliminates job training and vocational education programs. Instead of helping

our young people afford college, it cuts college aid. But it provides for $1.7 trillion in tax cuts over 10 years. Those are the wrong priorities for America. Compare that to the recent cuts to Medicaid. Compare that with the $379 million cut in heating assistance for the poor. Compare that with the cuts to education. Compare that with the $456 million needed to help disadvantaged high school students reach college under the TRIO, Upward Bound, or Talent Search Programs.

Yes, a budget is a statement of priorities, and we have seen where this administration's priorities are on health. The Medicaid Program is key to promoting a real culture of life in America. Medicaid provides care to a third of all mothers giving birth, including the prenatal, pediatric care their children need to be healthy.

Mere hours after the President declared in the State of the Union Address that the Government would meet its responsibility to provide health care for the poor and elderly, the President signed a bill to impose draconian cuts on the Medicaid Program. According to the Congressional Budget Office, that bill will cause 45,000 poor Americans to lose coverage over the next 5 years, and 65,000 will lose coverage within 10 years, and 60 percent of those losing coverage will be children.

In Maryland, a quarter of families subject to increased premiums disenrolled. In Oregon, higher costs caused disenrollment, and 67 percent of those who disenrolled became uninsured. Because of these Medicaid cuts, 13 million Medicaid beneficiaries will have to pay more for their prescriptions over the next 5 years, and 20 million will have to pay more over the next 10 years.

When copayments rise for the poorest patients, health declines. A study in the Journal of the American Medical Association shows that increased copayments for medications for poor families caused an 88-percent increase in adverse events, such as heart attacks and strokes, and caused a 78-percent increase in emergency room visits.

This is what happens. If you cut back on providing assistance with copays for individuals who otherwise would be eligible, we are finding out, you end up paying a great deal more out of the health care budget, in addition to increasing the pain, anxiety and difficulties these families are facing.

A single mother with two children who makes $8 an hour currently pays $3 when she visits the doctor and does not have any cost sharing when her children go to the pediatrician. Under the new law, when her child goes to the pediatrician with an ear infection, she may be charged $20. When she goes to a doctor for treatment and a test for diabetes, she will pay $50. She may have to pay as much as $832 a year.

A single mother with two children earning $25,000 now pays no premiums or cost sharing for a child's medical care and pays $3 copayments for herself. Under the new law, she will now be charged monthly premiums for Medicaid coverage for herself and her children. Even if she manages to pay the premiums, she may have to pay $40 for a visit to the pediatrician, and she will have to pay as much as $1,250 a year for Medicaid.

Do you know what happens? Those parents, when they have that sick child who has the ear infection or has that cough, are thinking: Is this child $40 sick or $50 sick? Or if I go to the emergency room, is this child $125 sick? Is my child $125 sick? I think I will wait tonight. Sure, they are coughing, and sure they are in pain, sure they are suffering, but I am working at a low paying job, and I have to make the decision about whether I can afford care.

For a single mother of two earning the minimum wage, the new Medicaid law imposes additional cost sharing on her children. They would now face copayments for certain prescription drugs, and these copayments would, for the first time, be indexed to the rate of medical inflation, which is higher than the general inflation. And on minimum wage, her income would not even keep up with general inflation since the minimum wage has not been increased since 1997.

To add to these damaging reductions, the President's budget proposes another $14 billion in reductions to Medicaid. The Senate budget resolution has not adopted these serious cuts, but time and again, we have seen how the House-Senate conferees follow the administration's proposal rather than the Senate's measure.

The President's budget proposes $36 billion in Medicare cuts over the next 5 years and $105 billion over the next 10 years. This means higher premiums for seniors and the disabled and will result in reductions of quality of care at hospitals and home health agencies.

In Massachusetts, President Bush's Medicare proposal will mean that our hospitals will have to cut their budgets by more than $400 million, home health agencies by $50 million, and nursing homes by $150 million.

Again, the Senate resolution has not adopted these reductions, but we know where the conference report is likely to end up.

In addition, the budget resolution includes a deeply troubling procedural barrier to fixing the problems in the Medicare drug program. The Republican budget effectively torpedoes any sensible measure to improve the benefit provided to seniors by requiring any such improvements to overcome a point of order.

The budget resolution has adopted major reductions to public health programs. Under these reductions, Massachusetts would lose millions of dollars for programs that protect the health and safety of our people. That cut means 17 rape crisis centers across our State will face significant financial hardship, and our programs on violence prevention and suicide would effectively be eliminated.

The cuts mean that programs to keep our children healthy would be eliminated. Programs to screen newborns as early as possible for hearing loss would be eliminated and so would our State oral health program. That means 59,000 children would not get basic dental screening, and over 35 programs that train health care providers to deliver care in underserved areas and support diversity and proficiency in health care would be eliminated.

Although we are living with the threat of natural and manmade disasters, the proposed cuts would compromise our emergency medical services and impair the system's ability to function as a safety net for catastrophe.

Under the chairman's budget, NIH funding will barely keep up with inflation. Last year's budget was cut so our medical research programs are still suffering setbacks. Over the last 2 years, the NIH budget has increased by an average of 1 percent per year. Not since 1970 has the NIH been so consistently underfunded. If the NIH budget were simply to keep up with inflation since 2005, we will have to increase the budget by another $1.8 billion.

This chart indicates the Bush administration cuts to vital NIH research. We see the important increases during early 2000, 2001, 2002, and 2003. Then we see dramatic reductions. Under the President's budget, the NIH budget would be flat for the second year in a row. That hasn't happened in more than half a century.

This is the century of the life sciences. With all that we know about the slicing of the gene, DNA, and all the possibilities of stem cell research, most researchers believe that the opportunities to make enormous progress on the diseases which affect every family, whether it is cancer, Alzheimer's, or heart disease, are immeasurable. But we are not going to have those promises fulfilled if we see the kinds of reductions that we have seen in this budget.

We hear a great deal about the challenges we are facing to compete internationally. We are told we need to be an innovative society, and an innovative society needs innovative life sciences. That is certainly an area of enormous possibility if we are going to provide resources for the basic research. But, no, we are cutting back in these extremely important areas. These are the areas in which we are cutting back: We have seen reductions in the Cancer Institute, a reduction in the Heart, Lung, and Blood Institute, reductions in research in diabetes and kidney diseases. We know that $1 out of $4 spent under Medicare are spent on diabetics; $1 out of $10 in the general health area are spent on diabetics.

When we make breakthroughs in the diabetes treatments, we are going to see an enormous change for the people who are affected by this disease, and

we are going to have an enormous impact in terms of total health care costs. But we are cutting back on those areas of research and we are cutting back on mental health and cutting back on child health and development. 18 of the 19 NIH institutes will suffer cuts compared to the rate of inflation, which means that NIH will fall behind in the race for new cures.

I don't believe those are America's priorities, but they are the priorities of this President, and we are going to find out if they are the priorities of this Senate.

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

The PRESIDING OFFICER. The Senator has approximately 4½ minutes remaining.

Mr. KENNEDY. Mr. President, I want to address the issue of education. This budget also fails to make education a priority. In this shrinking world, education is an even greater priority than ever before, and our budget should reflect that.

As a nation, we must invest in Americans by ensuring access to the highest quality educational opportunities. We need to have the best educated, the best trained, the most sophisticated individuals, and we need to nourish the capacities of every person in the Nation.

Yet the President's budget has proposed the biggest cut to education in the 26-year history of the Department of Education.

Here is what we have seen on the No Child Left Behind Act—I will have an opportunity in the debate to go through this in greater detail—but the commitment to No Child Left Behind, an Act signed into law by the President, is to take every child who is not up to proficiency and to make sure they are going to have the support systems to get them up to proficiency—smaller class sizes, better trained teachers, supplementary services, and greater involvement of parents in these various programs.

However, what we have seen is that we are not living up to that commitment—instead, we are leaving children behind because of inadequate funding. This year alone, 3.5 million to 4 million of the nation's students will be left behind.

We are seeing now under the current program that 29 States are going to lose Title I funding, which are funds for the schools in greatest need. Under this budget, there are going to be some 29 States, including the State of Virginia, that are going to lose funding.

Many of the programs that the President has slated for elimination—GEAR UP, TRIO Upward Bound and Talent Search—have been incredibly successful in terms of providing students who might not have had the opportunity to continue their education with the support they need to do so. In the TRIO Upward Bound program we find that when measured against students of similar backgrounds, nearly 70 percent of the students who participate in these programs go on to higher education. If we take a similar review of the students who don't participate, only about 54 percent of them attend college.

Now let's look at what is happening in higher education. This chart shows the cost of attendance at a 4-year public college versus the maximum Pell grant. In 2001, we look at the gap between the cost of going to a 4-year public college, and we look at it today, and we see how this gap has grown to about 8,000 dollars. We have about 400,000 young Americans who would be able to go to college and who want go to college, who have the intellectual ability to go to college, but who just cannot afford it. And those numbers are increasing dramatically over time.

At an appropriate time, I intend to offer an amendment, hopefully with my colleague Senator MENENDEZ and others, that will increase the maximum Pell grant from $4,050 to $4,500, restore the eliminations of TRIO, GEAR UP, the LEAP program, and Perkins loans, and further increases the funding for all student aid programs, including what they call the SEOG, work study and graduate education, and restores cuts in vocational education and job training programs.

The cuts in the job training program make no sense whatsoever. We have 73,000 jobs that are going begging in my State of Massachusetts. We have 156,000 people who are looking for jobs. What is missing is the connection between the training of those people who want the jobs and the jobs that are there, and in this particular budget, we are cutting those training programs, cutting the education programs, cutting the training programs, and even reducing the title I programs that are so essential.

The PRESIDING OFFICER. The Senator has used 20 minutes.

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

The PRESIDING OFFICER (Mr. ALLEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, how much additional time does the Senator need?

Mr. KENNEDY. An additional 4 minutes.

Mr. CONRAD. I yield an additional 4 minutes to the Senator from Massachusetts on the resolution.

Mr. KENNEDY. Mr. President, please let me know when I have 30 seconds left.

At some time, we will have an opportunity to see the Senate vote for an increase in the areas of education, offset by closing a loophole that has been accepted here in the Senate by 80 votes or more that are available out there at the present time.

As many of us have seen, in a recent report, it was stated that about 650,000 engineers will graduate from China this year. There will be 330,000 engineers graduating from India, and 72,000 engineers from the United States—and half of those are foreign students. We are falling further and further behind. We are not talking just about outsourcing, we are talking about outsourcing basic research. When we find IBM opening up their new research centers in Bangalore, Intel opening up their new research centers abroad, hiring 2,500 engineers over there, we have to ask: Where are we here in the United States? Are we giving the appropriate kinds of support for students to continue their education?

We have seen the request and the statements that have been made in a bipartisan way by Senator ALEXANDER and Senator BINGAMAN, the reports of the Academy of Engineers, the National Academy of Sciences, all of which say that we need to respond here in the United States the way we responded at the time the Russians sent up Sputnik, and that is to have a major investment in the young people of this country.

Yes, we can give focus and attention just narrowly to math and science, and certainly we ought to provide that, but in order to really meet the challenge we are facing because of globalization, we have to make sure we have the best trained, best educated young people and that they are ready to meet these challenges. We need to equip every single American with the ability to compete and succeed, and we need to equip our country to be able to deal with globalization and ensure that we are well-educated, that we will be an innovative economy, and that we will provide innovative research. And when we have an innovative economy, we will have an innovative defense.

This is a matter of national security. This is a matter of national security and national defense, making sure that we are going to be at the cutting edge of all of the research that is possible over a period of years. That is going to be the issue in question on which we will have an opportunity to vote during the course of this debate and discussion, and I look forward to the opportunity to do so.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I say to colleagues on our side of the aisle, what we are attempting to do is change

the way we handle the budget debate this year and to do it in a way that will have more of the votes occur before the vote-athon on Thursday night. That is what Senator GREGG and I are attempting to accomplish. It is going to take cooperation.

What we are doing with our colleagues now, we have agreed on the first six amendments to be debated and the time for each. What we are asking our colleagues to do is agree to exchange time for certainty—certainty of when their amendment would be considered, certainty for the amount of time they would have but less time than they could have under the rules. People can disagree and they can say: No, we won't agree to that. If they don't agree, we are going to be right back in the soup, and we will be here until the wee hours Thursday. We don't think that is the best way to debate this issue. We don't think that is the best way for colleagues, all of our colleagues, to have the best chance of having their amendments considered.

So I am sending this message out to colleagues: If we work together, I think we can improve this budget debate process and have a whole series of votes tomorrow afternoon that we won't then have to have Thursday and do it again the next day and do it again the next day. That is what we are asking colleagues to do.

Mr. President, would 20 minutes be sufficient for the Senator from North Dakota?

Mr. DORGAN. Twenty minutes, yes.

Mr. CONRAD. Mr. President, I yield 20 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I have enjoyed the debate, the discussions today, and I have watched some of it from my office. The budget is a discussion about this country's value systems. It is very simple. I have mentioned many times on the floor the proposition that if someone asked you to write an obituary for someone you had never met but who had died and the only information you had about that person was their check register, what would you write? Well, you would write a little something about what that person felt were his priorities in life, what was his or her value system. What did they invest in? What did they spend money on? That would represent their value system. That is what you would tell about that deceased person you never met.

One hundred years from now, we will all be dead. Historians will be able to look back at this moment and say: What were our values? What was our value system? By looking at the Federal budget, they will say: Here is what the United States held dear; here is what they invested in; here is what their priorities and their values were.

Now, because this budget represents a set of priorities and values, it is important to take a look at the first step in the budget process, and that is the budget sent to us by President.

I recall, in the year 2001, the debate on the floor of the Senate about the President's fiscal policy. This President came to town at the time when we had a very large budget surplus for the first time in many decades, and were predicting surpluses in future years.

This President said: Let's give away this future surplus. This money doesn't belong to the Government; it belongs to the taxpayers.

Some of us said: Well, we don't have that surplus yet. Yes, the year that we are in is a surplus, but we don't have the next 10 years as a surplus. What if something should happen? Maybe we should be a little conservative.

The President said: No, don't worry about being conservative. Let's give back money we don't have but are expected to have because experts tell us we will have a big surplus during the next 10 years.

So the President got his way and gave very large tax cuts. The most significant amount went to the wealthiest Americans. And those large tax cuts which now eat quite a hole in our revenue stream for this Government turned out to be tax cuts, cutting revenue at the time when we hit a recession some months later, the 9/11 attacks in 2005, about 9 months, 8 months later; then we had the war on terrorism, the war in Iraq. So these large budget surpluses turned into very large budget deficits.

My colleague, Senator CONRAD, has described with this chart where this administration will take us. This doesn't take an advanced degree from Wharton School of Economics to understand. All you have to do is look at this red ink and evaluate where this fiscal policy is taking America.

I believe both political parties have contributed mightily to this country. These are political parties, Democrats and Republicans, that have a grand tradition of offering good ideas to America.

One of the things you used to be able to count on the Republicans for was fiscal policy. The caricature was that they wore wire-rimmed glasses and gray suits, they looked like they just swallowed a lemon, and you could always count on them saying: We demand a balanced budget; we demand a fiscal policy that adds up for the good and for the wealth and for this country's future. There is no such thing as those conservative Republicans anymore. There is a Republican in the White House, and Republicans in the U.S. House and U.S. Senate who have a completely different fiscal policy. It is a fiscal policy that steps us up year after year after year after year toward greater debt.

I told you, things didn't turn out quite the way the President suggested. He got his way here in the Congress because he had the votes to get his way. So we have a fiscal policy that cut taxes mostly for the wealthy—a few crumbs for the rest but mostly tax cuts for the wealthy—and increased spending, especially relating to the aftermath of 9/11 and the war in Iraq. We had the Emergency Terrorism Response Supplemental Appropriations Act and DOD Appropriations Act, $17.6 billion added to that as an emergency in the fiscal year 2002; emergency supplemental, $13.6 billion, 2002; emergency supplemental, $65.9 billion, 2003; emergency supplemental, $85 billion, 2004. I could go on and on. Over $400 billion sent to us by this President as an emergency request passed by the Congress, none of it paid for, all of it piled right on our children's debt which they will pay for at some point in the future.

Now, did Congress vote for this? Sure. Is anybody going to say: Let's send our troops, but let's not provide the equipment they need? No, I don't think so. I think most of us have the same view on that. You send troops to go into harm's way, then you have a responsibility to provide the things they need to do their job. But shouldn't there be some requests of the rest of the American people—not just the troops but the rest of the American people—to weigh in here and to help pay for some of these things? If we are going to ask that it be spent in support of the troops, shouldn't we ask that it also be paid for?

As I said, we have a fiscal policy that is out of balance, out of control, and we need to put it back on track. Let me describe what is happening with some of this emergency money. It is the case that we have been hit with a lot of things: a recession back in 2001—and no, President Bush didn't inherit a recession. Let's set the facts straight, if we can. The recession that began on this President's watch, then 9/11, and then a series of others things, including Hurricane Katrina.

Not only do we have a fiscal policy that is completely and thoroughly out of whack, adding debt after debt after debt to our children year after year, we also have a sea of incompetence almost never before seen. Let me describe that with respect to Hurricane Katrina.

This is a picture of Paul Mullinax. Do you see Paul there? He has a portable radio, he has a couple of bottles of water, it looks like maybe he has some chips, and I think this is a little stove.

Paul is a really interesting guy. I met him, actually. He is an independent truck driver from Florida. As you see, he is sitting out in front of his truck. This is Paul's truck. He was sitting with a long line of trucks, and that picture was taken on a base, Maxwell Air Force base in Montgomery, AL. There were 100 refrigerated trucks at Montgomery, AL.

Mr. Mullinax was instructed by FEMA, in the post-Katrina Hurricane period, to take a truckload of ice from Newburgh, NY, to Montgomery, AL. Actually they said take it to Carthage, MO, first so he picked up the ice at Newburgh, NY, and then he went to Carthage, MO, and the minute he got there they told him you need to go to

Maxwell Air Force Base in Montgomery, AL, so he got there.

Then Mr. Mullinax sat there in front of his refrigerator truck for 12 days with 100 other refrigerator trucks that were also hauling ice. The victims of Katrina desperately needed this ice, but it just sat there at an Air Force base in Alabama.

So here was Paul, a Florida trucker who hauled the ice to Missouri, then was told you need to go to Alabama, and with 100 other truckers, Paul sat in front of his truck for 12 days. Then he was told by FEMA, you need to take this ice to Massachusetts. You think I am kidding. I hear someone giggling about that. The folks who were the victims of Katrina needed the ice but he was told by FEMA to deliver it to Gloucester, MA, and so he did. I don't know what happened to the other trucks. There were 100 trucks lined up there.

It cost $15,000 to have the American taxpayers have Paul pick up ice in New York and deliver it to Massachusetts by way of Carthage, MO, and Maxwell Air Force Base, AL. In the meantime, the victims of Hurricane Katrina could not get any ice. So Paul sat. Then he went to Massachusetts to offload his ice. One load of ice, and there were hundreds and hundreds of such trucks—and just one load of ice cost $15,000, and was hauled from New York ultimately to Massachusetts.

A Mississippi sheriff, in the middle of all this, got so frustrated with the ice truck fiasco that he ended up commandeering 2 trucks full of ice and sending them directly to the relief centers for Hurricane Katrina. Sheriff Billy McGee saw trucks sitting at a staging area in Camp Shelby, MS, so he ordered two of the trucks to be sent to Brooklyn and Sheeplow, MS, and a National Guard man tried to stop the sheriff from rerouting these two trucks. The sheriff had the guardsman arrested and got the trucks where they were to be offloaded for the victims, and now the sheriff is being prosecuted for a misdemeanor.

Why do I tell you all this? Because we are spending a massive amount of money with parts of a Government that are fundamentally incompetent.

It is almost unbelievable to see the way some of this money is wasted. I think a lot of people take a look at the Federal Government and they say there is a lot of waste, and I agree with that. We ought to tighten our belts. We ought to get rid of some of this waste.

But there are lots of programs that are vitally important, and that deserve funding. This includes, for instance, health programs for people who live in rural areas of America. The President doesn't distinguish between good spending and bad spending. The President doesn't do that. He says my biggest priority is to preserve a 15-percent tax rate on capital gains and, oh, by the way, everything else can go by the wayside to pay for it.

So the community service block grant—it doesn't matter, we can get rid of that if we want to. Rural health, we can get rid of that. All these issues are less important to this administration than the issue of preserving the 15-percent tax rate on capital gains. That is a fact.

I have worked with Senator CONRAD for many years. We both come from the same State. There is nobody better prepared on the floor of the Senate to make the case on thoughtful and solid budgeting than Senator CONRAD. He understands common sense, understands the numbers.

I see another of my colleagues volunteering for recognition here—and I will say that the chairman of the committee and the ranking member of the committee have had an impossible job.

Trying to make sense of the budget sent to us by this administration is like trying to connect two ends of two plates of spaghetti. It is impossible. It cannot work because this is a budget that does not add up under any set of circumstances.

Social services, that is the money that goes in grants and direct appropriations to both agencies and nonprofits to help people around this country—they are the ones that take a hit in many of these areas. I held a meeting with social service groups and nonprofits in North Dakota and asked them about this budget. They told me about the people who are going to get hurt as a result of this. None of those people serve here in this Chamber. They are just people who try to make a living every day or try to exist in retirement with little income.

One of the stories that was interesting to me was a nonprofit group which the day before had an 81-year-old woman show up applying for a job. This is a group that helps people get work. The 81-year-old woman wanted a job. Why? Because she lost her last job. What was her last job, at 81 years old? Cleaning office buildings at 1 a.m. Go in at 1 in the morning and clean office buildings at age 81. The company downsized a little bit and she lost her job and now she wants another job. Why? Because her payment under Social Security was $170 a month. That is what she was left with. So she has to work at 81.

Should this budget reflect the needs of this woman who is cleaning buildings at 1 in the morning at age 81? Sure it should. There are a lot of people in this country who are vulnerable, who are in difficulty, who understand they need some help. A good budget, a thoughtful budget reaches out to those folks to say here is a helping hand. We want to help you up. This budget doesn't do that.

This budget offers a helping hand only to the rich. In fact, every budget since 2001 has been a budget that says let's give a helping hand—to those who have much. That is the way the budget has been working. It is unbelievable.

I want to put up another picture. I have used this a fair number of times. I do it because a budget is about how much revenue do you have and how much spending are you going to have. Let me tell you why we don't have enough revenue, and why the President wants to cut funding for key programs, especially program cuts that will hurt the most vulnerable in our country.

This is a nice picture of something called the Ugland House. It is a five-story white building on Church Street in the Cayman Islands. According to David Evans, an enterprising reporter who did the story about this building, this building houses 12,748 companies. The companies are not all there in person. I am not suggesting that. But this is the official home in the Cayman Islands, on Church Street, for 12,748 companies.

Do you know why? It is their mailing address. They need a formal mailing address in a tax haven country so they can run their income through a tax haven country and avoid paying the taxes they would owe to the United States of America.

This goes on, getting worse. Is anybody talking about cutting that? No, not really. In fact, this issue of cutting taxes for those who are the most well off in America is not abating at all. This administration believes its highest priority is to retain that 15 percent.

Interestingly enough, we don't have enough money for community development block grants, rural health, the Byrne grants and so on, but last year there was enough money in this Chamber to decide that these companies and many more should get a 5.25-percent tax rate. That is right, 5.25-percent tax rate on money they repatriate from abroad. The expectation was they were going to pay a 35-percent tax rate. That was the statutory rate. But we said—I didn't vote for it—but we said as a Congress, we want to be generous so all of those big companies with standard brands out there you would recognize, they want to repatriate $30 billion worth of income, bring it back to this country. Did they pay 10-percent income taxes on it as most people would at the lowest income Americans? No, they didn't. Fifteen percent or 25 percent or 30? No, they didn't pay any of that. They paid 5.25 percent. They saved $102 to $104 billion.

This Senate had enough resources to decide we want to give the biggest interests of this country a $102 billion tax break by allowing them to pay a 5.25-percent tax rate but now we say we are out of money, we can't afford to deal with those ends of the spending side that affect the most vulnerable in our country.

I think those are very strange priorities. There is much to be said about this budget. I am mindful, also, that it is easier to criticize than it is to propose. I think it was Mark Twain who was once asked if he would be engaged in a debate and said, Of course, as long as I can take the negative side. They said, We haven't told you the subject. He said, It doesn't matter, the negative side takes no preparation.

This takes even less than no preparation, to look at this budget and look at what this is doing to America and understand that this is to fiscal policy like mud wrestling is to the performing arts. This is an abysmal failure that is dragging this country down, down, down into deeper debt. The question I think most people would ask—they certainly ask those who propose this from the White House, and those who construct it here, is do you believe adding additional debt is a move toward greater sensibility in fiscal policy?

The answer has to be no.

I have a whole series of recommendations on where we should cut funding. I will not go over them at the moment and I will be happy to come back at some point. I would start with programs such as TV Marti. We actually spend money—we bought a new airplane last year to send television signals to Cubans that they can't see. We have spent close to $200 million on that program. It ought to be shut off immediately, but we can't do it because too many of the Members of the Senate keep voting for it. Why? Because of Florida. Why? Because of politics.

That is for another day. I have a whole series of recommendations. These are areas where we can and should cut Federal spending. I think we ought to. We ought to begin collecting revenues from companies that have been generously provided tax breaks from the Senate and our colleagues in the House, pushed by this President. We ought to get our fiscal house in order.

As I started, I said I watched some of this debate today. This is very important. This establishes some of the priorities for this Congress and I hope finally this year we might get them right.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota, Senator CONRAD.

Mr. CONRAD. Mr. President, I thank my colleague, the Senator from North Dakota, for his comments and for his insights. I especially like his picture of the building in the Cayman Islands that is the home to more than 12,700 companies. Why is it their home? Because they are engaged in a giant tax dodge, that is why. What they are doing is acting as though they are doing business in the Cayman Islands so they can show their profits in the Cayman Islands, because the Cayman Islands do not have any taxes. What these companies are doing, many of them are operating in the United States where they earn their money, but they don't show their profits here. They have a series of subsidiaries and they show the profits of the subsidiaries in the Cayman Islands so they avoid their taxes here. That is what is going on. It is a giant scam. That is not the only scam. There are all kinds of scams going on.

One of perhaps the most remarkable scams is that companies in the United States are buying sewer systems of cities in Europe and depreciating them on their books in the United States to reduce their tax burden here. Then they lease back the sewer systems to the cities in Europe that are actually using them. If that isn't an outrageous scam, I don't know what is. They are not just doing it with sewer systems, they are doing it with metro systems, they are doing it with all kinds of public infrastructure. That should not be permitted. Some say if you shut that down you are increasing taxes. I don't think so. I think you are collecting taxes that were legitimately owed in the first place and you are stopping a scam. That is what we did in the Budget Committee. When we offered additional spending—and we did, we offered $126 billion of additional spending and $104 billion of it was one amendment.

Some might say, there the Democrats go again, spending money. What were we spending money on? What was that amendment about? I will tell you what it was about. It was to make the assistance for veterans in this country mandatory, not discretionary. I think people will be surprised to find out that the way our budget is devised, support for our veterans is considered discretionary. Medicare is considered mandatory, Social Security is considered mandatory, but aid to our Nation's veterans is considered to be discretionary.

We thought that was not right so we proposed switching aid to veterans from discretionary accounts to mandatory accounts because we think that is what the American people intend. I don't think they think it is a discretionary matter, to provide assistance to young men and women who have been fighting for us in Afghanistan and Iraq. So we proposed putting that on the mandatory side of the budget. That shows up as a cost—$104 billion. We offset it by proposing closing tax loopholes in the tax gap.

The tax gap is now running at $350 billion a year. The difference between what is owed and what is being paid is $350 billion a year, according to the testimony of the Revenue Commissioner of this administration. He said it before the Senate Budget Committee, and he said we could capture $50 billion to $100 billion a year without fundamentally changing the relationship of taxpayers to the Revenue Service. We should do that.

Some say that is a tax increase. I don't think that is a tax increase; I think that is collecting taxes that are already due and owed but aren't being paid. If we are not going to start insisting that everybody pays, we are just going to run a system where some pay, then shame on us, shame on the system. That is unfair to the vast majority of people who are paying what they owe. The vast majority of people and the vast majority of companies pay what they owe, but unfortunately we have an increasing number of people and an increasing number of companies that aren't. That is unfair to all the rest of us, and it is dramatically increasing the debt of our country at the worst possible time.

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

Mr. CONRAD. I would be happy to yield.

Mr. DORGAN. Mr. President, there are two other issues that relate to a tax hike, because a budget is about how much revenue you have coming in and how much you are preparing to spend. I mentioned this little Christmas gift—it is not really little—$102 billion given by the Congress to companies that had parked income overseas but were anticipating having to repatriate to this country and pay a 35-percent corporate tax rate. This Congress and the President felt: Gee, we probably should—maybe I should not include the President so much; it was more the Congress decided that we really ought to give those corporations a 5¼-percent tax rate or a $102 billion tax break. So the Congress did, and not with Senator CONRAD's vote nor my vote, but nonetheless the Congress did that. About $330 billion was repatriated.

Very quickly, we learned that the pharmaceutical industry repatriated at the early stages—I am not sure what the final stage was—$75 billion which they earned abroad. The interesting thing was the pharmaceutical industry said: We charge the highest prices to American consumers because we don't make money elsewhere. We have to charge lower prices in other countries because we are prevented from charging higher prices. Now we discover they were making a lot of money overseas because given the chance to pay a 5¼-percent tax rate, when they repatriated it, they repatriated a bunch of money they earned overseas at lower prices for the same prescription drugs. We not only saw the taxpayers short shrifted by the highest prices in the world, but now we see the drug companies getting $75 billion of their income being taxed at 5¼ percent.

If I might make one additional point, we also have a provision in tax law which says to companies: Shut down your plant in America, fire your workers, move it to China, and we will give you a tax cut. And by the way, the Joint Tax Committee says that is worth $1.2 billion a year or $12 billion in 10 years. So we will spend $12 billion in the next 10 years giving tax cuts to companies that shut their American plants, fire their American workers, and move their jobs overseas. If there is any perversity in this Congress, it is those who refuse to be willing to shut down that kind of a tax break. We have had four votes on it. I have offered it four times. We have lost all four times. And on four occasions, people stood up here in the Senate and supported a tax break to companies that would ship their jobs overseas. It is almost unbelievable.

The reason I mention this is that in the case of putting together a budget,

you ought to be able to at least shut down those drains on the revenue side that run against the public interest in this country. Is it in the public interest to pay those companies to shut down their American plants and fire their workers? I don't think so. Certainly it is not. It is just nuts for the Congress to be saying: Let us reward that behavior. And that is exactly what is happening this year to the tune of $1.2 billion.

I say to my colleague from North Dakota that there are many areas in revenue where we would try to plug a drain on our revenue, and the other side will say: You are increasing taxes. Yes. I am increasing taxes for those who aren't paying, for God's sake.

Maybe somebody camped out in the Ugland House, an official address in the Cayman Islands, with a lawyer camped out, so they can move their jobs to China, sell their products in America, and run their income through a house in the Cayman Islands and avoid paying taxes. Do we want to increase their taxes? Darned right. Why? Because they are not paying their fair share. Everybody else does. What about them? Yet the majority party keeps saying that if you are going to plug these loopholes, you are increasing taxes. That is a strange viewpoint, and I think one we need to fix. We need to solve these problems.

I appreciate the work of Senator CONRAD.

Mr. CONRAD. Mr. President, I thank the Senator. I don't consider it a tax increase to actually collect the taxes that individuals or companies already owe which they are not paying. That is not a tax increase. No tax rate is increased. That is not creating a new tax; that is collecting the taxes that are already owed.

The Revenue Commissioner testified before the Senate Budget Committee that the tax gain—the difference between what is owed and what is actually being paid—is $350 billion a year. The deficit is going to be $371 billion, and we are not collecting $350 billion of revenue that is owed. I don't consider that a tax increase. I think that is simply enforcing the laws that already exist.

I want to again alert colleagues. We are trying to change the way the budget debate occurs. The chairman and I are trying very hard. We have heard the complaints of our colleagues about vote-aramas. A vote-arama typically occurs because time runs out before the amendment that has been offered has a chance to be voted on under the rules of the Senate. We are trying to make sure that the people have a chance to debate those amendments and get a vote and dispense with some of these votes before we get to Thursday night.

I hope very much that colleagues are going to agree to the timeframe that we have set out in order to accomplish that purpose. If people resist that, then we are going to be right back in a vote-arama Thursday night and voting until the wee hours of the morning. If people want a reform of the way we do business here, we need them to cooperate and help us.

Perhaps the chairman could review what the order of business is going to be for the rest of the afternoon and this evening in terms of the opportunities that are going to exist for colleagues to come to the floor tonight and talk about their amendments and make their opening statements. We are going to be in business to the extent that people take advantage of the time that is available.

Mr. GREGG. Mr. President, I thank the Senator from North Dakota. I agree with him and thank him for encouraging our membership to participate actively early in the debate.

As he mentioned, we hope to reduce the exercise known as vote-arama so we are not here until the wee hours of Friday morning or Thursday night, and one way to do that is to get these amendments up and get them offered.

What we are going to do this evening is reach an agreement for the first six amendments, which we will begin debating tomorrow in sequence, and then we will vote them tomorrow, with the vote time coming off the bill. This evening, we are going to have a vote at 5:30. I hope Members will come down between now and 5:30 and talk about the bill or talk about their amendments. Then, after the vote at 5:30, the floor will be open for Members to come forward and talk about their amendments—not to offer them at that time because we are going to set up this sequence. If Members have amendments they wish to offer, get in touch with us, and we will get them in debating order.

That is the game plan at the moment. I appreciate the efforts of the Senator from North Dakota in making that happen.

Mr. CONRAD. Mr. President, we have Members who are now on their way to the floor to speak on the budget.

I again implore colleagues, if they want to make an opening statement, tonight is the opportunity to do so. If they want to talk about an amendment and not offer it tonight but talk about it, tonight is the opportunity.

As we get into tomorrow, the time is going to be very scheduled in a very disciplined way so that we can make maximum progress. It is going to be that way Tuesday and Wednesday and Thursday until we finish. Tonight is the opportunity to make opening statements. Tonight is the night to talk about amendments that you might otherwise not get time to talk about. Again, this won't be the time to actually offer amendments, but you can describe it, you can debate it, and you can discuss it. Please. We are giving colleagues this opportunity tonight so that tomorrow we can get amendments up and vote on amendments and get the work of the Senate concluded.

I thank the Chair.

Mr. DORGAN. Mr. President, I talked earlier about the $12 billion expenditure, $1.2 billion a year over the next 10 years, according to the Joint Tax Committee, that we use to reward companies that move their jobs overseas by giving them a tax break for such activity.

I have previously offered this on four occasions. I have lost it on four occasions in the Senate. I can't believe there is anyone left in the Senate who, having thoughtfully evaluated this, would believe we should continue to give tax breaks to those who ship jobs overseas.

In the hope that other of my colleagues have seen the light or felt the heat or some way or other found an epiphany about this subject, I anticipate offering this again and consider my previous statement to be an opening statement when I would offer such an amendment, so I wouldn't require any particular time on it. I have already spoken on it, and perhaps my two colleagues would consider at an appropriate point accepting the amendment. It is infused with such wildly common, common sense my hope would be that my colleagues would decide to simply accept the amendment on this fifth occasion on the floor of offering the amendment, especially inasmuch, I might say, as Ford Motor announces that they are going to close plants and get rid of 30,000 workers, General Motors is going to get rid of 25,000 to 30,000 workers—and the list goes on. By the way, not only get rid of their workers but cut their pensions and run them through with health care problems and payment of corporate health care accounts.

Given all that news, my guess is that perhaps the sentiment would have changed, believing maybe now is the appropriate time to shut down this perverse tax incentive that rewards companies that fire their American workers and move their jobs overseas.

At some appropriate point, I will consider offering it. I would not need time to debate it.

Again, I say to my two colleagues that my hope and expectation would be that you would just accept the amendment at some appropriate time. And this would stand as some future discussion, if I offer that amendment at the appropriate time.

Mr. GREGG. Mr. President, I may have already asked, but let me renew this unanimous consent request that for the duration of the budget debate, when there is a quorum call, the time be deemed to be running against both sides equally.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WATER INFRASTRUCTURE

Mr. CRAPO. Mr. President, I rise to engage the distinguished chairman in a colloquy.

Mr. GREGG. I yield to the Senator.

Mr. CRAPO. I wish to express my appreciation for your efforts to put together a well-crafted fiscal year 2007 budget resolution that balances the

need for critical Government programs while taking a strong stand against our budget deficit.

As the committee works to address these critical needs, one area of the administration's request in particular needs special mention—the proposal to reduce funding for the Clean Water State Revolving Fund, CWSRF, and the Drinking Water State Revolving Fund, DWSRF. Although the administration's budget submission makes a number of difficult choices, the recommendation to reduce funding to the CWSRF and the DWSRF represents a tremendous hardship for communities throughout the country.

Recent studies show that our Nation's water and wastewater infrastructure needs severely exceed the availability of resources at the local and State level to meet them. So many towns and cities across our country have exhausted their abilities to raise utility rates and issue bonds to pay for needed improvements. At the same time, increasing Federal water quality and drinking water standards force utility managers to upgrade systems or fall into noncompliance.

No community or customer wants to be served by a failing water or wastewater facility, but the Federal Government's commitment to addressing these regulatory mandates must be mated with its assistance. Without this commitment, communities can be left with nowhere to turn for help. The Congressional Budget Office estimated in 2002 that the United States has between $132 billion and $388 billion in clean water infrastructure needs alone over the next 20 years and the spending gap over that time will reach $70 to 360 billion. Similar figures affect the Nation's drinking water infrastructure.

Idaho, a small State by population and infrastructure needs, still only receives about $15 million annually, but its aggregate water and wastewater needs over the next 20 years will approach $1 billion by some estimates. For instance, the rural city of Castleford, ID, has become out of compliance with the EPA's arsenic standard for drinking water. In order to conform with the rule, the town, with a population of less than 200, will have to expend more than its entire annual operating budget to update the water infrastructure system.

The principal means for assisting utilities are the SRFs, which provide a loan pool for State agencies to work with distressed communities. The SRF assistance help finance infrastructure projects at the local level, and those communities in turn repay those loans so that the State might aid other communities in need.

That is why I believe it is so problematic to see a continuing decline in funding for the CWSRF and DWSRF. As recently as 2 years ago, funding was $1.35 billion and $850 million, respectively. Unfortunately, budget pressure has forced the CWSRF down to $900 million in the current fiscal year, and the President has proposed to reduce that to $688 million for the next year. While the DWSRF is proposed at only an $8 million reduction, a fateful and disturbing trend is developing.

As the past chairman of the Environment and Public Works Subcommittee on Fisheries, Wildlife, and Water, I led efforts in two successive Congresses to update and increase the authorization for the CWSRF and DWSRF. Although those legislative initiatives never made it to the Senate floor, I remain committed to helping communities in Idaho and throughout the country address their water and wastewater needs.

During the debate on this budget resolution in the Budget Committee, an amendment was offered to condemn the President's call for reductions in those important accounts. I opposed that amendment because I want to focus effort where it counts, by working with my distinguished chairman and the Appropriations Committee to restore funding for the two SRFs to the best of our abilities.

Mr. Chairman, I ask that you join me in working through the balance of the budget resolution process, as well as during your service on the Appropriations Committee, to help restore these vital funds.

Mr. GREGG. Thank you, Senator CRAPO. I agree with your comments about the importance of these resources, and I applaud your leadership in this area. While the President's request for these accounts is lower than many would like, I believe that during the appropriations process, Congress will try to remedy this problem. As you know, historically, the President tends to request lower funding levels for these accounts, and Congress usually pluses them up through the appropriations process, often quite significantly. For example, in 2004, 2005, and 2006, Congress provided considerably more for the Clean Water SRF Program than the President requested, +492 million, +291 million, and +$157 million, respectively. As Congress works to finalize the fiscal year 2007 budget resolution, I will continue to work with you on these issues.

Additionally, in my role as a member of the Appropriations Committee, I will certainly be cognizant of the funding needs for SRF Programs.

Mr. CRAPO. Thank you, Mr. Chairman.

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

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that following the vote scheduled for 5:30 today the Senate resume consideration of the budget resolution for debate only this evening; provided further that when the Senate resumes debate on the resolution on Tuesday, the Senate begin consideration of the following amendments in the order listed below under the listed times for debate: Conrad amendment, the Conrad-Feingold amendment on pay-go for an hour, equally divided; the Talent amendment on defense for an hour, equally divided; the Kennedy amendment on education for an hour, equally divided; the Chafee amendment on IDEA special education, an hour equally divided; the Byrd amendment on veterans, equally divided; the Akaka veterans amendment, equally divided.

I further ask consent the votes occur in relationship to the amendments beginning at approximately 3 p.m. on Tuesday, with no second-degree amendments in order prior to the votes in relationship to the amendments. I ask consent that the vote time consumed under this agreement count equally against the resolution.

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

Mr. GREGG. I thank the Senator from North Dakota for working this out. It is a good start to this bill. It gives us an opportunity to get out of the box with a series of amendments, get them voted on and hopefully reduce the vote-arama at the end of the bill.

Mr. CONRAD. Mr. President, I thank the chairman for working this out, as well. I thank our colleagues for their willingness to cooperate and to say to other colleagues that this sets a good example. I hope very much other colleagues and their staff are listening and that they understand if we continue on this course, we could have a much better budget debate and not wind up in that vote-arama, voting four times an hour with very little discussion or debate intervening. I hope very much colleagues are listening and that they will continue to cooperate.

I am especially grateful to the six colleagues who have already agreed in this order to these time limits, at these times.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, I take it the parliamentary situation is such that it is in order for me to now be recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. SARBANES. I thank the Chair.

Mr. President, at the very outset, let me say I have closely followed Senator CONRAD's remarks on the budget. It is something I have done each year he has

served as the ranking member on the Budget Committee. As always, I found his presentation to be both clear and insightful. For anyone who cares deeply about fiscal responsibility, as he does, the picture he has painted of America's fiscal condition is deeply troubling. I express my own deep appreciation to Senator CONRAD, as I think people all across the country should do, for seeking to focus attention on this important problem.

Day by day, we have different issues which grab the headlines and the public's attention, but, meanwhile, this deteriorating situation of America moving further and further down into a fiscal box goes on. The implications of that are very far reaching.

Senator CONRAD has sought to call our attention to that, to focus our attention upon it, and to make us come to grips with this challenge. I commend him for what I think has been a very important public service.

As we set out to consider the budget for fiscal year 2007, I think it is necessary for all of us to recognize the budget resolution is, in a very basic sense, the most important document we will deal with in this Congress.

The budget contains within it literally hundreds and hundreds of decisions that are critical to our national life. Each time it comes before us, it puts to us the questions: What are our values? What are our priorities? What are we trying to accomplish as a society?

It is within the budget that we set our priorities. We make these judgments: how much of our resources to commit, how much to raise through the taxing system, how large a deficit to run. All of these are very basic questions, and the priorities set among these programs determine the direction of our national life.

Now, I think in order to judge the current budget and to develop some informed and responsible answers, we need to place that budget in the fiscal and economic context in which the Nation now finds itself.

You do not need a very long memory to recall that a few short years ago, under President Clinton, as he was moving through his second term, after we, the President and the majority in Congress, had made some very hard choices on taxes and spending, restraining spending and raising some taxes, primarily on upper-income people—we were able to turn around the Nation's fiscal status.

In 1998, the Federal Government reported its first surplus in the budget since the 1960s. When President Bush took office, we were in our third straight year of a surplus in the Federal budget, and we were projecting surpluses over the next 10 years of $5.6 trillion—five and a half trillion dollars in surpluses projected over a 10-year period.

Obviously, this was a pretty healthy position to be in. It would have, of course, allowed the Nation to pay down the large national debt that had been accumulated as we moved through the 1980s and into the 1990s. But in what I predict history will write as a gross irresponsibility, President Bush, in effect, squandered the projected surpluses by instituting irresponsible and reckless tax cuts—tax cuts whose overwhelming beneficiaries were those at the very top of the income and wealth scale. These were not broad-based tax cuts. These were tax cuts whose benefits, upon analysis, were seen to be focused very much on the top few percent of the income scale.

When the President submitted his first budget proposal, he asserted:

> We can proceed with tax relief without fear of budget deficits, even if the economy softens.

''We can proceed with tax relief without fear of budget deficits, even if the economy softens.''

The following year, with a budget already in deficit, the President advocated for yet another tax cut—yet another—promising that ''our budget will run a deficit that will be small and short term.'' In fact, the President's budget that year, 2002, stated the deficits would be so short term that today—as he was looking ahead—the Government would be back in surplus.

Now, let's look at what has happened. Exactly the opposite of what the President predicted has happened. Under the irresponsible fiscal policy that this President has pursued, we have run deficits each and every year since 2001.

In 2002, the deficit was $158 billion. President Bush inherited a surplus in 2001 of $128 billion. The three previous years had had surpluses as well, and then there was a $158 billion deficit in 2002. The deficit rose to $378 billion in 2003, rose again in 2004 to $413 billion, fell slightly in 2005 to $319 billion, and is now projected to go back up again in 2006 to $371 billion. Far from being small and short term, these deficits are at record levels.

This chart shows the deterioration in the Nation's fiscal position over the last 35 years. As we see, the budget went into the red more and more and more. In fact, in 1992, we had the previous record deficit of $289 billion. Then there were the years I referred to when we came out of deficit and ran a surplus. Now we have dived back into deficit, thanks primarily to the excessive tax cut and other factors, including the slowing of the economy and the involvement in Iraq. We ran a record deficit in 2004 of $413 billion. What an extraordinary deterioration in fiscal position to go from here to there.

The deficits would be even larger if we were not using the Social Security trust fund each year to mask the cost of the President's policies. When we do a unified budget, we include in it any surplus or deficit in the Social Security trust fund, and the Social Security trust fund has been running a positive balance. That offsets the picture of the deficits, but it is not a totally accurate picture.

The President has submitted a budget this year that would cause our Nation's fiscal health to continue to deteriorate. Regrettably, the President's budget does not even tell the whole story. It fails to account for very significant and substantial obligations overseas and for significant and substantial obligations at home. I want to give two examples of that. There are others. We could develop a longer list. But for purposes of illustration in terms of dealing with a budget that is not fully transparent and fully accountable, I will give two examples.

From the very start of the war in Iraq, the administration has not reflected its true cost in the budget and in the budget submissions. In retrospect, one is given pause by the fact that the very day the bombing started on Baghdad in March of 2003, we were debating the budget resolution on the floor of the Senate—3 years ago.

Of course, since the war had just started at that time, the budget resolution before us did not contain funding for that war. Instead, the President came along and submitted a request for an emergency supplemental appropriation to cover the initial war cost. That is not out of the ordinary. The budget had been submitted. The war had not been started. The money was not included for the war. I noted at the time that the money requested in the emergency supplemental appropriations was clearly only a downpayment and that much more would be needed to cover the full cost of the war and of the reconstruction. I am frank to say to my colleagues, I fully expected that the President would include those costs in his next budget submission. In other words, I expected that, having now become involved, the costs of that involvement would be reflected in subsequent budget submissions, and yet the President's budgets in fiscal year 2005 and fiscal year 2006 did not include a single cent for the ongoing cost of operations in Iraq and Afghanistan. Instead, the President continued to ask for funding for Iraq and Afghanistan outside of the regular budget process.

This year the President has included a placeholder of $50 billion in his budget. Even for the administration, after 2 years of not recognizing these costs, it finally hit home that they had to do something. So they put, as it were, a placeholder of $50 billion in the budget that was submitted, when everyone knows that significantly more than that figure will be needed. This is not responsible budgeting. The President is refusing to own up to the true cost of his policies.

Let me turn to a domestic issue which is not fully reflected in the budget but, again, as we know, is going to happen. That is the cost of fixing the alternative minimum tax. This tax was put in place as part of our Tax Code in order to require that very wealthy people, who are using various exemptions and deductions in the Tax Code to avoid paying any taxes at all, would

pay at least a certain amount of tax. It was an effort to assure some equity and fairness in the workings of the tax system. What has happened is that the threshold levels of the alternative minimum tax have not been adjusted for inflation. As a consequence, this tax is beginning to affect middle-class Americans to whom it was never intended to apply. We have adjusted it in previous years. It is clear it will need to be adjusted again at a significant cost. But those costs are not reflected in the budget the President has submitted to us.

When these two items are taken into account, plus the deficits the President is projecting on the basis of his revenue and spending programs, we are now projecting a 10-year deficit of $3.5 trillion. Think about that. When the President came into office we were projecting a surplus over 10 years of $5.6 trillion. Now we are projecting a $3.5 trillion deficit. This is a deterioration in fiscal position of over $9 trillion. Because of these annual budget deficits, which we are running and are projected to continue to run, the debt of the country is projected to explode. It is now projected to rise to $11.8 trillion, almost $12 trillion, in gross Federal debt by the year 2011.

Look at this incredible runup in debt that has happened since 2001. We have moved up in an escalating way. We are at $8.6 trillion in 2006. We are projected to go to almost $12 trillion by 2011. Net interest payments on this debt are expected to consume more than $1 trillion over the next 5 years. These are just the interest payments on the debt. Each dollar that we pay in interest is one less dollar that we can invest in key areas that will help to keep our economy competitive in the future. We face a global competition. Other nations are investing in workforce training, physical infrastructure, transportation networks, research and development. If we fail to rise to that competitive challenge, we are going to fall behind, not move ahead.

These debt figures, some say, are just numbers. It is hard to get your imagination around $12 trillion in debt. But these numbers all reflect real obligations. These will have to be paid off by the next generation and the generation after them through higher taxes and a reduced standard of living. As the New York Times put it in an editorial entitled ''The Pain That is Yet to Come'':

> America cannot escape the consequences of its debt indefinitely. The effects may be sudden or gradual, but either way they mean a weaker economy than would otherwise be the case.

This debt has another troubling aspect to it as well. We are financing this deficit by mortgaging our financial future to foreign lenders. The United States, in roughly a quarter of a century, has gone from being the world's largest creditor nation to being the world's largest debtor nation. In my view, there is a basic contradiction between being the world's largest debtor nation and asserting a role as the world's leading nation.

Our international deficit, called our current account deficit, was nearly $800 billion last year, over 7 percent of our Nation's gross domestic product. In effect, we rely on over $2 billion of foreign inflow into the country each and every day. Warren Buffett was recently quoted as saying:

> Right now the rest of the world owns 3 trillion more of us than we own of them. In my view it will create political turmoil at some point. Pretty soon I think there will be a big adjustment.

This large adjustment could come in the form of higher interest rates here at home, a sudden crash in the value of the dollar or a sharp drop in our stock and bond markets. We don't know exactly what will happen because we are not in control of our own economy. Much of that control is in the hands of others overseas.

As Blanche DuBois said in Tennessee Williams' play, ''A Streetcar Named Desire'':

> We have become utterly dependent on the kindness of strangers.

''Utterly dependent on the kindness of strangers.'' Obviously, this situation should raise serious concerns about our ability to conduct our foreign policy in the future if we are constrained and limited by the need to keep our creditors willing to lend us money.

Regrettably, in the budget plan submitted this year, the President offers no solution to bringing this national debt under control. In fact, the President is calling for the permanent extension of his tax cuts for the wealthy at a cost of trillions of dollars.

I didn't agree with the President's tax plan in the days in which we had a budget surplus. I felt then it was too large, too heavily weighted toward the wealthy. Some argued—and I thought it had some logic to it—for a short-term targeted tax cut aimed primarily to middle- and working-class Americans and, at the same time, using the surplus to pay down our debt. In other words, to do a combination of those things.

What I opposed and did not understand was the very excessive tax cuts the President put forward then and his continued support today for tax cuts in times of war and enormous budget deficits.

We keep moving along year to year in this way, and we make these budget decisions, and then we go on to other business, but all the time these policies are working to drive us deeper into debt. As I said, much of this debt is held by foreign lenders, and that amount is growing all the time.

At the end of fiscal year 2001, 31 percent of the outstanding Federal Government debt was held by foreign lenders. Over the succeeding 4 years, borrowing from abroad accounted for more than 80 percent of the increase in our Government debt. So we have seen the debt rise and the portion of the debt held by foreign lenders, in percentage terms, rise at a much more rapid rate.

If foreign lenders continue to buy 80 percent of new Federal debt, the Federal Government will owe more than half of the debt to foreign lenders by 2011. That is equivalent to almost 25 percent of our expected gross domestic product. Think of the leverage we are placing in the hands of foreign lenders. And a shift has also occurred from private to Government lenders with respect to where those funds are coming from.

Regrettably, the President's budget also cuts substantially a number of programs designed to help working and middle-income people in this country. For example, Federal education funding has been cut by the largest amount in the 26-year history of the Department of Education. These cuts come at a time when tuition and fee increases have placed college education out of reach for many students. Since 2000, tuition and fees have increased almost 60 percent for public 4-year colleges and 32 percent for private 4-year colleges.

The budget for the Department of Housing and Urban Development is, once again, marked by cuts in programs that provide housing services and a healthy home environment for millions of American households. The President has proposed a 20-percent cut in community development block grants, a 25-percent cut in elderly housing, a 50-percent cut in housing for the disabled, and despite everyone's recognition of the essential services provided by our police and firefighters—everyone waxes eloquently about our first responders—the budget proposes to cut funding for community police by close to $400 million and to cut the fire programs by more than half.

Let me try to put this in a little bit of context in terms of the choices being made with respect to priorities.

In fiscal year 2007, the benefit of the President's tax cuts for millionaires, those with incomes over $1 million, will total $41.3 billion. That is the benefit for millionaires resulting from those tax cuts.

I mentioned cuts in education, housing, police, and fire. We could fund all of those programs that I listed—in other words, bring them back up to the current levels—for less than 10 percent of the benefits flowing from that tax cut for millionaires—less than 10 percent. I am not supportive of the bulk of that tax cut. I think it was giving much to those who already had more when we had other pressing needs facing us. But just 10 percent of it would bring education, housing, fire, and police back up to current base levels.

What does it say about our priorities as a nation that we are placing these tax cuts for people at the very top ahead of investments in these programs?

What is said, of course, is: We can't do the programs because we have a deficit. The public needs to ask: Why do we have this deficit? And the reason we

have it is because of the tax cuts. So in terms of setting priorities, the tax cuts were given a higher priority than investments in education or in housing or in stronger police and fire, and I could go through the rest of the budget reflecting the same decisions and the same choice in terms of priorities.

I could develop that list at some length, but let me conclude with one last point. I think the American people have a strong sense of fairness and equity. There have been a number of events during the course of this administration which have underscored the necessity to come together as a nation with this sense of fairness and equity—the attacks of 9/11, the war in Afghanistan and then in Iraq, the devastation of Hurricane Katrina, most prominent among them. But to move ahead, we must share the burden, and, unfortunately, the President's budget continues to favor the very wealthy. They are not carrying the burden. In fact, they are being relieved of some of the burden through the tax cuts while leaving the majority of Americans to carry the burden.

So as we move forward with this budget process, we need to ask ourselves: What are our priorities as a nation? In my judgment, the President's budget does not reflect the values of the American people. It is neither fair nor responsible. While some changes were made in the Budget Committee, I still think it basically reflects the policies submitted to us by the President which I think are not fair, not responsible, and I urge my colleagues to reject the budget resolution.

Mr. President, I know Senator FEINGOLD is here on the floor and would like to be recognized for up to 25 minutes.

The PRESIDING OFFICER. The majority leader.

Mr. SARBANES. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object, I have a short statement to make, and then I will be happy to yield to the Senator from Wisconsin or have the ranking member yield to him.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. FRIST. I object.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. FRIST. Mr. President, I will be very brief. I am obviously disturbed—I know what the Senator from Wisconsin will be presenting shortly. I expect him to offer a resolution to censure the President of the United States—he made those intentions clear yesterday, and I expect him to do that shortly—a censure of the President for defending the United States of America and protecting our homeland security.

As I implied in some statements I made publicly yesterday, I do believe this is a political stunt, a political stunt that is addressed at attacking the President of the United States of America when we are at war, when the President is leading us with a program that is lawful, that is constitutional, and that is vital to the safety and security of the American people. It is being offered at a time—with really an attack on what the President is doing—at the same time we have terrorists right now intending to attack Western civilization and, indeed, the people of our homeland.

With that being my feeling and the intention being so apparent to me, I do want to make it clear that if that is the case, and if this resolution is offered tonight, we will be ready to vote on that censure resolution tonight.

That being the case, then I will offer a unanimous consent request at this juncture.

Mr. President, I ask unanimous consent that immediately after the 5:30 vote this evening, the Senate proceed to a vote on the resolution of censure to be submitted by the Senator from Wisconsin, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, I understand this has not been discussed with the minority leader, this proposal for a vote, and I would therefore object.

The PRESIDING OFFICER. Objection is heard. The unanimous consent request is not agreed to.

Mr. SARBANES. I would respectfully request of the leader that he should have a discussion with the minority leader before seeking to set the agenda.

Mr. FRIST. Mr. President, I then ask unanimous consent that immediately following the budget vote scheduled for tomorrow afternoon, the Senate proceed to the consideration and an immediate vote on the resolution of censure that will be submitted by the Senator from Wisconsin without any further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, I object for the same reason. I think the majority leader should have a responsible discussion with the minority leader before setting the agenda of the Senate. It should be an elemental courtesy in the conduct of the Senate's business.

Mr. FRIST. Mr. President, I heard the objection. I just wanted to discuss our willingness on what is an important issue. We are talking about the censure of the President of the United States, and we are ready to vote on that this afternoon.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, does the Senator from Maryland yield me time?

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I be recognized for up to 25 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I understand, Mr. President, this is off the resolution; is that right?

The PRESIDING OFFICER. The Senator from Wisconsin asked to speak as in morning business. Is there objection?

Mr. SARBANES. I think an agreement was reached that it would be off the resolution and count toward the time on the resolution.

The PRESIDING OFFICER. Is there objection to that stipulation?

Mr. FRIST. Mr. President, it is our understanding that 25 minutes would count on the underlying bill.

Mr. REID. Reserving the right to object, is there a unanimous consent request pending?

Mr. SARBANES. Only that the 25 minutes that Senator FEINGOLD is going to use will come off the resolution.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. FEINGOLD. I understand I have been recognized for 25 minutes as in morning business; is that correct?

The PRESIDING OFFICER. An objection has been heard to the unanimous consent request of the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thought that was the second unanimous consent. I simply asked originally for 25 minutes in morning business, and I believe that was approved.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin to speak as in morning business for 25 minutes?

Mr. FRIST. Mr. President, reserving the right to object, and I will object, we are perfectly willing to have the Senator speak but have the 25 minutes count to the underlying bill.

The PRESIDING OFFICER. There is an objection.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, what we need here in the Senate is more debate, not less debate. I certainly have no problem with the Senator from Wisconsin speaking for as long as he wishes, and if the managers of the bill wish to yield time off the resolution to him, it is fine with me. I do want to say this, however: For the majority leader—and he has the right, I don't dispute that at all—to come to the floor without notice to his counterpart and offer a unanimous consent request is something that I never tried to do. I always tried to give him the benefit of my telling him what I plan to do, and I think that is the right thing to do. I am sure

there was nothing willful in what he did; I am sure it was just an oversight.

To try to limit debate on this most important matter that Senator FEINGOLD is going to put before the Senate is not appropriate. I have no problem with arranging a time to finish debate on the Feingold proposal, but it seems to me what is happening in the Senate is there is no time to debate much. And we are under a statute, and that is why we are here today with the budget resolution, with 50 hours on this.

But if we look at what we have facing us in the future, in the immediate future, the Secretary of the Treasury has asked us to increase the national debt from $8.2 trillion to $9 trillion. Now, if there were ever an opportunity for the American people to hear the differences between the two parties, I think it would be on that debate. Or, even if that weren't the case, something where we are being asked to increase the national debt by $800 billion, shouldn't there be a debate on that?

To show our willingness to cooperate on something this important, I agreed with the distinguished majority leader that we would have 5 hours of debate on the national debt and three amendments that we would offer. We would have a half hour on each of ours, an hour and a half time is all we wanted. When we are going to be asked to increase the national debt by approximately $800 billion, I think it is fair that we could have a few hours to talk about that.

But it appears at this stage that is not going to happen. It appears there will be the 50 hours on this matter that is now before the Senate which will be completed sometime Thursday, and there will be a mad rush to get out of here for the week break that we have. Of course, offering amendments after the matter is brought to the attention of the Senate, I mean we can't do that because we may shut down the Government. And that is why the majority has waited so long, even though Secretary Snow advised us in December that there was going to be a problem with the national debt ceiling.

So I have no problem with the Senator from Wisconsin being yielded time off the resolution by the distinguished ranking member of our Banking Committee who is now managing this bill for Senator CONRAD, but I want the record to be spread with the fact that this is an issue that deserves more debate, not less debate. I don't care if the time is used off the budget resolution.

So I would ask the distinguished Presiding Officer to read, or recall, at least, the unanimous consent request that was made by the distinguished majority leader.

The PRESIDING OFFICER. The unanimous consent request of the majority leader?

Mr. REID. Yes. It was my understanding the request was that the Senator from——

The PRESIDING OFFICER. The Senator from Wisconsin would be recognized for 25 minutes as in morning business.

Mr. REID. But the time would be used off the budget resolution.

The PRESIDING OFFICER. That is correct.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, I yield first to the majority leader to comment.

Mr. FRIST. Mr. President, a lot is happening very quickly now. In a very few minutes, we are going to get to the Senator from Wisconsin who has appropriately requested 25 minutes, and the unanimous consent request will be that the time would come off the bill and it will be as in morning business.

Just to clarify, he has said his intentions representing the other side of the aisle to offer a resolution to censure the President of the United States for a program that I have said and will restate is a lawful program, is a program that is constitutional, and is a program that is vital to the safety and security of the American people. My response to that unanimous consent request was if that is the case and if that is the position of the Democratic Party, that we are ready to vote at 5:30 or after our 5:30 vote today. That unanimous consent request was objected to by the other side of the aisle.

Then the second unanimous consent request that I propounded was that we would vote after a series of stacked votes tomorrow on the resolution to censure. There was an objection from the other side of the aisle.

When we are talking about censure of the President of the United States, at a time of war when this President is out defending the American people with a very good, lawful, constitutional program, it is serious business. And if it is an issue that the other side of the aisle wants to debate or debate through the night, I guess we are willing to do that as well. But the censure of the President is important, and if they want to make an issue of it, we are willing to do just that.

I have no objection to the unanimous consent request that has been made.

Mr. REID. There is no unanimous consent request now pending; is that right?

The PRESIDING OFFICER. No. You reserved the right to object, but there is only one pending before the Senate at this time.

Mr. SPECTER. Mr. President, I ask that the unanimous consent request giving Senator FEINGOLD 25 minutes be expanded to give this Senator 25 minutes, with the time running off the bill.

Mr. REID. So now we have Senator FEINGOLD speaking for 25 minutes, that would be yielded off the budget resolution, and Senator SPECTER speaking for 25 minutes, that being yielded off the resolution; is that right?

The PRESIDING OFFICER. That is the pending request. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, and there is no other unanimous consent request before the Senate at this time?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Wisconsin.

RESOLUTION OF CENSURE

Mr. FEINGOLD. Mr. President, when the President of the United States breaks the law, he must be held accountable. That is why today I am submitting a resolution to censure President George W. Bush.

The President authorized an illegal program to spy on American citizens on American soil, and then misled Congress and the public——

Mr. SPECTER. Mr. President, will the Senator from Wisconsin yield for a question? May we have a copy of your resolution?

Mr. FEINGOLD. I will be introducing it at the conclusion of my remarks. I will be happy to supply the Senator with a copy of the resolution, but I do intend to introduce it at the conclusion of my remarks.

Mr. SPECTER. Mr. President, if the Senator from Wisconsin would let this Senator have a copy of it now.

Mr. FEINGOLD. Mr. President, I just said I would be happy to give the Senator a copy of the resolution right now.

Mr. President, I ask unanimous consent that my time be started over again.

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

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair.

Mr. President, when the President of the United States breaks the law, he must be held accountable. That is why today I am submitting a resolution to censure President George W. Bush. The President authorized an illegal program to spy on American citizens on American soil, and then misled the Congress and the public about the existence and the legality of that program. It is up to this body to reaffirm the rule of law by condemning the President's action.

All of us in this body took an oath to support and defend the Constitution of the United States and bear true allegiance to the same. Fulfilling that oath requires us to speak clearly and forcefully when the President violates the law. This resolution allows us to send a clear message that the President's conduct was wrong.

And we must do that. The President's actions demand a formal judgment from Congress.

At moments like this in our history, we are reminded why the Founders balanced the powers of the different branches of Government so carefully in the Constitution. At the very heart of our system of government lies the recognition that some leaders will do wrong and that others in the Government will then bear the responsibility to do right.

This President has done wrong. This body can do right by condemning his

conduct and showing the people of this Nation that his actions will not be allowed to stand unchallenged.

To date, Members of Congress have responded in very different ways to the President's conduct. Some are responding by defending his conduct, ceding him the power he claims, and even seeking to grant him expanded statutory authorization powers to make his conduct legal. While we know he is breaking the law, we do not know details of what the President has authorized or whether there is any need to change the law to allow it. Yet some want to give him carte blanche to continue his illegal conduct. To approve the President's actions now without demanding a full inquiry into this program, a detailed explanation for why the President authorized it, and accountability for his illegal actions would be irresponsible. It would be to abandon the duty of the legislative branch under our constitutional system of separation of powers while the President recklessly grabs for power and ignores the rule of law.

Others in Congress have taken important steps to check the President. Senator SPECTER has held hearings on the wiretapping program in the Judiciary Committee. He has even suggested that Congress may need to use the power of the purse to get some answers out of the administration. Senator BYRD has proposed that Congress establish an independent commission to investigate this program.

As we move forward, Congress will need to consider a range of possible actions, including investigations, independent commissions, legislation, or even impeachment. But at a minimum Congress should censure a President who has so plainly broken the law.

Mr. President, our Founders anticipated that these kinds of abuses would occur. Federalist Paper No. 51 speaks of the Constitution's system of checks and balances. It says:

> It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections of human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.

We are faced with an executive branch that places itself above the law. The Founders understood that the branches must check each other to control abuses of Government power. The President's actions are such an abuse. His actions must be checked and he should be censured.

This President exploited the climate of anxiety after September 11, 2001, both to push for overly intrusive powers in the PATRIOT Act and to take us into a war in Iraq that has been a tragic diversion from the critical fight against al-Qaida and its affiliates. In both of these instances, however, Congress gave its approval to the President's action, however mistaken the approval may have been.

Here is the difference, Mr. President: This was not the case with the illegal domestic wiretapping program authorized by the President shortly after September 11. The President violated the law, ignored the Constitution and the other two branches of Government, and disregarded the rights and freedoms upon which our country was founded. No one questions—no one questions—whether the Government should wiretap suspected terrorists. Of course we should and we can under current law. If there were a demonstrated need to change the law, of course, Congress should consider that step. But instead, the President is refusing to follow the law while offering the flimsiest of arguments to justify his misconduct. He must be held accountable for his actions.

The facts are pretty straightforward. Congress passed the Foreign Intelligence Surveillance Act, known as FISA, nearly 30 years ago to ensure that as we wiretap suspected terrorists and spies, we also protect innocent Americans from unjustified Government intrusion. FISA makes it a crime to wiretap Americans on U.S. soil without the requisite warrants, and the President has ordered warrantless wiretaps of Americans on U.S. soil. So it is pretty simple. The President has broken that law and that alone is unacceptable.

But the President did much more than that. Not only did the President break the law, he also actively misled Congress and the American people about his actions and then, when the program was made public, about the legality of the NSA program. He has fundamentally violated the trust of the American people. The President's own words show just how seriously he has violated that trust.

We now know that the NSA wiretapping program began not long after September 11. Before the existence of this program was revealed, the President went out of his way, he went out of his way in several speeches to assure the public that the Government was getting court orders to wiretap Americans in the United States, something he now admits was not the case.

On April 20, 2004, for example, the President told an audience in Buffalo, ''Any time you hear the United States government talking about wiretaps it requires a court order. Nothing has changed, by the way.''

In fact, a lot had changed. But the President wasn't upfront with the American people. Just months later, on July 14, 2004, in my own State of Wisconsin, the President said, ''Any action that takes place by law enforcement requires a court order. In other words, the government can't move on wiretaps or roving wiretaps without getting a court order.''

And then, Mr. President, last summer on June 9, 2005, the President spoke in Columbus, OH, and again insisted that his administration was abiding by the laws governing wiretaps. ''Law enforcement officers need a federal judge's permission to wiretap a foreign terrorist's phone, a federal judge's permission to search his property. Officers must meet strict standards to use any of these tools. And these standards are fully consistent with the Constitution of the U.S.''

Now, Mr. President, in all of these cases the President knew that he wasn't telling the complete story. But engaged in tough political battle during the Presidential campaign and later over the PATRIOT Act reauthorization, he wanted to convince the public that a system of checks and balances was in place to protect innocent people from Government snooping. He knew when he gave those reassurances that he had authorized the NSA to bypass the very system of checks and balances that he was using as a shield against criticisms of the PATRIOT Act and his administration's performance.

This conduct is unacceptable. The President has a duty to play it straight with the American people. But for political purposes, he just ignored that duty.

After a New York Times story exposed the NSA program in December of last year, the White House launched an intensive effort to mislead the American people yet again. No one would come to testify before Congress until February, but the President's surrogates held press conferences and made speeches to try to convince the public that he had acted lawfully.

Most troubling of all, the President himself participated in this disinformation campaign. In the State of the Union Address he implied that the program was necessary because otherwise, the Government would be unable to wiretap terrorists at all.

Now, Mr. President, that is simply untrue. In fact, nothing could be further from the truth. You don't need a warrant to wiretap terrorists overseas, period. It is clear. You do need a warrant to wiretap Americans on American soil, and Congress passed FISA specifically to lay out the rule for these types of domestic wiretaps.

FISA created a secret court made up of judges who develop national security expertise to issue warrants for surveillance of suspected terrorists and spies. These are the judges from whom the Bush administration has obtained thousands of warrants since 9/11. They are the judges who review applications for business records orders and wiretapping authority under the PATRIOT Act. The administration has almost never had a warrant request rejected by these judges. It has used the FISA Court thousands of times, but at the same time it asserts that FISA is an ''old law'' or ''out of date'' in this age of terrorism, that it can't be complied with. Clearly the administration can

and does comply with it except when it doesn't. Then it just arbitrarily decides to go around these judges and around the law.

The administration has said that it ignored FISA because it takes too long to get a warrant under that law. But we know that in an emergency where the Attorney General believes that surveillance must begin before a court order can be obtained, FISA permits the wiretap to be executed immediately as long as the Government goes to the court within 72 hours. Now, the Attorney General has complained that the emergency provision does not give him enough flexibility; he has complained that getting a FISA application together, of getting the necessary approvals, takes too long. What the Attorney General is actually talking about, the problems he has cited, are bureaucratic barriers that the executive branch put in place. They are not mandated by Congress. They are not mandated under FISA. These were put into place by the Justice Department, the executive branch itself, and they could be removed if they wanted.

FISA permits the Attorney General to authorize unlimited warrantless electronic surveillance in the United States—unlimited—during the 15 days following a declaration of war to allow time to consider any amendments to FISA required by a wartime emergency. This is the time period that Congress specified very clearly. Yet the President thinks he is above the law. He thinks that he can just ignore that 15-day period and do this indefinitely. The President has argued that Congress gave him authority to wiretap Americans on U.S. soil without a warrant when it passed the authorization for use of military force after September 11, 2001.

That is ridiculous. Members of Congress did not pass this resolution to give the President blanket authority to order warrantless wiretaps. We all know that. Anyone in this body who tells you otherwise either was not there at the time or isn't telling the truth. We authorized the President to use military force in Afghanistan, a necessary and justified response to September 11. We did not authorize him to wiretap American citizens on American soil without going through the process that was set up nearly three decades ago precisely to facilitate the domestic surveillance of terrorists with the approval of a judge. That is why—and I have heard them do this very clearly—many Senators, both Republicans and Democrats, have come forward to question this bogus theory.

This particular claim is further undermined by congressional approval of the PATRIOT Act just a few weeks after we passed the authorization for use of military force. The PATRIOT Act made it easier for law enforcement to conduct surveillance on suspected terrorists and spies while maintaining FISA's baseline requirement of judicial approval of wiretaps of Americans in the U.S. It is also ridiculous to think that Congress would have negotiated and enacted all the changes to FISA in the PATRIOT Act if it thought it had just authorized the President to ignore FISA in the AUMF.

In addition, in the intelligence authorization bill passed in December 2001, we extended the emergency authority in FISA at the administration's request from 24 hours to 72 hours. Why did we do that? Why do that if the President has some kind of inherent power or power under the authorization of force resolution to just ignore FISA? That makes no sense at all.

The President has also said that his inherent executive power gives him the power to approve this program, but here the President of the United States is acting in direct violation of a criminal statute. That means his power is, as Justice Jackson said in the steel seizure cases a half century ago, ''at its lowest ebb.'' A letter from a group of law professors and former executive branch officials points out, ''Every time the Supreme Court has confronted a statute limiting the Commander-in-Chief's authority, it has upheld the statute.'' The Senate reports issued when FISA was enacted confirm the understanding that FISA overrode any preexisting inherent authority of the President. As a 1978 Senate Judiciary Committee report stated, FISA ''recognizes no inherent power of the President in this area.'' And ''Congress has declared that this statute, not any claimed Presidential power, controls.'' So contrary to what the President told the country in this year's State of the Union, no court has ever approved warrantless surveillance in violation of FISA.

The President's claims of inherent executive authority and his assertions that the courts have approved this type of activity are baseless. But it is one thing to make a legal argument that has no real support in the law; it is much worse to do what the President has done, which is to make misleading statements about what prior Presidents have done and what courts have approved to try to somehow make the public believe that his legal arguments are much stronger than they really are.

For example, in the State of the Union, the President argued that Federal courts have approved the use of Presidential authority that he was invoking. I asked the Attorney General about this when he came before the Judiciary Committee, and he could point me to no court—not the Supreme Court or any other court—that has considered whether, after FISA was enacted, the President nonetheless had the authority to bypass it and authorize warrantless wiretaps. Not one court. The administration's effort to find support for what it has done in snippets of other court decisions would be laughable if this issue were not so serious.

In the same speech, the President referred to other Presidents in American history who cited executive authority to order warrantless surveillance. But of course, those past Presidents—like Wilson and Roosevelt—were acting long before the Supreme Court decided in 1967 that our communications are protected by the fourth amendment, and before Congress decided in 1978 that the executive branch could no longer unilaterally decide which Americans to wiretap. I asked the Attorney General about this issue when he testified before the Judiciary Committee. And neither he nor anyone in the administration has been able to come up with a single prior example of wiretapping inside the United States since 1978 that was conducted outside FISA's authorization.

So again the President's arguments in the State of the Union were baseless, and it is unacceptable that the President of the United States would so obviously mislead the Congress and American public.

The President also has argued that periodic internal executive branch review provides an adequate check on the program. He has even characterized this periodic review as a safeguard for civil liberties. But we don't know what this check involves. And we do know that Congress explicitly rejected this idea of unilateral executive decision-making in this area when it passed FISA.

Finally, the President has tried to claim that informing a handful of congressional leaders, the so-called Gang of 8, somehow excuses breaking the law. Of course, several of these members said they weren't given the full story. And all of them were prohibited from discussing what they were told. So the fact that they were informed under these extraordinary circumstances does not constitute congressional oversight, and it most certainly does not constitute congressional approval of the program.

In fact, it doesn't even comply with the National Security Act, which requires the entire memberships of the House and Senate Intelligence Committee to be ''fully and currently informed of the intelligence activities of the United States.'' Nor does the latest agreement to allow a seven-member subcommittee to review the program comply with the law. Granting a minority of the committee access to information is inadequate and still does not comply with the law requiring that the full committee be kept fully informed.

In addition, we now know that some of the Gang of 8 expressed concern about the program. The administration ignored their protests. One of the eight members of Congress who has been briefed about the program, Congresswoman JANE HARMAN, ranking member of the House Intelligence Committee, has said she sees no reason why the administration cannot accomplish its goals within the law as currently written.

None of the President's arguments explains or excuses his conduct, or the

NSA's domestic spying program. Not one. It is hard to believe that the President has the audacity to claim that they do.

And perhaps that is what is most troubling here. Even more troubling than the arguments the President has made is what he relies on to make them convincing—the credibility of the Office of the President itself. He essentially argues that the American people should trust him simply because of the office he holds.

But Presidents don't serve our country by just asking for trust, they must earn that trust, and they must tell the truth.

This President hides behind flawed legal arguments, and even behind the office he holds, but he cannot hide from what he has created: nothing short of a constitutional crisis. The President has violated the law, and Congress must respond. Congress must investigate and demand answers. Congress should also determine whether current law is inadequate and address that deficiency if it is demonstrated. But before doing so, Congress should ensure that there is accountability for authorizing illegal conduct.

A formal censure by Congress is an appropriate and responsible first step to assure the public that when the President thinks he can violate the law without consequences, Congress has the will to hold him accountable. If Congress does not reaffirm the rule of law, we will create another failure of leadership, and deal another blow to the public's trust.

The President's wrongdoing demands a response. And not just a response that prevents wrongdoing in the future but a response that passes judgment on what has happened. We in the Congress bear the responsibility to check a President who has violated the law, who continues to violate the law, and who has not been held accountable for his actions.

We are hearing people say that somehow this censure resolution sends a terrible signal to the terrorists who want to do us harm. I tell you what is a terrible signal, that we are so meek in response to this terrorist threat that we are going to let the President of the United States break the law of this Nation and not do anything about it. Now that is a victory for the terrorists if we won't even stand up for our system of Government because everybody has to be afraid to mention that this President broke the law.

Passing a resolution to censure the President is a way to hold this President accountable. A resolution of censure is a time-honored means for the Congress to express the most serious disapproval possible, short of impeachment, of the Executive's conduct. It is different than passing a law to make clear that certain conduct is impermissible or to cut off funding for certain activities.

He should be censured.

The Founders anticipated abuses of Executive power by creating a balance of powers in the Constitution. Supporting and defending the Constitution, as we have taken an oath to do, requires us to preserve that balance and to have the will to act. We must meet a serious transgression by the President with a serious response. We must work, as the Founders urged in Federalist 51, to control the abuses of Government.

The Constitution looks to the Congress to right the balance of power. The American people look to us to take action, to speak out with one clear voice, against wrongdoing by the President of the United States.

To conclude, in our system of government, no one, not even the President, is above the law.

I send the resolution to the desk.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

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

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for 25 minutes.

Mr. SPECTER. Mr. President, might I ask the Senator from Wisconsin to stay on the floor?

Mr. President, I think this subject matter is worthy of debate, but notwithstanding my experience of debating, I don't think I can debate without someone to debate with. I tried to attract the attention of the Senator from Wisconsin before he departed the Chamber. I think I got in right as he was on the way out the door.

But let me ask his staffers if they would invite the Senator from Wisconsin to return to the floor. Having listened to his long soliloquy, I would appreciate the benefit of his presence so we can deal with these issues in some substantive detail.

At the outset, I say that I agree with a number of things which the Senator from Wisconsin said and items which are in his resolution.

When he comes to the resolve clause and speaks about censure and condemnation of President Bush, I think he is vastly excessive. Call it over the top, call it beyond the pale, the facts recited in this resolution simply do not support that kind of conclusion.

Going right to the heart of the issue, the Senator from Wisconsin says in the fourth ''whereas'' clause on page 2 that the President does not have the inherent constitutional authority to act in distinction and difference from the Foreign Intelligence Surveillance Act.

That is what you call a naked assertion unsupported by any statement of law, unsupported by any rationale.

The Judiciary Committee, of which the Senator from Wisconsin is a member, has held two hearings on the authority of the President to conduct electronic surveillance. And there has been a great deal of testimony from reputable sources saying that the President does have inherent authority under article II of the Constitution.

If that legal conclusion is correct, then constitutional authority trumps a statute.

The Congress cannot legislate in derogation of the President's constitutional authority.

We cannot enact laws which take away authority prescribed to the President under the Constitution, just as we cannot legislate to take away authority that the Supreme Court has under the Constitution. Just as we cannot delegate our authority which the Constitution gives to the Congress, we cannot delegate our authority in derogation of our constitutional responsibilities and authorities.

Those are very basic principles of law.

I am sorry that the Senator from Wisconsin saw fit to condemn and excoriate the President for 25 minutes but doesn't have time to come to this floor to answer a simple question. And that simple question is, Doesn't the Constitution trump statute?

A subordinate part of that question is if the President has inherent authority under article II, isn't it incorrect to say that the President has violated the Foreign Intelligence Surveillance Act, which would be superseded or trumped by the President's constitutional authority?

We are going to have some more hearings before the Judiciary Committee. If I don't have an opportunity to confront the Senator from Wisconsin this afternoon, I will find another opportunity to do so.

But I think the RECORD should be plain that in the hearing last month a number of academicians testified that the President does have inherent authority under article II to supersede the Foreign Intelligence Surveillance Act. And the Attorney General testified at length that the President has inherent authority under article II, which would lead to the conclusion that if Attorney General Gonzalez is correct, as a matter of law, then there is no violation of law by the President. Admittedly he is taking the President's side, but that is the job of Attorney General as a generalization. He also represents the American people, and he has to discharge his oath consistent with his duties to the American people.

There are a number of points, as I have said earlier, where I think the Senator from Wisconsin makes a valid argument.

I think on his third ''whereas'' clause on page 1 of the resolution, where he says that the Foreign Intelligence Surveillance Act is the exclusive statutory authority for electronic surveillance, he is correct. That doesn't rule out the Constitution superseding the statute, however.

When the Senator from Wisconsin says on his third ''whereas'' clause on page 2 that the resolution authorizing the use of military force did not change the Foreign Intelligence Surveillance Act, I think the Senator from Wisconsin is correct. But the correctness

of those two propositions do not supersede the inherent article II authority of the President. And that is the issue which has yet to be resolved.

The majority leader spoke very briefly this afternoon before the Senator from Wisconsin presented his resolution. Senator FRIST said that we are dealing with a lawful program. Senator FRIST is in the position to make an evaluation on that subject because Senator FRIST is one of the so-called Gang of 8, which has had access to the program. He has been briefed on the program.

I believe the Senator from Wisconsin is correct in the body of his resolution when he raises an issue that the statute requires all members of the Intelligence Committee to be briefed. That is the applicable law. It may be that there are good reasons for not briefing all the members of the Senate Intelligence Committee and all members of the House Intelligence Committee. Perhaps because members of the Congress leak. But if good reasons do exist, then the President ought to come to the Congress and ask it to change the law. I agree with him that the Congress leaks. I have to say, in the same breath, that the White House also leaks. That is not a very good record for either the Congress or the White House.

That is why I have prepared legislation which would submit the NSA electronic surveillance program to the Foreign Intelligence Surveillance Court. That court now passes on applications for search-and-seizure warrants under the Foreign Intelligence Surveillance Act. They apply the standard, which is different than the standard for a search-and-seizure warrant in a criminal case. They have expertise in the field. They also have an exemplary record for keeping secrets.

That is the way to deal with this issue. There must be a determination on constitutionality. It is not possible, in my legal judgment, to make a determination as to whether the President's inherent article II powers authorize this kind of a program, without knowing what the program is. I don't know what the program is. The Attorney General would not tell us what it is when he testified last month. I understood his reasons for not telling us, even though we could have gone into a closed session. But the Judiciary Committee was looking at the legalities of the program. We were in a position to render a judgment on whether the Foreign Intelligence Surveillance Act was the exclusive remedy, and whether the resolution to authorize the use of force changed the FISA act. But it is a matter for the Intelligence Committee to get into the details of the program which, until last week, the administration has been unwilling to do.

I have great respect for my colleague Senator DEWINE, and have talked to him extensively about this issue. He and I serve on the Judiciary Committee together. I like his idea about getting the administration to submit the program to, at least, the eight members of the Senate Intelligence Committee who, according to the press accounts, were briefed about it last week. I do not think it is adequate, as other parts of the DeWine legislation propose, to allow the surveillance to go on for 45 days, and at the end of that 45-day period to then give the administration the option of going to the FISA Court or to the Senate subcommittee. The subcommittee does not grant authorization for warrants. The subcommittee function is oversight. It is not a replacement for the Foreign Intelligence Surveillance Court.

A way is at hand to deal with this issue. The majority leader, Senator FRIST, said we have a lawful program. That opinion has weight, substantial weight in my mind, but it is not conclusive. Senator FRIST is not a judicial official. It may be that a more detailed analysis is necessary than has been presented to the Gang of 8. I don't know, because I don't know what they heard or what they learned.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11½ minutes.

Mr. DURBIN. Will the Senator yield the floor?

Mr. SPECTER. No, but I will at the conclusion of my presentation.

We ought to focus for a few moments on the importance of judicial review on the fourth amendment issues of search and seizure.

With the limited time I have left, I have only a few references, but I begin with a famous case in 1761 where a Boston lawyer defended Boston merchants who had been searched by customs house officials. James Otis gave a stirring 5-hour speech, charging the customs officers ''break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court may inquire.'' Very weighty words in 1761. Maybe if James Otis had seen this program, we could take his word on its constitutionality.

John Adams described this case as the spark of the American Revolution. He stated:

> Then and there was the child Independence born.

Then in the Declaration of Independence in 1776, it is stated that one of the key reasons for the American Revolution involved the King allowing his officers to violate the rights of Americans and then protecting them ''by a mock trial, from punishment,'' for the injuries that they had committed.

And then we have the fourth amendment. We need to go back to the basics of this amendment, which prohibit unreasonable searches and seizures. That is the question in this matter.

In 1916, in the Weeks case, the Supreme Court of the United States ruled that evidence obtained in violation of the fourth amendment could not be used in a criminal trial. In 1961, in Mapp v. Ohio, the Supreme Court of the United States ruled that the due process clause of the 14th amendment prohibited States and State criminal prosecutions from using evidence obtained as a result of an unreasonable search and seizure.

We have had the Supreme Court of the United States intervene, even in time of war, to limit the President's authority. During the Korean war, President Truman cited ''the existence of a national emergency'' to ''be able to repel any and all threats against our national security.''

The Supreme Court of the United States, in Youngstown Sheet v. Sawyer, said the President did not have that authority. They said it exceeded his authority.

In the Hamdi case, 2004, 18 or 20 months ago, the Supreme Court stated:

> We have long since made it clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens.

And the Court went on to say:

> . . . whatever power the United States Constitution envisions for the Executive in its exchanges with other nations or with enemy organizations in times of conflict, it most assuredly envisions a role for all three branches when individual liberties were at stake.

We have a way through this maze. The way through the maze is for the Congress to give jurisdiction to the FISA Court. That is our job, to give jurisdiction to Federal courts. We have dealt with the issue as to whether there is a case or a controversy. There is one. Without going into details here, it is not an advisory opinion.

But this resolution calling for the condemnation and the censure of the President is out of line and out of bounds. In listening to the Senator from Wisconsin, I did not hear, at any time, him say the President has acted in bad faith. The President may be wrong, but he has not acted in bad faith. I think all would concede that the President was diligently doing the best job he can. And I agree with him. I think the President's best job is satisfactory, and that no one has ever accused him of bad faith.

In the absence of any showing of bad faith, who has standing to censure and condemn the President and then not stay in the Chamber to debate the issue? I do hope this matter is referred to the Judiciary Committee, and not to the Rules Committee. We have already had two hearings on matters relating to this subject. I especially want to see this resolution referred to the Judiciary Committee because if it is in the Judiciary Committee, I can debate Senator FEINGOLD. If it goes to the Rules Committee, I cannot debate Senator FEINGOLD. Now, isn't that a powerful jurisdictional argument for the Judiciary Committee?

Mr. DURBIN. Will the Senator yield?

Mr. SPECTER. I do.

Mr. DURBIN. First, through the Chair, I commend the Senator from Pennsylvania. As a member of the Senate Judiciary Committee, he has shown

extraordinary leadership in convening two separate hearings on this question of the wiretap issue, the first with Attorney General Gonzales which I attended and thought to be one of the more challenging and interesting committee hearings I have ever attended—it went on for a whole day—the second, sadly, was in conflict with another meeting, a Rules Committee on ethics reform and I did not attend it, but he invited constitutional scholars to come and speak to the same issue. Many on Capitol Hill may shy away from controversial issues, particularly if they involve an administration of the same party. I commend the Senator from Pennsylvania for being an exception to the rule on this issue and for speaking up and standing up.

I wish to ask a question. After listening to Attorney General Gonzales' testimony before our committee, it appears that the thrust of the constitutional argument justifying the wiretap goes back to a vote that we share, a vote we both cast in favor of authorizing the use of military force on September 18, 2001. I ask the Senator from Pennsylvania if he believed that in casting his vote for that resolution authorizing force to pursue those responsible for September 11 that he was giving the President authority to wiretap American citizens without obtaining a court order required by the Foreign Intelligence Surveillance Act of 1978?

Mr. SPECTER. No.

Mr. DURBIN. The next question I wish to ask the Senator from Pennsylvania, and I appreciate his forthright response, the majority leader, Senator FRIST, came to the Senate a few moments ago and said he believed the wiretap program of President Bush was constitutional and legal. Does the Senator from Pennsylvania agree with that conclusion?

Mr. SPECTER. I neither agree nor disagree. I do not know. As I said more extensively in the body of my comments, I do not have any basis for knowing, because I do not know what the program does. I think it may be that the program could be structured as going after only al-Qaida conversations. And I would like to see some proof of that. Quite frankly, I would like to see some proof that they have reasonable grounds to think one party or the other is al-Qaida. That is in the body of Senator FEINGOLD's whereas clauses.

It may be that they have been able to take a limited amount of information, destroying the rest, and that it has produced very important results with a minimal incursion. I do not know the answers to those questions. But I certainly think you ought not castigate the President as a criminal until you do know the answers to those questions.

Mr. DURBIN. If the Senator will yield for a further question.

Mr. SPECTER. I do. And I want to thank you for being here in Senator FEINGOLD's stead.

Mr. DURBIN. Well, I am standing here——

Mr. SPECTER. You are a little tougher to debate than he, but I thank you for coming.

Mr. DURBIN. I would like to ask the Senator from Pennsylvania one last question.

When you referred to the suggestions of our colleague, Senator DEWINE, on the Judiciary Committee, and other proposals to change the law that might accommodate what we are now seeing in this wiretap program, is that not an admission that what is going on now is violative of law or at least outside the bounds of the laws as written which authorize wiretaps?

Mr. SPECTER. No, I do not think it is an admission because, like consent, it has to be informed. And I do not think he is informed. I do not think anybody is informed. I do not think Senator DEWINE intends to make an admission. I think Senator DEWINE, in good faith—very good faith—is searching for a way out. And I think he made a significant step forward when his actions resulted in seven members of the Senate Intelligence Committee being briefed. The reason I say ''I think'' is because I do not know what they were told. But I think that is a significant step.

Senator DEWINE's proposal of legislation to allow the program to go on for 45 days is no concession. It is going on anyway. His idea to bypass the FISA Court and allow the Administration instead to go to the Intelligence Subcommittee, I think, is not appropriate because the Intelligence Subcommittee does not have the function of a court.

So I think he is doing the best he can. But right now we are flying blind on a great deal of this, and we have to accept very limited representations by the Gang of 8, and now the new Gang of 7. And no matter what, it does not amount to judicial review.

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

Mr. REID. Mr. President, I have an important announcement to make.

Will my friend yield to me?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired. The Senator does not control time.

The Senate minority leader is recognized.

DEATH OF MAGGIE INOUYE

Mr. REID. Mr. President, at 4 o'clock this afternoon, an hour and 15 minutes ago, Maggie Inouye died. I had the good fortune of being able to visit with the Inouyes Friday night.

On behalf of the entire Senate, I extend condolences to Senator INOUYE and his son Daniel Jr. This wonderful couple had been married 57 years. They were married in 1949. Senator INOUYE proposed to Maggie on their second date. Daniel Jr. goes by the name of Ken. He has been at his mother's side, as has Senator INOUYE, for many days.

She was a wonderful woman. She formerly taught at the University of Hawaii. She was such a steadfast supporter of her husband in everything that he stood for.

Anyone who has spent any time at all with them knows how much they cared for each other, loved each other. Her death brings sadness to the entire Chamber because it is a loss for the entire Senate family.

Senator INOUYE is a very nonpublic person. He holds everything very close to his vest, and he was not someone who came to luncheons or meetings with us and talked about his wife's illness. That was a personal thing for him.

But she needed the support of her family. She had a very difficult time. She will now have peace, and to a certain extent so will Senator INOUYE because he has suffered with her.

Senator INOUYE is such a wonderful human being. In my visit with him and Ken on Friday,—his wife was there but in another room—we talked about a lot of things. We laughed a little bit. We cried a little bit. Here is a man who is a true American patriot. We throw those words around a lot, but we are not throwing this word around. DAN INOUYE is a true American patriot who served with distinction and valor during World War II, and that is an understatement. He was awarded the Congressional Medal of Honor for courage above and beyond the call of duty.

Senator INOUYE will be away from the Senate for a while. He is going to take Maggie back to Hawaii. But I wish my words were adequate to convey my personal affection for Senator INOUYE and that of the entire Senate, but they are not. So the RECORD will have to stand on that.

Mr. DURBIN. Mr. President, if the Senator will yield for a moment?

Mr. REID. Mr. President, I am happy to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank Senator REID for bringing this sad news to the attention of the Senate family. There are many things that divide us, but there are things that unite us. We are united when Members of our Senate go through personal tragedy. Senator REID knows better than anyone on our side of the aisle the personal sacrifices Senator INOUYE has made over the last months and years as his wife has gone through this serious illness.

It is clear, from what he has given of his life, he took his vow very seriously to stand by her in sickness and in health. It is a tribute to this man, his devotion, and to their love which sustained them for 57 years.

I thank the Senator from Nevada for bringing this to our attention. We all join in expressing our sadness at her loss and will stand by Senator INOUYE and his family to ask them to try to remember, at this time of loss, those good memories of times together. We hope those memories will sustain their family.

I thank the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it has already been announced that Senator INOUYE's wife Maggie has passed away.

I ask unanimous consent that the statement made by my great friend about his wife be printed in the RECORD.

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

STATEMENT BY U.S. SENATOR DANIEL K. INOUYE ON THE PASSING OF HIS WIFE, MAGGIE INOUYE

WASHINGTON.—I am saddened to report that my dear and lovely wife of nearly 57 years, Margaret Awamura Inouye, passed away today at 4 p.m. Eastern Standard Time at Walter Reed Army Medical Center. She was 81, and her death was due to complications resulting from colon cancer.

''Maggie was recently hospitalized because an examination found small blood clots and some fluid in her right lung, and she had been undergoing a process of draining out the fluid and dissolving the blood clots.

''This most recent medical challenge came after Maggie underwent surgery in November 2004 to remove a cancerous growth from her large intestine. Her surgeons had pronounced that operation a success.

''As she has done throughout her life, Maggie handled her difficult situation without complaint, and with dignity and grace. Although her chemotherapy treatments would leave her drained, she always had a smile for you and she retained her optimistic outlook.

''It was a most special blessing to have had Maggie in my life for 58 years. She was my inspiration, and all that I have accomplished could not have been done without her at my side. We were a team. She always supported me, listened to my ideas, and many times offered invaluable suggestions that always proved she was capable of achieving as much on her own right, given her intelligence and education. Instead, she chose to join me on a special journey that took us to Washington, and gave us the privilege of serving the people of Hawaii.

''On the campaign trail, she was invaluable. During my first race for the U.S. Senate in 1962, legislative work in the U.S. House permitted me to make only short trips back to Hawaii. I was facing a formidable opponent, the son of the wealthiest man in Hawaii. Both Time and Newsweek magazines didn't think much of my chances of winning. But Maggie put some magic into my campaign. She returned to Hawaii that June, and spent seven days a week visiting every island and making . hundreds of speeches on my behalf. When I finally did get back in October, my campaign manager met me at the airport and said, 'We're glad to have you, but Maggie's been doing great.' I won, and I won big. In my heart, I know that without her I could not have won that pivotal race that put me on the path to become a United States Senator.

''I first met Maggie in the autumn of 1947, a week before Thanksgiving, when we were introduced to each other. She was already known as a poised, graceful, articulate, and gentle lady from a good family who was very much ahead of her time. Back then, few women went to college. But Maggie not only earned her undergraduate degree in education from the University of Hawaii, she went on to earn a master's in education from Columbia University in New York City. With her graduate degree, she returned home to Hawaii, and began her career as a speech instructor at UH.

''I, too, had returned home—from the war and from my injury rehabilitation regimen that I had undergone on the mainland. I was enrolled at the University of Hawaii, and was still trying to chart my future. However, I was certain of one thing almost immediately after I met Maggie: I was going to marry her. I don't think the possibility of marriage had ever occurred to me before that moment, but afterward it never left my mind. Everything I had and wanted to have suddenly became absolutely meaningless unless Margaret Awamura would share it with me.

''On our second date on December 6, 1947, I asked her to marry me. Without hesitation, she said, 'Yes.' Her answer made me feel like I was in heaven. She was willing to have as her lifelong partner a man who at that time was nothing more than a combat veteran on the GI Bill whose future was still uncertain. Her numerous other suitors had much more to offer, as they were already professional men.

''During the 18 months before our marriage on June 12, 1949, we were an unusual couple on the UH campus. She was an instructor; I was an underclassman. Of course, it was Maggie's salary as a teacher at the university that saw us through those first years of our marriage.

''In the early 1950s when I was studying at George Washington to earn my law degree, Maggie was the breadwinner, while I contributed what I received from my GI education benefits and my pension as a retired Army Captain. While I was in class, she was working at the Department of the Navy's Bureau of Yards and Docks, first as a file clerk and soon she was promoted to administrative secretary.

When we returned to Hawaii, I went to work for the City and County of Honolulu as a Deputy Public Prosecutor, while Maggie returned to the University of Hawaii as an instructor in education. It was a position she would hold for six years.

''In 1964, five years after she left UH, Maggie gave birth to our son, Daniel K. Inouye, Jr. That was a most special day, perhaps because we became parents at a rather late stage in our lives.

''Kenny and I—as well as the people of Hawaii—were blessed to have had Maggie in our lives. She was a most special woman, and she will always be in my heart.''

In addition to Senator Inouye and Daniel K. Inouye, Jr., Mrs. Inouye is survived by five sisters, Edith Satow of Carmarillo, California; Grace Murakami of Honolulu; Betty Higashino of Orinda, California; Shirley Nozoe of Honolulu; and Patricia Tyler of Sudbury, Massachusetts. Funeral arrangements are pending.

MARGARET AWAMURA INOUYE AT A GLANCE

Personal

Born on June 23, 1924, in Wailuku, Maui.

Married Daniel K. Inouye on June 12, 1949.

One son.

Education

Kaiulani School, Honolulu.

Central Intermediate School, Honolulu.

Roosevelt High School, Honolulu.

University of Hawaii at Manoa, bachelor's in education, 1946.

Columbia University, New York, master of arts, 1947.

Career

Instructor in speech, University of Hawaii, 1947–50.

File clerk and later promoted to administrative secretary, Bureau of Yards and Docks, Department of the Navy, Washington, DC, 1950–52.

Instructor in education, University of Hawaii, 1953–59.

Recent Honors

The Dan and Maggie Inouye Distinguished Chair in Democratic Ideals at the University of Hawaii.

In 2005, Maggie Inouye was selected as one of Roosevelt High School's most distinguished alumni.

In 2003 at the Philadelphia Kvaerner Shipyard, she christened Matson's new containership, *MV Manukai*.

Mr. AKAKA. Mr. President, I thank the Chair for this time.

Mr. President, on behalf of my wife Millie and my entire family, I rise to express our sincere sympathies, our deepest condolences, and our warmest aloha to my dear friend and my colleague, Senator DANIEL K. INOUYE, for the loss of his lovely wife Maggie, who passed away this afternoon.

Over the past year, whenever I spoke to Senator INOUYE, I would ask him about Maggie, and his reply to me was: She is a trooper. She is doing the best she can. And that really sums up it so well about Maggie.

Maggie was definitely a trooper. She was a wonderful, wonderful lady who served our country as a Senate spouse for the past 40-plus years. Maggie was a classy woman who was well respected everywhere she went. She had a heart of gold and will definitely be missed by the people of Hawaii and the families here in Washington, DC. My thoughts and prayers go to Senator INOUYE, to his son Kenny and his wife, their extended family, and all of the Inouye staff here and in Hawaii. We stand waiting to do whatever we can to help in this difficult time. We will miss Maggie. May Maggie's soul rest in peace.

Mr. LAUTENBERG. Mr. President, I rise standing near our friend and colleague from Hawaii as we think about his colleague in the Senate and the fond relationship they enjoyed. If a poll was conducted in this Chamber or among the Members of this Chamber, if you said: Who is the most respected, beloved, wise Member of the U.S. Senate, you would come up with only one name, not that there aren't others of friendship and good will and intellect and all of those things, but DANNY INOUYE is the exceptional person. His demeanor was quiet and thoughtful and always helpful, and he served his country in a way that few have in our history, having lost his arm in Italy and fighting on to lead his troops.

I give you that background that all of us are so familiar with: a Medal of Honor winner, a distinction so rarely given, only to true heroes, to true leaders. But DANNY is a multidimensional person. He always had room for friendship, warmth, and affection, and his companion of 57 years, someone he always talked of with respect and admiration, and the linkage was true and fast. He relied on some people for advice and counsel and always cleared the air with his own thinking. But Maggie, his wife, was someone who was such an integral part of DANNY INOUYE's living that this moment is especially tragic. He looked after her

with love and affection and talked to those with whom he had contact about her, never really resigning in tone or in words the fact that she was not doing well.

So when a Member, a friend like DANNY INOUYE loses his dearest friend, his beloved wife of 57 years, their relationship, we all feel sadness, we all feel touched by his loss and want him and his family, his son and all of the Inouye family, to know that we all care, we all share DANNY's grief. We all are ready to stand with him as friends and try to bolster his view about the future by reminding him how valuable he is to all of us and that we understand his pain, his anguish, and the sadness he feels. I think I speak for many in this Chamber: We want to express our feeling and devotion to DANNY INOUYE, friend, soldier, leader, our sadness, our grief at this terrible loss he has sustained.

I yield the floor.

Mr. WYDEN. Mr. President, I join with the other Senators in expressing my sadness tonight as to Senator DAN INOUYE's loss. I think all of us see Senator INOUYE as the gold standard of caring. He has always cared about his constituents. He has always cared about his colleagues. But, most of all, he has cared about his family, and he threw himself with every ounce of his energy and strength into caring for his spouse who has passed today.

It is important for the Senate to note that in addition to his caring, what Senator INOUYE is best known for is his quiet sense of dignity. This is a place where it can get loud and clamorous at times, and what DAN INOUYE has always done is to try to always take the quiet path, to lower the decibel level, to try to get Senators to keep a perspective. That is why he always put his family first.

There are many fine people in the Senate, but when we think about our colleague DAN INOUYE tonight and all he did for his spouse in those last few months, there is no better person, no better colleague, no better friend all of us could have than DAN INOUYE. I just wanted to, along with my colleagues, let him know he is in my thoughts and prayers tonight.

Mr. SESSIONS. Mr. President, I join my colleagues in expressing our sincere sympathy to Senator INOUYE on his loss. He is certainly one of the finest, most respected Members of this body. He is one of the great Senators who have served here and has been a true American patriot, serving his country with such fidelity and putting his very life on the line, and nearly losing it, and winning the Nation's highest honors in the course of serving his country.

So I would just say from this Senator, and on behalf of so many of us, we are sorry to hear this news, and our prayers and support are with Senator INOUYE at this time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this evening to talk about the budget that is before the Senate. But before I do, I want to add my voice to my colleagues who have come out here to express their condolences to our colleague, Senator INOUYE, on the loss of his wife and long-time partner. Certainly, as the Senator from New Jersey said, Senator INOUYE is the most respected Senator in this body, and he served his country well. Mrs. Inouye, too, has served her country by allowing Senator INOUYE to be such a historic figure in this country and such a great leader and by all the time that was demanded by that. She has served her State, she has served her country, and we are all grateful. And to Senator INOUYE, he and his family are in my thoughts and prayers as well.

Mr. BAUCUS. Mr. President, I would like to offer my deep condolences to our good friend and colleague, DAN INOUYE, and his family and to the people of Hawaii on the death of our friend DAN's wife, Maggie, who died this afternoon.

The death of anyone is cause for grief. The death of a spouse is an even greater cause for grief. The death of the spouse of a good friend, DAN INOUYE, is even more grievous to all of us.

Knowing DAN INOUYE as we do, we are all hard pressed to find anyone who is as wonderful and caring, a statesman, generous, as wise a man as DAN INOUYE. A Japanese American under the most difficult of circumstances, he served his country—and served it with tremendous valor.

His wife Maggie I did not know well. You can tell a lot about a person in the first 5 or 10 minutes of just meeting someone. Maggie was just like DANNY—very wise, very deep, very caring, very generous, classy like DAN.

I say to DAN, to his family, and to the people of Hawaii, you all have our hearts, you have our prayers, our thoughts are with you as well as with Maggie in this most difficult time. Know that we are thinking of you, we are praying for you and for your family.

Mr. FRIST. Mr. President, I come to the floor on a matter of great sadness for the Senate family. Today, at 4 p.m. at the Walter Reed Army Medical Center, after a long and difficult struggle with colon cancer, Margaret Awamura Inouye, the lovely and gracious wife of Senator DAN INOUYE, passed on.

On behalf of my colleagues, I offer my deepest condolences to the esteemed senior Senator from Hawaii. Our hearts go out to the Inouye family as they mourn their loss.

DAN and Maggie were married for 58 blessed years. They met in Hawaii in 1947 right before Thanksgiving. He had just returned from the war and rehabilitation. She was back from Columbia University with a master's degree in education.

For DAN, it was love at first sight. And he didn't hesitate to make his intentions known. He popped the question on their second date, and to his great, good fortune, she said yes.

For nearly 6 decades, she stood by him, encouraged him, and believed in his success. DAN credits Maggie for putting him on the path to becoming a U.S. Senator. Without her, he said he couldn't have made it.

The Senator tells us that Maggie handled her illness with dignity and grace—that she always had a smile and kept a bright outlook.

Mrs. Inouye is survived by her husband, DAN, their son, Dan Jr., and her five sisters, Edith, Grace, Betty, Shirley and Patricia.

Our thoughts and prayers go out to the Inouye family.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Mr. President, if I might ask to be recognized for 3 minutes on the budget resolution now pending.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you very much.

Mr. President, I would like to conclude the matter raised between Senator SPECTER and myself about the resolution brought to the floor by Senator FEINGOLD.

I heard yesterday that Senator FEINGOLD was going to offer this resolution. I did not realize he would do it today. I have spoken to Senator FEINGOLD, and I believe it is his intention not to bring this to a vote today, as some have suggested, but, rather, to use this as a catalyst to bring about the kinds of hearings and investigations that this Congress owes to the people of the United States on the wiretap program.

I have saluted Senator SPECTER earlier for his leadership on the Senate Judiciary Committee. I am sorry the Senate Intelligence Committee, given a chance to do the same thing, failed to exercise its oversight responsibility on this same program.

I think it is important, regardless of party affiliation, that we ask the critical constitutional and legal questions about this wiretap program. This resolution by Senator FEINGOLD will be a catalyst for that type of investigation, those types of hearings. Whether that results in a censure of the President or any further action against the President remains to be seen. But it certainly says to the American people, we are not going to ignore what could be one of the most serious constitutional issues to come before this Government in decades.

I have read this resolution Senator FEINGOLD has offered. I agree with Senator SPECTER, I do not think when we voted to go to war against the Taliban we said to the President that he could ignore the law, that he could go about wiretapping Americans without court approval. That is basic to America.

The President has said over and over publicly, if we are going to wiretap people, we will get court approval. Well, it turns out that is not the case

at all. I do not know how often because I have not been briefed on the details, but apparently on many occasions this Government has wiretapped the conversations of American citizens without court approval. The President and the administration have not followed the clear letter of the law. That is an important and serious constitutional question.

I think the resolution being brought to us by Senator FEINGOLD will cause us to look anew at this critically important issue. Whether it results in any action by Congress, as I said, remains to be seen. But I think it is important that we accept this challenge by the Senator from Wisconsin and that hearings be held in the Judiciary Committee, if that is where the resolution is eventually referred, and possibly even in the Intelligence Committee.

I hope the Intelligence Committee will start to move on this on a bipartisan basis. It has historically been a bipartisan committee. But recently in the last few weeks there have been many important votes taken on partisan rollcalls, votes relative to the authority and exercise of that authority by this committee in investigating this Bush administration.

It would be good if the committee could return to its bipartisan ways. I think it would give the institution of the Senate a vote of confidence that we can stand and investigate Presidents of either political party if there is serious and important policy questions to be determined.

I yield the floor.

Mr. SESSIONS. Mr. President, what is the time agreement?

The PRESIDING OFFICER. There is a previous order that at 5:30 we will move to executive session and proceed to a vote on Calendar No. 520.

Mr. SESSIONS. Mr. President, I think back to a young Senator INOUYE, serving in our military, putting his life at risk and nearly losing it for our country. One thing he had a right to expect of his Congress was, as a soldier, he would be supported in the conflict.

We are here today hearing of a resolution presented by Senator FEINGOLD to censure the President of the United States. It is baseless. It is not sound in law, and it is not sound in policy. We, by over a three-quarters vote, voted to send our soldiers in harm's way. This Senate voted to do that. We authorized the President, in a use of force resolution, to identify those responsible for attacking us and to attack and destroy them, to use such military force as he deemed appropriate to attack and kill them. And our soldiers have been doing that.

The Supreme Court recently had to deal with the situation in which an American citizen was captured abroad, Hamdi. They caught him. It went before the Supreme Court of the United States, and the issue was whether he was entitled to a trial.

The question was, Was he entitled to a trial? The Supreme Court held otherwise. The Supreme Court said that he was a prisoner of war, and the authorization of military force authorized the military to attack and kill enemies of the United States. It also authorized them to capture them. That was incident to the use of military force.

It is quite plain that our history of military affairs supports the concept that surveilling in a time of war is incident to the carrying on of war. In the same way that we have a right to take an American citizen and lock them up in jail without trial if they are identified to be with the enemy, we can surveil the enemy's communications.

The President authorized simply this: al-Qaida conversations in which one of the parties to that conversation is outside the United States could be monitored. We know it was through those kinds of communications that 9/11 occurred. We had sleeper cells here activated by foreign communications.

It is wrong to undermine this President while we have our soldiers at war and at risk, to suggest that he has done something wrong and needs to be censured.

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

Mr. SESSIONS. I express my strongest disapproval of the propriety of this resolution.

EXECUTIVE SESSION

NOMINATION OF LEO MAURY GORDON TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the hour of 5:30 p.m. having arrived, the Senate will go into executive session and proceed to a vote on Calendar No. 520, which the clerk will report.

The legislative clerk read the nomination of Leo Maury Gordon, of New Jersey, to be a judge on the United States Court of International Trade.

Mr. LEAHY. Mr. President, this evening the Senate will consider another lifetime appointment to a circuit court. The nominee is Leo Maury Gordon, who is nominated to serve on the U.S. Court or International Trade. Mr. Gordon is the court's longtime clerk, and he is very familiar with its important work. I urge all Senators, Republican and Democratic, to support this nomination.

His confirmation will bring the total number of judicial appointments since January 2001 to 232, including the confirmations of two Supreme Court Justices and 43 circuit court judges. Of course, 100 judges were confirmed in the 17 months that Democrats were in the Senate majority. In the other 45 months, 132 judges have been confirmed. Ironically, under Democratic leadership, the Senate was almost twice as productive as under Republican leadership.

It is most regrettable that this President has not fulfilled his promise to the American people to be a uniter. Nor has he fulfilled his pledge to complete his work in advance of vacancies and to make nominations promptly. Judicial vacancies have grown to more than 50, and the White House has failed to send a nominee for more than half of those. Some of those vacancies have been sitting empty for more than a year. Over and over the White House has missed the deadline the President established for himself, and today, half of the judicial vacancies, 27, are without a nomination. One-third of those vacancies are already more than 180 days old, and one-third of the judicial emergency vacancies are without a nominee.

If the White House would eliminate its partisan political and ideological litmus tests from the judicial nominations process and its emphasis on rewarding cronies and focus only on qualifications and consensus, the job of selecting nominees and our job of considering them for confirmation would be much easier. That is what this confirmation demonstrates.

Recently we have seen the President withdraw a circuit nomination after information became public about this nominee's rulings in a number of cases in which he appears to have had a conflict of interest.

At a minimum, this case reinforces a point about this White House's poor vetting process for important nominations. A number of nominations by this President have had to be withdrawn. Among the more well known are Bernard Kerik to head Homeland Security and Harriet Miers to the Supreme Court, which were withdrawn for different reasons. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination.

When we are considering lifetime appointments of judicial officers who are entrusted with protecting the rights of Americans and when we are reviewing important law enforcement officials, it is important to be thorough. Unfortunately, this White House seems more interested in rewarding cronies.

Ms. CANTWELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Leo Maury Gordon to be a judge of the United States Court of International Trade?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Minnesota (Mr. COLEMAN), the Senator from Idaho (Mr. CRAIG), the Senator from Nevada (Mr. ENSIGN), the Senator from Wyoming (Mr. ENZI), the Senator from Georgia (Mr. ISAKSON), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''