

1 EXECUTIVE COMMITTEE MEETING - DESCRIPTION OF CHAIRMAN'S
2 MARK OF THE RESTORING EARNINGS TO LIFT INDIVIDUALS AND
3 EMPOWER FAMILIES ACT OF 2001

4 TUESDAY, MAY 15, 2001

5 U.S. Senate,

6 Committee on Finance,

7 Washington, DC.

8 The meeting was convened, pursuant to notice, at
9 9:05 a.m., in room 216, Hart Senate Office Building, Hon.
10 Charles E. Grassley (chairman of the committee)
11 presiding.

12 Present: Senators Hatch, Murkowski, Nickles, Gramm,
13 Lott, Jeffords, Thompson, Snowe, Kyl, Baucus,
14 Rockefeller, Daschle, Breaux, Conrad, Graham, Bingaman,
15 Kerry, Torricelli, and Lincoln.

16 Also present: Calvin Davis, Staff Director and Chief
17 Counsel; John Angell, Democratic Staff Director.

18 Also present: Mark Weinberger, Assistant Secretary
19 for Tax Policy, Treasury Department; Lindy Paull, Chief
20 of Staff, Joint Committee on Taxation; Mark Prater and
21 Russ Sullivan, Chief Tax Counsels, Carla Martin, Chief
22 Clerk; and Amber Williams, Deputy Clerk.

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
2 SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. Good morning. Especially a good
5 morning to the members of the committee, who will have a
6 big day ahead of them, and a period of time to consider
7 very important policy of this Congress.

8 Also, I say good morning to the citizen taxpayers in
9 the audience, and thank you for your attention to this
10 important work of the committee.

11 Tax filing season was, of course, over a month ago,
12 but a tax bite stings year around. Never have taxes been
13 so high, and never have Americans been so ready for tax
14 relief, so today this committee will mark up an historic
15 bill that takes a substantial sting out of the federal
16 tax bite.

17 Before we get into that product, I would like to say
18 a little bit about how the process of putting this
19 legislation together has gone over the last several
20 weeks.

21 First, this bill came together after Senator Baucus
22 and I tried to hear out our respective caucus members
23 about their priorities. You do not put together the
24 biggest tax cut in two decades without considering all
25 points of view, nor should we.

1 Second, we truly wanted this to be a bipartisan
2 agreement on this tax relief bill. We knew that we would
3 not get the people's business done without such a
4 bipartisan agreement. Of course, that is the reality of
5 a 50/50 Senate, evenly divided for the first time in
6 about 120 years.

7 Now, I have to say that it was not very easy to
8 arrive at a final agreement. Working on this bill
9 reminds me of the family farm. A father and son can work
10 together for a lifetime in that operation. They might
11 have different points of view on things, like whether the
12 ground is whether for planting. For the seed to get
13 planted, the father and the son each have to give a
14 little ground. The same thing happened with the writing
15 of this legislation.

16 Among this committee's 20 members there were many
17 opinions on what is important, so in the end no one got
18 everything he or she wanted, including the Chairman. But
19 I think a lot of us got something that we can support. I
20 think we will ultimately give tax relief for American
21 working men and women in a way that taxpayers will take
22 notice.

23 Of course, this committee is receiving criticism,
24 from both the process and the final product. Some people
25 around here have been preaching bipartisanship, but then

1 they turn around and attack the bipartisan compromise
2 reflected in this bill.

3 So that begs a philosophical question for members.
4 Is bipartisanship appealing only when you get exactly
5 what you want? Of course, I hope not. There is a lot of
6 room between a perfect dream and a nightmare.

7 Now I would like to turn to what is in this bill.
8 This legislation includes tax cuts across the board,
9 death tax relief, expanding the child credit, expanding
10 the Earned Income Credit, providing over \$30 billion in
11 education incentives, and expanding pension protections
12 and encouraging savings for retirement. This bill will
13 put a considerable amount of money back in people's
14 wallets, and do it nationwide.

15 Let me give two examples before I turn to Senator
16 Baucus. For a family of four, this bill would provide
17 relief in this calendar year in the amount of \$800--that
18 is the benefit of the new 10 percent bracket--and an
19 increase in the child tax credit. Now, \$800 may not seem
20 like much to people living here in high-priced
21 Washington, DC, but for folks in my State of Iowa in the
22 heartland, it means something.

23 Let me give another example. In the year 2002, a
24 married couple with two children with a \$15,000 income
25 will pay no income tax. The family will receive \$4,008

1 from Earned Income Credit--that is an increase of \$402--
2 and a benefit from the expanded per-child credit of \$600.
3 This family will receive a total cash influx of \$1,002.

4 With that in mind, I would like to now turn to my
5 colleague, the Ranking Democrat, Senator Baucus, and
6 thank him publicly, as I hope I have done in other ways
7 for his cooperation in bringing this here, and an example
8 of the tradition of the Senate Finance Committee of its
9 bipartisanship.

10 Senator Baucus?

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA

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4 Senator Baucus. Thank you very much, Mr. Chairman.

5 I, at the outset, want to thank you very much. This
6 has been a good, solid, tough, good-faith, back-and-forth
7 negotiation, very much in the spirit of good faith and of
8 reasonable people reasoning reasonably. I want to tell
9 you, Mr. Chairman, how much I appreciate that.

10 I believe, Mr. Chairman, we are presenting a bill
11 today that is a good bill, it is a solid bill, and
12 deserves broad bipartisan support. Let me explain why.

13 In the first place, I believe the mark is much better
14 than the bills that were proposed by the President and
15 passed by the House. Most significantly, the mark
16 provides a better distribution of tax cuts. To me, that
17 is very important.

18 In fact, according to the Joint Tax Committee
19 analysis, the bill would make the tax system more
20 progressive than current law. I will repeat that. More
21 progressive than current law.

22 But it is not enough to say that the bill is better
23 than the President's proposal, the House bill. After
24 all, the standard we should apply is not whether the bill
25 is better than it could have been. Instead, the standard

1 should be whether, on its merits, the bill makes positive
2 changes that improve our tax system.

3 By that standard, I suggest this bill passes with
4 flying colors. Let me describe why, and some of the
5 improvements that this bill contains.

6 We create a new 10 percent bracket. This is the
7 single biggest piece in the bill, \$438 billion over 10
8 years. This benefits every single person who pays income
9 taxes, but the largest benefit goes to low- and middle-
10 income taxpayers. In fact, about 75 percent of this
11 provision goes to people who earn less than \$75,000 a
12 year.

13 Another thing. Unlike most of the other cuts, this
14 one takes effect immediately. Better yet, retroactively
15 to the first of the year. This should not only help
16 average taxpayers, but also provides a modest income
17 stimulus.

18 We also make the child credit refundable along the
19 lines suggested by Senators Kerry, Snowe, Breaux,
20 Lincoln, and others. This is a big improvement over
21 current law and it will cover 16 million more children
22 than the President's proposal.

23 We make important reforms that expand and simplify the
24 Earned Income Credit so that it is available to many more
25 low-income working families. We create incentives for

1 education, including a new provision making tuition
2 payments tax deductible.

3 We expand incentives for private pensions to help
4 people save for their own retirement, 401(k)s, IRAs, and
5 on top of that we create two new incentives that will
6 dramatically expand pension coverage of lower-income
7 workers.

8 Let us not forget, we reduce the marriage penalty and
9 we reform the estate tax. These are not Republican
10 priorities or Democratic priorities, they are bipartisan
11 priorities, important to every single member of this
12 committee.

13 Putting all of this together, I believe that the bill
14 represents a significant improvement over current law.
15 Is it perfect? No. Is it the bill I would write if I
16 could have it my way? Of course not. Can it be
17 improved? Yes. In fact, I intend to support at least
18 one significant amendment to reform, rather than repeal,
19 the estate tax and I hope that amendment passes.

20 But, again, taken as a whole, the mark represents a
21 significant improvement over current law. Let me say a
22 few things about the process.

23 First of all, I regret that a majority insisted that
24 this bill be written through the reconciliation process
25 rather than open on the floor. That, to my mind, is

1 unnecessary and it is inappropriate, particularly with a
2 bill of this magnitude.

3 However, given that decision, I believe that the
4 Chairman has provided the best process possible under the
5 circumstances. It has been thorough. For example, this
6 year we have had eight hearings on different aspects of
7 the bill.

8 The process has been bipartisan. We have met
9 together. We have met in separate caucuses. The
10 Chairman and I have had many long meetings to try to
11 reconcile all of the views represented on this committee.

12 Of course, we are meeting here in open committee for
13 the purpose of debating and amending the bill. No back
14 room kabuki. Debate and amendments, up or down.

15 So, I thank you, Mr. Chairman. I think you have done
16 a great job. I look forward to the discussion of the
17 amendments and debate as we work to continually improve
18 upon this bill.

19 Thank you.

20 The Chairman. Thank you, Senator Baucus.

21 Now we are going to let members, as they sit here,
22 speak in seniority. Then for members that come in, we
23 will do it under the rules, as we have, first-come,
24 first-served. But for the members that are here, we will
25 take you just in the way of seniority.

1 Then after all of the members have spoken, and I hope
2 that you will make your statements relatively short, but
3 we want to hear everybody out, then we are going to go
4 through the walk-through that we would normally do. Then
5 we will do amendments.

6 Senator Baucus and I have agreed on a certain order
7 for Democratic amendments and a certain order for
8 Republican amendments, and we will take those in the
9 order in which we have agreed. I think those have been
10 cleared with the respective staff.

11 So it is my pleasure now to call on the Chairman of
12 the Senate Judiciary Committee, Senator Hatch.

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1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A. U.S. SENATOR
2 FROM UTAH

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4 Senator Hatch. Well, thank you, Mr. Chairman. I
5 want to offer my sincere appreciation for the excellent
6 manner in which you and Senator Baucus have approached
7 the development of the mark before us today.

8 Finding a bipartisan mixture of provisions that could
9 get us this far is a major accomplishment of leadership,
10 finesse, and diligence, and I congratulate both of you
11 for it. Yours certainly has not been an easy job, nor
12 has that of the Ranking Member, Senator Baucus.

13 I also wish to commend, for his flexibility and
14 courage against considerable pressure, Senator Baucus,
15 who has stood up on this issue to the extent that he can.
16 I have served on the Finance Committee for about a decade
17 now, Mr. Chairman.

18 For most of these years, this panel has been known
19 for a fairly high degree of cooperation and
20 bipartisanship. This has not always been the case, to be
21 sure. But I would say that, compared to the Senate as a
22 whole, the Finance Committee has worked together
23 remarkably well, especially if you compare it with the
24 Judiciary Committee.

25 I believe this bipartisanship something all of us on

1 the committee have taken a degree of pride in. I know
2 that I have. Therefore, I am pleased to see the extra
3 effort that the Chairman, Ranking Member, and the rest of
4 our colleagues who have participated have made in
5 producing the mark before us.

6 We have before us a classic political compromise.
7 Nobody is very happy, but it is pretty darn close to
8 being the best the majority of the committee can live
9 with under the circumstances.

10 From my point of view, I am really disappointed that
11 we cannot get the top tax rate down to 33 percent, and
12 the other rate reductions called for in the President's
13 proposal. Many of us believe that the rate reductions we
14 do have before us are too slow.

15 Rate cuts are about the strongest medicine we could
16 prescribe for the economy for the coming decade, not to
17 just get out of the current doldrums, but to ensure
18 continued prosperity. Half of the right dosage, taken
19 too slowly, will only ensure the patient a much slower
20 recovery.

21 We know, for example, that reducing the tax rates has
22 a significant effect on the ability of small businesses,
23 most of which pay taxes at the individual rates, to grow
24 and, of course, to generate jobs.

25 The stronger the income tax rate reductions, the more

1 we unleash the growth potential for the millions of small
2 business people throughout this country, and for our
3 economy.

4 I am also disappointed we cannot find the means to
5 extend permanently the research credit in this bill.
6 Making this credit permanent is important for keeping our
7 productivity high, which has been the major factor in the
8 creation of our remarkable surplus projections for the
9 next 10 years.

10 On the other hand, I am pleased to see that the
11 pension simplification and retirement savings provisions
12 were able to be included in the mark. Although these are
13 not as strongly and swiftly phased in as they should be,
14 these changes will make a real difference in the ability
15 of many in my home State of Utah, and elsewhere, to save
16 for their retirement and for the overall retirement
17 security and savings rate of our Nation.

18 I recognize that the realities of an evenly split
19 committee and a 50/50 Senate demand that the strong tax
20 cut proposal the President offered has to be tempered
21 with the views of the other side.

22 Given these realities, I believe that the mark is a
23 good starting point for the Senate's contribution to a
24 major tax cut. It can be improved still, and I think it
25 will be as it moves forward in the legislative process.

1 But I truly hope the bipartisan tradition of this
2 committee prevails today, and we do not let demagogic
3 class warfare arguments weaken or destroy what can
4 develop into a pretty darn good tax cut bill for all
5 Utahans, and for everybody in our country, for the future
6 of the economy, and for the American people.

7 I want to thank you, Mr. Chairman, for your hard work
8 and for the good things you have done here, and you,
9 Senator Baucus, as well.

10 The Chairman. Thank you, Senator Hatch.

11 The Chair recognizes the Senator from West Virginia,
12 Senator Rockefeller.

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1 OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S.
2 SENATOR FROM WEST VIRGINIA

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4 Senator Rockefeller. Thank you, Mr. Chairman. I
5 want to congratulate you and Senator Baucus on the
6 occasion of your first tax mark-up. That is a big
7 occasion, and it is not easy to lead. I know that you
8 have both taken substantial criticism from your
9 respective caucuses, and I do admire you for what you
10 have attempted to do.

11 I have to say that, while I do admire you both very
12 much personally, I believe that you are sadly misguided
13 in the path that you have chosen.

14 This mark is, to me, a profoundly wrong course. It
15 spends too much, it saves too little, and it invests far
16 too little in America's long-term needs. In fact, if I
17 had to put it in a nutshell, I think the problem with
18 this bill, improved at the margins though it may be, is
19 that it is not so much in the distribution of the taxes,
20 although I think that is a minor obscenity, but I think
21 the far greater problem is the fact that it eviscerates
22 the revenues of the Federal Government, and that you
23 cannot look at this bill all by itself.

24 We are not voting just on this bill all by itself
25 because we know there is much more to come in the coming

1 year and a half. There will be other tax cut bills that
2 will be presented either upon the House floor or our own.
3 Many of them will pass. Within the free enterprise
4 system, that part which the federal government plays will
5 be substantially reduced. The America that we need and
6 deserve will not be able to come into fruition.

7 To put it even more strongly, I think in the 17 years
8 I have been in the Senate this, and those bills which
9 will follow which will add on to this, is the worst
10 mistake that we have made in terms of our country.

11 The course you choose today, I think, therefore, is
12 very damaging. I know neither of you believe that, and I
13 respect that. But I do believe it is damaging. I do
14 recognize also that you have made certain improvements,
15 and I am glad of that. But one does not vote on certain
16 things, one votes on the net effect. That is what
17 disturbs me.

18 It disturbs me that our President is promoting tax
19 cuts to benefit a certain group, primarily, in our
20 country. I do not call that class warfare, I call that
21 mathematics and a simple sense of justice and fairness
22 for lots of people who work in this country at all
23 levels.

24 It is especially disastrous for the people that I
25 represent in West Virginia. I am called a U.S. Senator,

1 but I am elected only by the people of West Virginia.

2 In the fervor to report out this largest tax cut in
3 history, with the CBO itself saying that we could be \$4
4 trillion off, and knowing that once we have lowered taxes
5 they are probably not going to come up again, so in
6 fixing this tax cut we are in a sense fating the budget
7 for the next 10 years and, therefore, doing the
8 evisceration of our ability to make the America that we
9 deserve and want. I think the committee is very grave to
10 make this mistake.

11 I do not think it is one that the country is going to
12 recover from easily. We spend 15 years getting out of
13 the last mistake, where the projections over 10 years
14 were off by \$5 trillion.

15 I was governor of West Virginia at that time. It
16 will take me many, many decades to forget the personal
17 experience of knowing that one out of every four people I
18 passed on the streets of West Virginia was unemployed.

19 People have prophesied disaster before and they have
20 been wrong. I hope I am wrong. I do not think I will
21 be. In this case, I fear the cold, hard facts. To me it
22 is mathematics, not politics. It is not class warfare,
23 it is philosophy, and how do you approach how you want
24 American to be.

25 Just as President Reagan's tax cuts were accompanied

1 by massive spending increases, so, too, do I expect we
2 will be asked again to add significant new spending to
3 the long list of additional tax and budget items. In the
4 paper yesterday, at least one of them talked about the
5 fact that the corporate sector has yet to weigh in on
6 this.

7 Whether it is spending or whether it is tax cuts, it
8 is all going to eviscerate that which can make America
9 the country that we want it to be. I think it is a
10 profound mistake.

11 The sheer size of the \$1.35 trillion tax cut means
12 that we drastically limit investments and things which I
13 think are fundamental for the quality of the lives that
14 our people will live, not only in my State, but all over
15 the country. I feel terribly, terribly strongly about
16 that.

17 I think jeopardizing the long-term solvency of the
18 Medicare trust fund and the Social Security trust fund
19 even as we know the baby boomers are going to be on us
20 before this tax cut has run its course, is profoundly
21 wrong.

22 Moreover, I worry that this is just the beginning, as
23 I have said before and I want to reemphasize, to enact
24 more and more tax cuts no matter what the cost, no matter
25 what the equity of the relief. The enormous tax cuts and

1 future tax cuts will push us back into the deficit
2 spending that we spent so long trying to get out of.

3 So I fear that, given the process, a few Democrat, or
4 even bipartisan, amendments are going to pass. I hope I
5 am wrong. I have 23 amendments.

6 I do not know how many I will be given a chance to
7 offer: Medicare prescription drugs, progress on reducing
8 the number of uninsured Americans, a proposal that deals
9 with the energy crisis, the critical efforts like long-
10 term care, finding ways to address the digital divide,
11 all of these things which I think are the future of
12 America.

13 But, be that as it may, we are faced with what we
14 have. I think it is, as I say, the worst mistake, when
15 you add on what is going to follow, assuredly, over the
16 next year and a half that I have seen in the 17 years
17 that I have been in the Senate.

18 But we will do our best here to try to rectify what
19 we can. We will do it on a bipartisan basis because we
20 are split 10/10, and whoever wins will win. I only hope
21 for the best for our country.

22 Thank you, Mr. Chairman.

23 The Chairman. Thank you, Senator Rockefeller.

24 Senator Murkowski?

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1 OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S.
2 SENATOR FROM ALASKA

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4 Senator Murkowski. Thank you, Mr. Chairman.

5 I, too, want to join in commending you and Senator
6 Baucus for this mark. I recognize the difficulty of
7 putting something like this together as a committee
8 chairman myself. Senator Bingaman and I are going to
9 have an opportunity to put an energy bill together here
10 in the not-too-distant future.

11 I know it is difficult to achieve a consensus in a
12 50/50 Senate, but I think you have achieved a bipartisan
13 mark in some real tough circumstances.

14 Now, I have heard Senator Rockefeller express his
15 concern over this being a mistake, and he mentioned it
16 several times. I take the opposite position. I think it
17 is the correct thing to do.

18 It does not do what I would like it to do, but on the
19 other hand, in this kind of an organization and structure
20 where you have a Democratic/Republican 50/50 tie, it is
21 pretty hard to expect everyone to get everything they
22 want.

23 But I think we should go back and recognize the
24 premise of why it is timely for a tax cut. That is
25 simply because the government enjoys a considerable

1 surplus. The justification is what to do with that
2 surplus. Do you give it back to the people in some
3 manner or form to whom it belongs to, or does government
4 simply expand and give you more services and charge you
5 more for it? I think that is the basic concept that we
6 went into this, Republicans and Democrats alike.

7 Do we want more government and more government
8 services or do we want to give a refund to the taxpayer
9 because we have overcharged the taxpayer and, as a
10 consequence, have a surplus?

11 Now, you can go down a million rabbit trails to
12 justify spending this money in many areas. But by the
13 same token, we have come to grips with the reality that
14 the taxpayers is deserving of a tax cut.

15 Now, while I applaud the efforts, I would note that
16 the mark fails short in a respect that I feel very
17 strongly about. It fails to bring down the top rate to
18 which I believe is a more appropriate level.

19 I would much have preferred to see the top rate at 33
20 percent, and certainly no higher than the 35 percent we
21 impose on corporations. Cutting the top marginal rate
22 would permanently and primarily benefit the 17.5 million
23 small business owners who are taxed on their business
24 income on individual rates. The backbone of this
25 country, we have always recognized, is small business.

1 Further, according to the Office of Tax Analysis at
2 Treasury, owners of flow-through entities, partnerships,
3 S corporations, and sole proprietorships would receive 77
4 percent of the tax relief associated with reducing the
5 top income tax to 33 percent. Small business owners make
6 up 63 percent--there are about 800,000 out there--of the
7 1.3 million tax returns that will benefit from the new 33
8 percent rate.

9 Another reason I think that the top rate should come
10 down further, is that the Tax Code is very imbalanced at
11 this time. Currently, the top one percent of the
12 taxpayers pay nearly 36 percent of all the income tax.
13 The top five percent pays more than half, 56.6 percent.
14 People with more than \$75,000 in income, that is 20
15 percent of all the returns, pay a staggering 83 percent
16 of the income taxes. I think the burden is too great on
17 a small portion of the population. But I recognize, Mr.
18 Chairman, that you and Senator Baucus had to compromise.
19 I understand the difficulties you faced in trying to make
20 that a bipartisan bill.

21 But I want to thank you for including language to
22 allow many of my constituents, the Alaska natives, as
23 they associate within their corporations to establish
24 settlement trusts. That is going to be very meaningful
25 to them. These tribal corporations, unlike the lower 48

1 tribes, are required to pay income taxes. Settlement
2 trusts will allow them to invest some of their earnings
3 for the future social benefits of their members.

4 I know you want to get on with this mark. I noted
5 also that we have about 171 amendments. I think, on the
6 Republican side, there are about 24 listed, and the
7 Democrats have exceeded us with about 147.

8 I thank the Chair. I wish the Chairman a very good
9 day.

10 The Chairman. Before I call on the distinguished
11 Democratic Leader of the Senate, I would like to ask my
12 colleagues to tell me privately if they would objective
13 if I would call on Senator Gramm and Senator Thompson,
14 because they have to chair a committee and open committee
15 meetings at 10:00. If will call on them after I call on
16 Senator Daschle.

17 Senator Daschle?

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1 OPENING STATEMENT OF HON. TOM DASCHLE, A U.S. SENATOR
2 FROM SOUTH DAKOTA

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4 Senator Daschle. Thank you, Mr. Chairman.

5 I was a very junior member of Congress, reelected to
6 my second term, in 1981. I voted for a tax bill then
7 that I consider one of my greatest mistakes in my public
8 career, because that tax bill created a \$5 trillion debt
9 the likes of which this country is still paying the price
10 for today.

11 We have \$3.5 trillion of debt outstanding, most of it
12 racked up all through the 1980s and the early 1990s. So
13 I find it difficult to accept, impossible to explain,
14 that here we are 20 years later, faced with almost
15 exactly the same circumstances, and once again on the
16 threshold of making the same mistake.

17 I am very disappointed that we are not able to
18 recognize the mistakes of the past, but that, indeed, is
19 what we are doing here today.

20 Many Americans want a tax cut and, in fact, given the
21 soft economic circumstances we are facing, deserve one.
22 But most Americans want good balance as we look at our
23 fiscal responsibilities. They want to pay off the debt,
24 all \$3.5 trillion of it. They want to protect our health
25 and retirement programs, especially Medicare and Social

1 Security. They want to invest in education.

2 I strongly believe, Mr. Chairman, that this bill
3 still fails balance, in spite of the efforts that you and
4 Senator Baucus have made to improve it.

5 I find three major objections. First, this bill is
6 based on projections that I guarantee you will not be
7 realized. There is no question in my view that the \$5.7
8 trillion projection will be altered, and altered
9 dramatically, as early as July. All of the papers this
10 morning have again reported a reduction in corporate
11 profit of about 36 percent just in the first quarter.

12 We are beginning to see indications that across the
13 board profits are not going to be realized. If profits
14 are not going to be there, income is not going to be
15 there. If income is not going to be there, the tax
16 revenue generated from income will not be there either.

17 The other reports that are very common these days--
18 again, today in the paper one could see the report from
19 California--already states, one after another, are
20 readjusting their budgets because of the realization that
21 their projections were wrong even six months ago.

22 California is going to be reducing its budget \$3
23 billion this week alone. Texas, Virginia, all States
24 that have had to take a second look have come to the
25 conclusion that their projections were off. So, for

1 anyone to assert that these projections are going to stay
2 as they are, are just wrong.

3 The second, size. The cost of this program, the cost
4 of this tax proposal, is reported to be \$1.35 trillion.
5 We estimate that, if you add AMT, if you add the
6 extenders we know are going to pass, if you take the
7 interest on the debt that is not going to be paid, we are
8 already at \$2.8 trillion for this bill. In the full 10-
9 year period, the second 10-year period, that cost is
10 going to be \$4 trillion.

11 I think the most obvious illustration of the
12 realization that it cost more than \$1.35 trillion, is
13 that it is all back-loaded. This bill would not be back-
14 loaded if we could afford it in a 10-year period and said
15 that the cap was going to be \$1.35 trillion. It is all
16 back-loaded, much to the chagrin of some of our
17 colleagues.

18 I guess the question would be, if we cannot afford it
19 when the baby boomers are 55, how in heaven's name can we
20 afford this bill when the baby boomers reach retirement
21 at 65? That is what this bill is saying, that somehow we
22 are going to be in a better position to pay for this when
23 the baby boomers start to retire than we can right now.

24 There is no doubt, Mr. Chairman, this bill will raid
25 Medicare and Social Security. That is not even a

1 question. Not to mention all of the other important
2 priorities: education, prescription drug benefits, the
3 array of investments and valuable services that we
4 provide that the American people are counting on.

5 Finally, Mr. Chairman, I would say this bill fails
6 balance on fairness. There is no better illustration of
7 that, of course, than the estate tax repeal. There are
8 3,000 extraordinarily wealthy people who will benefit at
9 the expense of everyone else. In a sense, this tax bill
10 pits the extraordinarily wealthy against the merely
11 wealthy, and the extraordinarily wealthy win.

12 There are 37 of those in South Dakota that will
13 benefit from the total repeal, and I am told about 3,000
14 across the board in the country. There are those who are
15 making \$110 million a year. I do not have the number,
16 but I know, out of this bill, they will generate a
17 benefit in this bill of \$600,000 a year.

18 The wealthiest one percent pay one-fifth of all
19 federal taxes, but this bill gives them one-third of the
20 benefits. Many of those who we represent in South Dakota
21 and across the country making \$30,000 or \$40,000, Mr.
22 Chairman, will get virtually nothing.

23 So, based on fairness, based on the lack of balance
24 with regard to its size and the projections, this bill
25 deserves to be beaten. We know that will not happen in

1 the committee. We hope we can improve it.

2 I thank you.

3 The Chairman. Thank you, Senator Daschle.

4 Now, Senator Gramm of Texas.

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1 OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM
2 TEXAS

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4 Senator Gramm. Well, Mr. Chairman, let me thank you
5 very much for recognizing that Senator Thompson and I
6 have a committee to start at 10:00. I appreciate getting
7 an opportunity to speak.

8 Let me, first, say that while I am not happy with the
9 bill as it now exists, I am happy to be here talking
10 about cutting taxes for the American people.

11 As I listen to my Democrat colleagues, I feel a
12 little better. But, unfortunately, I do not think many
13 of the things they are saying comport with the tax cut
14 that I see before us. But I do not want to get into all
15 of those things, because I know we want to get on with
16 amendments.

17 I would like to raise a concern that I have. That is
18 a concern that there is a growing class struggle going on
19 in America. I do not understand it. If this were a
20 country where position were inherited, where the position
21 of one's parents dictated one's position in life, I could
22 understand that.

23 But I look at our Majority Leader and our Democrat
24 Leader, persons from Mississippi and South Dakota from
25 very ordinary backgrounds, yet I see no evidence of the

1 fact they are from average, working American families has
2 impeded them from rising to the highest levels of
3 American government.

4 It seems to me that we have a society that comes
5 closest in history to a society where talented people who
6 are blessed with extraordinary talent and creativity are
7 basically in a position where that productivity and
8 creativity is channeled into channels that benefit
9 ordinary people.

10 I have two billionaires in my State. Both of them
11 are from very ordinary backgrounds. They have both been
12 leaders in the development, one early on and one later,
13 of high technology. They have produced tremendous
14 benefit for hundreds of thousands of people in my State,
15 and millions of people in the world.

16 The president of Microsoft makes a lot of money. We
17 have had quotes about this tax bill, that he could buy a
18 Lexus with the tax cut he is going to get. He has
19 already got a Lexus.

20 Is his wealth somehow a threat to the well-being of
21 ordinary people? Has he not done more to affect the
22 lives of millions of people than probably anyone who
23 lived on the planet in the last 25 years? I just do not
24 understand the foundation of this, other than the
25 politics of it.

1 I guess I feel that if someone tries to single out
2 people based on their race, national origin, religion, or
3 any other identifier other than income, they are rightly
4 repudiated by every right-thinking person in America.

5 But there is one form of bigotry which still is
6 acceptable in America, and that is bigotry against the
7 successful. I think it is very dangerous. When we look
8 at great societies in history, the single thing that has
9 destroyed more great societies in history than any other
10 thing is envy.

11 I am not going to bore the committee with listing all
12 of the great societies that have ended up being destroyed
13 by the creation of a class conflict. But I would just
14 like to remind my colleagues, and we all pick out numbers
15 that make our case, we are here today talking about
16 income taxes.

17 I just picked some dates. I will just make the
18 point, and try to be brief. The day before Ronald Reagan
19 became President, the top one percent of income earners
20 in America paid 17.9 percent of all income taxes. The
21 day before George Bush became President in 1989, the top
22 one percent of all earners paid 25.2 percent of income
23 taxes.

24 The day before Bill Clinton became President in 1993,
25 the top one percent paid 29 percent of all of the taxes.

1 And, as our colleague from Alaska has already pointed out
2 today, the top one percent of taxpayers pay 35.9 percent
3 of taxes.

4 Now, when President Bush made his proposal, he
5 actually proposed to make this problem worse by cutting
6 the bottom rate twice as much as he did the top rate, and
7 also by continuing to remove people from the income tax
8 rolls.

9 We have now reached a point where 45 percent of
10 Americans pay no income taxes. If the President's bill
11 had been adopted, we would probably have been approaching
12 the point--I do not have the exact numbers before me--
13 where 37 percent of all of the income taxes would have
14 been paid by one percent of the income earners.

15 My guess, and we do not have the numbers, is that 40
16 percent of all of the taxes would be paid by one percent
17 of the income earners under this bill. Forty percent of
18 all income taxes.

19 Now, here is my point. What happens is, every 20
20 years as the economy grows, we end up doing a tax cut.
21 We did one in 1961, we did one in 1981, we are doing one
22 in 2001. In each of those cases we take more and more
23 people off the tax rolls and we put a heavier and heavier
24 burden on a small number of people.

25 I think that we are approaching the point where

1 society is going to become unstable. When the majority
2 of Americans have no stake in general government in terms
3 of paying for it because they do not pay income taxes,
4 and when you have got one percent of the people paying 40
5 percent of the income taxes, I think that is a very, very
6 dangerous situation to be in.

7 So I think this tax proposal is unfair. I do not
8 understand why we want one percent of the people to
9 shoulder 40 percent of the burden. I rejoice that we are
10 here debating a tax cut. I am hopeful that we are going
11 to be able to lower the top rate.

12 I thought the Bush proposal of 33 percent, that no
13 American should pay more than 33 percent of their income
14 in income taxes, was a reasonable proposal and I hope
15 that, as we go through the process, that we can get back
16 to that number.

17 Having said that, I intend to support the Chairman.
18 I do not intend to offer any amendments today. I intend,
19 unless suddenly moved by some fashion that I do not at
20 the moment feel, to vote against all amendments.

21 I sort of liken it to going through hazing, where you
22 have to run through a belt line and everybody is hitting
23 you with their belts. The last thing you want to do is
24 stop running. [Laughter].

25 My view is, we want to go through this committee,

1 take it to the floor, then go to conference and pray that
2 somehow our prayers will be heard. I sense they will.

3 I yield the floor.

4 The Chairman. Senator Lott?

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1 OPENING STATEMENT OF THE HON. FRED THOMPSON, A U.S.
2 SENATOR FROM TENNESSEE

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4 Senator Thompson. Thank you, Mr. Chairman. I, too,
5 appreciate your letting us say a few comments before we
6 go to our committee hearings.

7 Picking up on what my colleague from Texas has been
8 saying, from 1980 to 1997 there have been 15 major tax
9 bills that have passed. Three of those were cuts, and
10 only one of them was really significant.

11 Mr. Chairman, we only have a major tax cut, it seems,
12 about once in a generation. That is why it is so
13 important that we are here today, and important that we
14 do it right. It is even more difficult and more rare to
15 get an across-the-board tax cut, which I think was the
16 centerpiece of the President's plan and ought to be the
17 centerpiece of what we are doing here today.

18 A little bit of background. In terms of the size of
19 the tax cut, of course, the statements are made that it
20 is extreme, it is too large, even in light of the fact
21 that the Reagan tax cut was 3.3 percent of the gross
22 domestic product, which led to growth, which led to
23 increased revenues.

24 The Kennedy tax cut was 2 percent of GDP, which also
25 led to growth and increased revenues for the government.

1 The Bush tax cut, as proposed, was 1.2 percent of GDP.

2 We are living in a time, Mr. Chairman, when we are
3 taxing at a higher rate than our left-of-center friends
4 in most all European governments. During the last eight
5 years, taxes, as a share of GDP, rose more in the United
6 States than it did in, I think, each of the European
7 countries.

8 I note that the taxpayers in Great Britain now, their
9 basic rate is 22 percent. Most United States taxpayers
10 are still in the 28 percent tax bracket. Germany cut its
11 top rate by 9 percentage points. France has cut, Belgium
12 has cut, Italy has cut.

13 I want to make another couple of comments about the
14 rate business. My colleagues have already spoken to
15 this, and they are absolutely right. We have fewer and
16 fewer people paying a larger and larger percentage of the
17 taxes. It is true that one percent of the taxpayers pay
18 almost 36 percent. It is also true that five percent of
19 the taxpayers pay over half of the taxes in this country.

20 Another figure that has not been used yet is that
21 half the taxpayers pay 96 percent of the taxes paid in
22 this country, and a third of the eligible taxpayers pay
23 no taxes at all.

24 Is that the direction that we want to go in? What is
25 the logical extension of a process whereby, every time we

1 finally get around to talking about cutting taxes, we are
2 taking more and more people off of one end and putting
3 more and more of the burden on the other end?

4 The fact of the matter is, under the Bush plan, the
5 top earners would pay more in taxes than they do now.
6 The higher-income families actually get a lower
7 percentage of the deductions.

8 But special attention ought to be given to the fact
9 that, of these rich and super-rich that we are always
10 talking about, there are many, many people in that
11 category who fit in neither description. Eighty-eight
12 percent of all small businesses with gross receipts under
13 \$1 million are subject to individual tax rates. Millions
14 and millions of small businesses.

15 I noted, in reading this morning before I came to the
16 hearing, a study that was referred to in the *Wall Street*
17 *Journal* this morning. It was a recent paper by economist
18 Douglas Holst-Aiken of Syracuse University and Harvey
19 Rosen of Princeton.

20 Their study demonstrated that the reduction in
21 marginal tax rates had a significant impact on firm
22 growth. The greater the percentage of tax reduction, the
23 greater the increase in the business size. Ditto for
24 capital investment and payroll, both in number of workers
25 hired and salaries paid.

1 They found that the Bush reduction to 33 percent
2 would increase their capital expansion, these small
3 businesses, by 12.5 percent and increase the size of
4 their capital outlays by 11.9 percent. It would also
5 give them the juice to increase their payrolls by 4
6 percent, both in the form of higher wages and more
7 workers, and it would allow sales to rise by 8.2 percent.

8 I hear expressions of concern this morning over
9 employment, expressions of concern over profits. Where
10 do we think employment and profits come from?
11 Expressions of concern over entitlements, the burdens
12 that we are to bear in the future.

13 Where do we think the money for that is going to come
14 from? If we take what we have got now and put it in a
15 lock box and save it for 10, 15, 20 years--as if we
16 would--or do we do things that create more growth and
17 more revenue and give some tax relief to people who are
18 creating the jobs and creating the revenue?

19 I am very disappointed that we are talking about a 36
20 percent tax rate. In my view, this 36 percent does not
21 kick in fully until 2007: a one percent reduction in
22 2002, another one percent reduction in 2004, and it does
23 not get down to 36 percent until 2007.

24 President Kennedy's tax cut, the top rate was cut by
25 23 percent. President Bush proposed the top rate being

1 cut by 17 percent. As has already been pointed out, the
2 Bush plan, as it was, increased progressivity. What we
3 have here today certainly increases progressivity. But
4 President Bush's suggestion of 33 percent increased
5 progressivity because the bottom rate was cut by 33
6 percent.

7 By the time the 33 percent would have been phased in,
8 it would be 5 points higher than the 28 percent top rate
9 established in 1986 by bipartisan legislation. Twenty-
10 eight percent.

11 So I think we need to ask ourselves what we are
12 interested in here and whether or not we are interested
13 in fairness, and whether or not we are interested in the
14 economy, or whether or not we are interested in income
15 redistribution.

16 We can have that argument separately, I would hope.
17 But I would hope that, when we have that rare opportunity
18 to have a significant tax cut, and an even rarer
19 opportunity to have an across-the-board rate reduction,
20 including those who have small businesses and pay the top
21 rates and create the jobs in this country, whether or not
22 we are interested in the economy and interested in
23 fairness.

24 I get back to the basic question. I would ask my
25 colleagues, just how much income taxes do we think that a

1 person ought to pay? President Bush said he does not
2 think anybody ought to pay more than a third of their
3 income in taxes.

4 We know now that there are plenty of people paying
5 35, 40, 50 percent effective tax rates right now. Pols
6 have indicated time and again the American people do not
7 believe that people ought to pay more than 25 percent of
8 their income.

9 So I think we are way ahead of the game. I commend
10 my Chairman and Ranking Member for their great effort. I
11 know it is extremely difficult. But we are not doing
12 much in terms of progress as far as this rate reduction
13 is concerned. It is extremely, extremely modest.

14 It is phased in over a period of time, in which we
15 will have 14 debates trying to get that down and trying
16 to undo what meager, little progress we have made with
17 regard to those top rates before that 36 percent ever
18 kicks in.

19 With that, I thank the Chairman for his consideration
20 this morning, and I yield.

21 The Chairman. I say to the Senator from Tennessee
22 that Senator Baucus and I wrestled with all of these
23 issues. The bottom line of the mark we have before us is
24 what we hope gets the bipartisan support of this
25 committee, not just a partisan approach, or not just one

1 Democrat, but something that would get bipartisan support
2 so that we could move tax relief as much as we could for
3 American citizens.

4 I now call on Senator Breaux.

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1 OPENING STATEMENT OF HON. JOHN BREAUX, A U.S. SENATOR
2 FROM LOUISIANA

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4 Senator Breaux. Thank you very much, Mr. Chairman.

5 I want to start by acknowledging the good work that
6 you and the Ranking Member Senator Baucus have done in
7 putting this package together.

8 I know that it has probably been an incredibly
9 interesting experience for both of you. I also would
10 note that not all interesting experiences are probably
11 desirous of being repeated anytime soon. I am sure you
12 probably feel that way.

13 But it is a difficult job to try and bring to this
14 committee, with the strong individuals that we have
15 serving on it who are knowledgeable in the Tax Code and
16 have experience in serving in the Congress, to bring a
17 package that everyone can feel comfortable with. That is
18 an impossibility.

19 I daresay that if everyone could do it, we would
20 probably have 535 different ideas about what to do on a
21 tax bill. Obviously, it is essential that you two put
22 together a package that is a starting point, and I think
23 that you have done an extremely good job in putting that
24 package together.

25 We have an interesting problem. Some countries would

1 think it is a wonderful opportunity. We have, according
2 to the Congressional Budget Office, a \$5.6 trillion
3 projected surplus over the next 10 years.

4 We can argue whether it is likely to occur or whether
5 it is not likely to occur, but we are governed by the
6 rules of the budget operations, and the number \$5.6
7 trillion in surplus is a number that we have to deal
8 with.

9 Most democracies around the world would love to have
10 the problem that this committee and this Congress is
11 facing. That problem, or that opportunity, is what do
12 you do with \$5.6 trillion in surplus money coming to our
13 government?

14 Some would say, perhaps, well, we should give it all
15 back to the American people. They created the surplus
16 and they deserve it back when it is more money than we
17 need for the necessary spending programs to run our
18 government.

19 Others would suggest, no, there are always legitimate
20 spending needs that need to be met, and let us spend all
21 of it on priority spending programs to make this country
22 a better country.

23 Obviously, in a democracy there is going to be a
24 combination. I think the proper combination is to give
25 some of the money back to those who have created the

1 surplus that is more than we need to run the government,
2 and do it in a fair and balanced fashion. There is a
3 need to use some of it to reduce the long-term debt of
4 this country. I think we have in this package the
5 ability to address, to an extent, that problem. Some
6 would like to do more.

7 I think, also, at the same time there is enough money
8 and sufficient funds to address some of the spending
9 priorities that we have as a Nation. It is a balance.
10 No one will get everything they need in this package and
11 the end result will probably be somewhere about the same.

12 I do think that the draft, number one, starting with
13 the marginal rate reductions, we argued in some of the
14 hearings that it was improper, I think, to give one
15 bracket a 6-point reduction, another bracket a 3-point
16 reduction, and another bracket a 2-point reduction. I
17 think that the draft has gone a long ways towards
18 correcting that. It is a 3-point reduction in all of the
19 marginal rates.

20 Obviously, for those in the top bracket that means
21 more money going back to them, but they, in fact, pay a
22 lot more money. I have no problems with that,
23 particularly since we now have a bracket adjustment that
24 is the same across the board in all of the marginal
25 rates. I think that is a major improvement over some of

1 the early ideas.

2 I like the 10 percent rate. Those who need help, I
3 think, are going to get help with the 10 percent
4 reduction. The fact that we make it retroactive, again,
5 is part of the stimulus concept that we were talking
6 about to give people who, in fact, will probably spend
7 their tax break to try and stimulate the economy, and is
8 an important step in the right direction.

9 I think also what we have done in this draft with
10 regard to the child credit is important, to emphasize
11 that raising children is, indeed, a very noble
12 occupation. To get tax help in order to help people who
13 are in most need of help and make it retroactive, and
14 also refundable, I think, is a positive step in the right
15 direction.

16 I like the new education tax incentive. There is one
17 thing that we can do for education, is to try and give
18 tax help to those who are saving for their children's
19 education, whether it be graduate school, middle school,
20 or any other education program that we are trying to
21 encourage in this country. This is a good, and I think
22 appropriate and proper, use of the Tax Code of this
23 country.

24 Also, I am delighted we have some pension reform in
25 here. I think that is important. We have been working

1 on this for a long time. This is a wonderful opportunity
2 to include pension relief in this legislation. I support
3 it and think it should be done.

4 Estate tax is controversial, obviously, with the move
5 towards increasing the exemptions up to \$4 million per
6 individual, \$8 million for a couple. In my State of
7 Louisiana, that exemption alone would probably indicate
8 that less than 40 families would even be subject to an
9 estate tax if these exemptions became fully funded. I
10 think that is the right way to approach the problem. It
11 takes care of the vast, vast majority of all Americans in
12 doing so.

13 This is the beginning of the process, it is not the
14 end. This is the starting point, not the finish. We
15 have a lot of work to do. This product will come out of
16 this committee, go to the Senate floor. There will be
17 efforts to amend it there. We will go to a conference,
18 and ultimately it will come back to the Senate and to the
19 House in the form of a conference report.

20 My only caution to everyone is, do not spend it until
21 you see it. We are a long ways from getting a final
22 product. It is going to take a lot of work, a lot of
23 cooperation, a lot of compromise if we are going to get
24 this accomplished in a fashion that is fair to everyone,
25 and I certainly want to be involved in that process.

1 Thank you, Mr. Chairman.

2 The Chairman. Now our distinguished Majority
3 Leader, Senator Lott.

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1 OPENING STATEMENT OF HON. TRENT LOTT, A U.S. SENATOR FROM
2 MISSISSIPPI

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4 Senator Lott. Well, thank you, Mr. Chairman. I
5 thank you for moving forward with having a mark, and
6 having this mark-up allowing Senators to be heard, then
7 to have a briefing on exactly what is in the package,
8 then go to the amendment process.

9 I think it is important that we move forward. We
10 have been debating, really, for three months this
11 opportunity. We all know the amount we are talking about
12 and we know the core components, so I think it is
13 important that we move forward in a fair way.

14 I want to commend you, as others have, for your
15 persistence, for your doggedness, for your openness, for
16 your communication. I know for sure that you have been
17 talking to individual members of the Finance Committee to
18 understand where their needs were, what their problems
19 might be, and to, in many instances, modify the proposal
20 to address those needs.

21 You worked very hard to communicate with Senator
22 Baucus and to make this a bipartisan mark. There are
23 those on both sides that are not happy with the results.
24 I am sure Senator Baucus is receiving some criticism on
25 his side, and there are those on this side that have

1 already said publicly that they would prefer that it be
2 different in some ways.

3 But this committee has a long tradition of trying to
4 find a way to come together and develop a bipartisan
5 package that benefits the American people, whether it is
6 on tax policy, health care, or the Internal Revenue
7 Service.

8 So the two of you are trying to continue that
9 tradition that dates back many years, even before most of
10 us were in the Senate.

11 I must say that I have a particular problem with the
12 rates. I think that the rates remain too high. They do
13 not actually take effect until too far out, and I think
14 there are too many brackets.

15 If you look at the chart as to when these rates
16 actually change, it is obvious that the way it has been
17 set up in this bill it phases in way too slowly, only one
18 percent in both the top and middle rates, until 2005.
19 Clearly, that is not sufficient. I hope we will have a
20 chance to debate that and amend it further.

21 But I think it is important to also note, as others
22 have, and Senator Breaux just pointed out, you have
23 actually broadened this bill and have included some
24 provisions that the American people would very much like
25 to have.

1 We too often fall in the trap, particularly in the
2 Senate, of arguing about a big number, arguing about
3 where this money should go in terms of the budget
4 concept, without getting into the specifics of what we
5 are trying to do.

6 We are trying to help with job security and economic
7 growth by cutting rates. That is the way most people
8 acknowledge that you could have the greatest impact with
9 the amount of money we have here. But we also have the
10 death tax repeal.

11 We increase the child tax credit from \$500 per child
12 to \$1,000 per child, and that will have a real helpful
13 effect with families with children. We also greatly
14 reduced the marriage penalty by doubling the width of the
15 15 percent bracket for joint filers, beginning in 2006.
16 It doubles the standard deduction for joint filers.

17 It includes the IRA and pension reform that had a
18 wide margin of victory and big support in the House of
19 Representatives. I personally think we could probably do
20 that in another way, but it is included in this package.
21 Most people would like to have more opportunity to save
22 money and to have 401(k)s and IRAs. Forty billion
23 dollars of this proposal is in that IRA and pension area.

24 Many members of this committee on both sides of the
25 aisle have supported for years the idea of education

1 savings accounts. I still refer to them as the Coverdell
2 Savings Accounts. This bill does include the Education
3 Savings Accounts and the State Pre-paid Tuition Plans.
4 My State is one of the States that has a pre-paid tuition
5 plan. They would like to have some tax benefit for that.

6 Then finally, of course, the Alternative Minimum Tax.
7 An effort is made to correct some of the problems that
8 have developed with the AMT. Again, it passed
9 overwhelmingly in the House.

10 So these are things that people very much support on
11 a broad basis in each category. Now, if you put them
12 together, people say, well, perhaps it is too much money.
13 I agree with Senator Gramm, it is not nearly enough. I
14 do believe the American people are over-taxed. I think
15 the President is right when he says that nobody should
16 pay over a third of their earned income in federal taxes.

17 So I hope we will go forward with this legislation in
18 an expeditious way, and I believe it will be good for the
19 economy, and I know it will be good for working families
20 in America.

21 Thank you, Mr. Chairman.

22 The Chairman. Thank you, Senator Lott.

23 Now, Senator Conrad, from North Dakota.

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1 OPENING STATEMENT OF HON. KENT CONRAD, A U.S. SENATOR
2 FROM NORTH DAKOTA

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4 Senator Conrad. Thank you, Mr. Chairman.

5 I want to congratulate the Ranking Member and the
6 Chairman on reaching an agreement on a mark. While I
7 profoundly disagree with the mark, I know how difficult
8 it is to accomplish that.

9 Let me say to my colleagues, I favor substantial tax
10 relief. I favor solving the marriage penalty and
11 reforming the estate tax and providing incentives for
12 savings.

13 I proposed a plan for \$900 billion of tax relief. I
14 voted for it. But I will strongly oppose this bill
15 because I believe it weakens our country. I believe it
16 threatens our economic security. I believe it prevents
17 us from paying down our debt in the way we should.

18 We have a period here of surplus, but we all know
19 what is to come. This decade is surpluses, the next
20 decade is deficits. I believe we ought to take this
21 opportunity to substantially pay down both our short-term
22 and long-term debt more aggressively than is being
23 proposed here.

24 I believe this plan fails to provide the resources we
25 need to strengthen Social Security for the long term.

1 The hard reality is, in the budget plan that has passed--
2 and this tax cut is part of that proposal--leaves no new
3 resources to strengthen Social Security for the future.

4 The *New York Times*, on Saturday, said, "This plan
5 represents a gross abdication of fiscal responsibility."
6 I agree with that. This plan is fully back-loaded. That
7 means, simply, that it is disguised in terms of its full
8 cost.

9 This decade it costs \$1.3 trillion. In the next
10 decade, it will cost from \$3.5 to \$4 trillion, right at
11 the time the baby boomers retire, right at the time we
12 know we are moving from surplus to deficit. It makes no
13 sense. It is not fiscally responsible. It is fun, but
14 it is not fiscally responsible.

15 Let me go to the next one. As I indicated, this plan
16 is totally back-loaded. The marriage penalty standard
17 deduction takes effect from 2006 to 2011, the marriage
18 penalty for the 15 percent bracket, from 2006 to 2011.

19 The indexation of the 10 percent bracket does not
20 occur until 2007. The final rate cut in the upper
21 brackets does not occur until 2007. The push-back on the
22 Pease limit on itemized deductions does not take place
23 until 2009.

24 The repeal of the phase-out of personal exemptions
25 does not take effect until 2009. The full phase-in of

1 IRA contribution limits does not take effect until 2011.
2 The full phase-in of the child credit does not take hold
3 until 2011. The repeal of the estate tax does not take
4 place until 2011.

5 This is not just an abdication of fiscal
6 responsibility, this is a monument to fiscal
7 irresponsibility. Here is the marriage penalty relief.
8 You can see, it is delayed until the year 2006. That is
9 the kind of back loading that is in this plan in item,
10 after item, after item.

11 It is like a ticking time bomb. It explodes right at
12 the time the baby boomers start to retire, right at the
13 time we all know, the comptroller general has told us
14 clearly, we move from substantial surpluses now to
15 substantial deficits then.

16 All this bill does is dramatically increase the
17 revenue hemorrhage at the very time it is needed most.
18 It threatens to put us right back into deficit. It
19 threatens to put us right back into growing the national
20 debt instead of reducing.

21 The same is true of the estate tax repeal. It is a
22 cliff. Cliffs have consequences. The consequence will
23 be, we will be in deep trouble when the baby boomers
24 start to retire. But this is a live-for-the-moment kind
25 of bill. This is a bill that is designed to make us feel

1 good for the moment and not worry about the future.

2 The comptroller general of the United States told us
3 that we are about to face something we have never
4 encountered in American history. That is a circumstance
5 in which the baby boomers start to retire and the
6 demographics move against us in a very dramatic way. He
7 warned us that we are going to see something we have
8 never seen before, a demographic tidal wave that is going
9 to push us into massive deficit.

10 This is our opportunity to deal with that problem,
11 but we are not. We are taking a walk. The same is true
12 on the back-loading on AMT relief, because it is
13 sunsetted. So, you have this same cliff effect. This is
14 what is fundamentally wrong with this legislation.

15 Beyond that, this reconciliation bill is going to
16 double the number of taxpayers affected by the
17 Alternative Minimum Tax. Just this bill is going to
18 double the number of taxpayers adversely affected by the
19 Alternative Minimum Tax.

20 Boy, are those folks in for a surprise. They thought
21 they were getting a tax cut. But almost 40 million
22 taxpayers are going to get caught up in the Alternative
23 Minimum Tax. Today, there are only two million. Two
24 million. That is going to go to nearly 40 million under
25 this proposal.

1 Mr. Chairman, the second thing I want to say is that
2 this bill, which has been sold as a stimulus bill--I will
3 get to this chart in a minute--and there is virtually no
4 stimulus in this bill.

5 We are told that we need to have this tax cut to lift
6 the economy. This is a \$1.35 trillion tax cut and
7 virtually none of it is effective now. Only \$10 billion
8 in this tax bill is effective this year. That is after
9 the Senate passed an amendment that said we ought to put
10 \$85 billion of stimulus into this year to lift the
11 economy. Where is the stimulus in this stimulus bill?
12 It is off into the future. Mr. Chairman, I think that is
13 a mistake.

14 Finally, on the issue of fairness, this bill flunks
15 the fairness test and it flunks it completely. This bill
16 gives 33 percent of the benefit to the wealthiest one
17 percent. There is no way to justify that.

18 Our friends have said, well, they pay 35 percent of
19 the taxes. No, they do not. They paid that amount of
20 the income taxes, but our colleagues on the other side
21 forget that 80 percent of the people in this country are
22 paying more in payroll taxes than they are paying in
23 income taxes.

24 There have been a lot of references that the top one
25 percent had 10 percent of the income and are now paying

1 more of the taxes. Yes, they are paying more of the
2 taxes because they have more of the income.

3 In 1979, the top one percent had 10 percent of the
4 income. Today, they have 20 percent of the income, or
5 just under 20 percent, so of course they pay a bigger
6 share of the taxes.

7 One of my colleagues said that most taxpayers are in
8 the 28 percent bracket. That is simply not true.
9 Seventy-one percent of taxpayers are in the 15 percent
10 bracket, the one bracket that is not getting a rate cut.
11 That is interesting, is it not?

12 The 15 percent bracket, where the vast majority of
13 taxpayers pay taxes, is the only one that does not get a
14 rate cut. I guess we know why that would be true,
15 because they need the money to give the lion's share of
16 the break to the wealthiest among us.

17 There has been a great deal of talk about 17 million
18 small businesses benefitting. Seventeen million small
19 businesses do not benefit. Only one percent of small
20 businesses pay at the top rate. The vast majority of
21 businesses are at the 15 percent rate, just like the rest
22 of taxpayers. Again, that is the one rate that is not
23 going to get a rate cut.

24 Finally, on the question of fairness, the Bush
25 proposal gave 72 percent of the benefits to the top 20

1 percent. This proposal gives 70 percent of the benefits
2 to the top 20 percent. To me, neither one of them are
3 fair, and there is very little difference between them.

4 Mr. Chairman, the great thing about democracy is we
5 all get a chance to express ourselves. I feel strongly
6 that this bill flunks every test. It flunks the fiscal
7 responsibility test because it is back-loaded and it
8 hemorrhages in the second decade right when the baby
9 boomers retire. We will pay an enormous price for that
10 in this country.

11 Second, it fails the test of stimulus. It is sold as
12 a stimulus package, but there is no stimulus in this
13 year, or in this bill, or virtually none. Third, it just
14 fails completely the fairness test because the vast
15 majority or the disproportionate share of this bill goes
16 to the wealthiest one percent.

17 Thirty-three percent of the benefit goes to the
18 wealthiest one percent. They pay about 20 percent of all
19 federal taxes. It is just not fair and it should not be
20 supported, and it ought to be amended and it ought to be
21 changed. That will be our opportunity.

22 I thank the Chairman for this opportunity.

23 The Chairman. I thank the Senator from North
24 Dakota. I appreciate very much his caution that he gives
25 us, looking into the future, as it applies to a tax bill.

1 I only look for the same sort of consistent reminder when
2 we establish new spending programs that have cliffs out a
3 few years, that we would be reminded in the same way,
4 with the same caution, when we are going to spend more
5 money.

6 Senator Jeffords?

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1 OPENING STATEMENT OF HON. JAMES M. JEFFORDS, A U.S.
2 SENATOR FROM VERMONT

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4 Senator Jeffords. Thank you, Mr. Chairman.

5 As a new Chairman charged with responsibility of
6 shepherding through the Finance Committee the largest tax
7 cut this Nation has seen in two decades. You have done a
8 remarkable job and should be commended for your efforts,
9 your consultation, and for your willingness to listen to
10 members' concerns, and for your attempt to develop a
11 bipartisan bill.

12 Admittedly, not everyone is going to be happy with
13 the bill that you have developed. This bill addresses
14 sensitive issues about which we feel strongly. If I had
15 drafted the bill I might have taken a different approach.
16 I would have preferred that the bill strengthen the child
17 care credit. Better child care, with a better education
18 component, should be among the Nation's highest priority,
19 if not the highest.

20 As the chairman of the committee with jurisdiction
21 over education, I worry that all of our attempts at
22 education reform and improvement will be stymied until
23 and unless we develop a strategy to begin education at an
24 earlier age.

25 The ages of three or four are the most essential in

1 your life. Your brain develops more in that period than
2 it ever will the rest of your life. Yet, even though
3 every other industrialized nation has made the three- and
4 four-year-olds a part of the public school system, this
5 country has only less than a half of the students that
6 have that kind of a three- and four-year old start. The
7 higher-salaried young people can afford it, but \$6,000 to
8 \$7,000 per child, per year, is too much for most young
9 people to afford.

10 The Head Start program needs to be reformed. It
11 provides very little educational component for the three-
12 and four-year-olds. Those that are in the working poor,
13 on up through the middle salaries of younger people,
14 cannot afford it.

15 So, less than 50 percent of our young children get
16 fully the kind of educational component they need. It is
17 no wonder that 40 percent of our fourth graders flunk
18 reading tests of the third grade caliber.

19 Unfortunately, we have not done much for that group.
20 I will continue to pursue it as we go to the floor. The
21 bill before us today represents an attempt to address the
22 President's agenda items, while at the same time
23 balancing concerns of the Finance Committee's members.

24 That is a fairly delicate balance. I will try to
25 help maintain that balance by opposing amendments today,

1 even though I might agree with the position reflected in
2 some of the amendments.

3 This bill encourages savings for education and for
4 retirement, two priorities I have supported during my
5 time in Washington. I commend the Chairman for inclusion
6 of these two components in the bill.

7 I am especially pleased that we finally are
8 addressing the issue of pension portability, which has
9 become increasingly important in a workforce that is
10 becoming more and more mobile.

11 I am also pleased that the bill takes some steps of
12 simplification. It repeals the phase-outs of personal
13 exemptions that add both complexity and unfairness to the
14 Code, and it will mean that fewer people are subject to
15 the phase-out of personal exemptions.

16 These phase-outs were added to the law in lieu of
17 rate increases and should have been fully repealed as
18 part of our rate reduction effort. I would have been
19 happier with the smaller rate reductions in favor of full
20 repeal of the phase-out.

21 This bill provides relief for the Alternative Minimum
22 Tax. Without a change in the AMT, some 25 million
23 Americans will not get the full benefit of the rate cuts.
24 Failing to address the AMT would have been irresponsible,
25 and I would have liked to have seen more AMT relief.

1 Again, however, none of us is going to be entirely
2 satisfied with every aspect of this bill.

3 The bill also addresses the marriage penalty. This
4 is a thorny problem that has been hanging around for
5 years. I remember being in the House more than 20 years
6 ago when former Millicent Fenwick called our attention to
7 the issue.

8 I was with her as her first co-sponsor, and that was
9 over 20 years ago. This year, it looks like we may
10 finally get some marriage penalty relief. I regret that
11 this bill's marriage penalty relief is not phased in
12 sooner.

13 I am pleased that the bill makes important changes to
14 the Earned Income Tax Credit, especially the marriage
15 penalty relief for low-income workers who claim the EITC.
16 I believe that this is among the most serious marriage
17 penalties in the Tax Code. It affects behavior,
18 deterring low-income workers from marrying.

19 Support for marriage penalty relief in the EITC
20 expands the political spectrum, for my friends on the
21 other side of the aisle, to the Heritage Foundation.
22 Finally, I applaud the inclusion of important
23 simplifications of the EITC, as proposed by the Joint
24 Committee.

25 I believe the complexity has been a principal source

1 of errors and mistakes by EITC claimants. The bill
2 provides for consistency and simplification that should
3 make it easier to understand and administer the EITC.

4 As I said earlier, this is not a perfect bill. But,
5 in an evenly-divided Senate, no side can get everything
6 it wants. Compromise is the order of the day. On
7 balance I think this is a fair compromise, and I commend
8 the Chairman.

9 The Chairman. I thank Senator Jeffords for his
10 analysis of the legislation and for his willingness to
11 work with us on reaching this point.

12 Senator Graham from Florida.

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1 OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM
2 FLORIDA

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4 Senator Graham. Thank you, Mr. Chairman.

5 I, too, wish to congratulate yourself and Senator
6 Baucus for giving us this bill from which to start our
7 discussion today. But I share in the feeling that this
8 is an inadequate starting point which I am afraid is
9 going to lead us to a conclusion that will not serve the
10 Nation's interests.

11 There has been an assumption in some of the
12 statements that have been made that the options that we
13 have are either to return this surplus to the American
14 people or to spend it. I do not believe those are the
15 options. I believe those leave out, in fact, the most
16 important use for which we should make this surplus.
17 That use is to pay down the national debt.

18 We are leaving approximately \$1 trillion of potential
19 additional pay-down of the national debt unattended by
20 this allocation of our resources, and we are doing that
21 at a time when we are urgently challenged to meet the
22 obligations that this country will face in the next 20
23 years.

24 One of those challenges is the enormous demographic
25 shift that is about to occur. As an example, in the year

1 2000 there were 38.7 million Americans who were receiving
2 retirement Social Security.

3 By the year 2017, there will be 53.5 million
4 Americans receiving retirement Social Security, an
5 increase of 14.8 million. Almost the size of my State of
6 Florida will be added to the number of Americans who will
7 be receiving retirement Social Security in the year 2017.

8 That year 2017 has another significance. If we were
9 to make the decision, as I am afraid we are about to
10 make, that the only investment we will make in paying
11 down the national debt will be the surplus in the Social
12 Security trust fund, we will return to deficit spending
13 in the year 2017, largely driven by these demographic
14 obligations.

15 If, on the other hand, we were to use the entire
16 surplus to pay down the national debt, we would extend
17 the time that we would go into deficit to the year 2050.

18 Now, those may be two extreme positions. Most people
19 are committed to the proposition that we will at least
20 use the Social Security trust fund to pay down the
21 national debt. Some would feel that using all of the
22 surplus to pay down the national debt is excessive.

23 But what we are about to do today is to forewill that
24 we will be back in a deficit position by the year 2017,
25 exactly when these enormous financial obligations are

1 going to be hitting our country.

2 I am also concerned that this bill today helps to
3 cement into place a misrepresentation of our known
4 obligations. We know that we are going to increase our
5 commitment to national defense, but there is no money to
6 do so. We are about to deny ourselves the capability of
7 doing so.

8 I believe that we are going to increase the Nation's
9 commitment to education. Both parties have indicated it
10 is a high priority. We know that we are going to have to
11 do something about the long-term financial well-being of
12 Social Security and Medicare.

13 There are no funds in this budget resolution, and we
14 are about to commit a substantial share of that budget
15 resolution to do any of the above.

16 We are also already hearing about other, further
17 reductions in our revenue base. As one of my colleagues
18 mentioned just yesterday, there was a front-page story
19 about, "Get ready for another round of tax cuts for
20 corporate interests." No provision has been made for
21 that in this legislation.

22 What finally frustrates me, is that the fundamental
23 direction we are taking is not the only alternative that
24 was before us. I would strongly prefer that we not
25 consider it to be biblical that we have to spend all of

1 the surplus that is going to be available for tax cuts in
2 May of 2001 to cover the next 10 years.

3 I believe the definition of prudence would be that we
4 ought to allocate those funds available for tax cuts in a
5 series of considered tax bills, not in one roll of the
6 dice at the casino.

7 My own strong recommendation would be that the first
8 bill should focus on the first problem for America in May
9 of 2001, which is to purchase an economic insurance
10 policy through a meaningful stimulus tax program. The
11 reality is, there is no economic stimulus in this bill.

12 The idea of spending \$10 billion to try to stimulate
13 an almost \$9 trillion economy is ludicrous and makes the
14 Congress look somewhere between out of touch and
15 insincere.

16 It is interesting that we now have had another reason
17 added to why we should have an economic stimulus, and
18 that is, the President has stated that America's working
19 people need to be helped to meet the soaring cost of
20 gasoline. The way they are going to be helped, is
21 through a tax cut and an economic stimulus.

22 Well, let us look at the numbers. Under the tax bill
23 that we have before us today, the average American
24 individual taxpayer will get relief, for the balance of
25 this year, of \$5.77 a week. Now, that is doubled for a

1 married couple to \$11.50 a week. That is the economic
2 stimulus.

3 Since President Bush first announced his tax plan in
4 the winter of 1999, there has been a 48 cent-per-gallon
5 increase in the average price of gasoline. If you
6 multiply 48 cents for a typical American who would drive
7 his car 1,000 a month, getting 20 miles to the gallon,
8 that means that the average cost of gassing up our cars
9 is approximately \$6 a week.

10 So for that individual American, after they have paid
11 for the additional gasoline, they will have a grand total
12 of 23 cents left for everything else that is going to be
13 the economic stimulus. We insult the intelligence of the
14 American people when we make such representations.

15 I believe that what we should do is spend about half
16 of what the Senate allocated in the budget resolution now
17 on a meaningful, front-loaded, significant economic
18 stimulus, then wait to see what happens in the economy,
19 wait to see what the next evaluation of our budget
20 surplus will be.

21 If we have determined after that period of
22 consideration that it is prudent to have another tax cut,
23 then let us ask the question, how much, and for what
24 purpose?

25 What we are doing now is foreclosing all of those

1 future options by the decision that is being made to
2 spend all of the tax cut allegedly that is going to be
3 available to us for the next 10 years, actually the next
4 11 years, at this one time.

5 So, Mr. Chairman, I regret that I will not be able to
6 support the bill as it is before us, and will be offering
7 a series of amendments to try to improve it, including to
8 make it more of a true stimulus.

9 I am concerned that we do not adequately pay down the
10 national debt, that we are hiding too many of our known
11 obligations, and that the American people are going to
12 find that 23 cents a week does not allow them to do those
13 things that I think the economy urgently needs to
14 stimulate demand and growth, and to assure that this
15 economy will not drift into a prolonged and deep
16 recession.

17 Thank you.

18 The Chairman. Thank you, Senator Graham.

19 Now, Senator Snowe.

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1 OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, A U.S.
2 SENATOR FROM MAINE

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4 Senator Snowe. Thank you, Mr. Chairman.

5 I certainly want to commend you for your outstanding
6 work in crafting a bipartisan tax cut package under some
7 very difficult constraints, to say the least. I think
8 you have not only maintained this committee's tradition
9 of bipartisan cooperation, but also demonstrated that,
10 even with an equal division in the committee, it is
11 possible to find the middle ground and move forward on a
12 contentious issue, giving strong, effective leadership.

13 I also want to commend and congratulate Senator
14 Baucus, as well as the Ranking Democrat, who negotiated
15 in good faith, which was so essential to making this
16 mark-up possible today. I think you and the Chairman
17 have proven that you can make principled compromises that
18 work for the best interests of the American people.

19 That is exactly what this process is all about. It
20 is certainly what the American people stated in the last
21 election, that they desire for us to work together to
22 make sure that we can make the system work.

23 In fact, you could say that maybe our equal divisions
24 are apropos of the reflection of the American people who
25 have a thirst for moderation in the political process

1 today.

2 Is this legislation everything that I can support?

3 No. The fact of the matter is, I think we all could
4 write a very different package. We could have 20
5 different versions. But that is not how the system
6 works.

7 So, no, this is not my perfect tax cut package. But
8 the fact of the matter is, this is the essence of the
9 process at heart. That is, we have to reflect the give
10 and take and to accommodate opposing views.

11 So the question is, what is in the best interests of
12 the economy and the American taxpayer? I think the last
13 message that we would want to send to the American people
14 is that we cannot reach an agreement because we agree to
15 disagree, particularly in these perilous economic times.

16 I think everybody has had the opportunity to read a
17 number of the articles that have appeared recently in the
18 headlines concerning the state of the economy, one this
19 week that just came out from *Business Week*.

20 The first quarter was just horrible, doing an
21 analysis of 900 companies and their earnings for the
22 first quarter, the lowest since 1991. That is in
23 addition to the fact that their earnings had already
24 declined by 25 percent from the previous year.

25 Productivity fell, the first quarterly drop in six

1 years. Lay-offs are at their highest levels since they
2 were first tracked in 1993. So, not surprisingly then,
3 the unemployment rate has now risen to 4.5 percent, the
4 highest since February of 1991 in terms of job loss.

5 So, as *Business Week* pointed out, if wide lay-offs of
6 high-wage earners continue, it looks more likely that
7 there will be a recession.

8 In addition, we have seen the Federal Reserve make
9 their rate cuts. The *Washington Post* noted recently that
10 the Federal Reserve rate cuts have been the most
11 aggressive since the second quarter of 1982, when we had
12 the worst recession since the Great Depression.

13 So I do not think that we can afford to ignore these
14 economic indicators that clearly have an effect on the
15 American worker and the state of the economy, and for the
16 future.

17 I certainly recall Chairman Greenspan, when he
18 testified several months ago before the budget committee.
19 He stated at that time, a tax cut would be helpful. He
20 said it would not prevent a recession, but it clearly
21 would be an insurance policy in the event that this does
22 prove to be more than an inventory correction. It could
23 soften the landing. It could shorten the duration in the
24 event that this economic downturn turns out to be more
25 than it is today.

1 There clearly are troubling signs on the horizon.
 2 That is why I commend the Chairman and Senator Baucus for
 3 attempting to reconcile the differences that are
 4 reflected by our philosophical differences here on this
 5 committee, for reaching out and responding to the
 6 concerns that many of us have raised with respect to, for
 7 example, the top rate being reduced by six percentage
 8 points.

9 Again, we expressed those concerns because we felt
 10 that this tax bill should be weighted more to the lower
 11 and middle income taxpayers in America. So what we have,
 12 and you have already heard it on this side of the
 13 political aisle, is that many do not favor that shorter
 14 reduction phased in over the next six years. They prefer
 15 to have a much larger reduction.

16 But we insisted, working with Senator Lincoln,
 17 Senator Breaux, Senator Kerry, on having a refundability
 18 of the child tax credit. That is introducing a wholly
 19 new concept with respect to that child tax credit. For
 20 the first time, we will be providing expanded benefits to
 21 minimum wage earners. That is important.

22 The partial refundability will help 55 million
 23 children and 37 million families. That has enormous
 24 implications for the future. That is an important
 25 redistribution. I think we should recognize some of the

1 changes that have been made in the package before us. It
2 has been aligned and it has been realigned, not only with
3 respect to the child tax credit, but also with respect to
4 the retroactivity of the new 10 percent bracket.

5 The cost of that over the next 10 years is \$483
6 billion. That represents 52 percent of the cost of the
7 marginal rate reductions. The remainder of the marginal
8 rate reductions reflect the 48 percent.

9 But we also are now expanding immediately for the
10 middle income taxpayers the Earned Income Tax Credit
11 program, again, another additional benefit, to make sure
12 that those benefits for the lower and middle income
13 taxpayers are going to occur more immediately in this tax
14 package.

15 Finally, in working with Senator Torricelli and
16 Senator Schumer, we also have included a deduction for
17 higher education for tuition expenses. It is not as much
18 as we would want to do, but clearly it is a watershed
19 moment in incorporating that kind of tuition tax
20 deduction for higher education expenses. That is
21 critically important. Finally, it is providing much-
22 needed relief when it comes to the AMT and for middle
23 income families.

24 So, with those kinds of adjustments we are taking
25 important first steps in making sure that the weight of

1 this package, in its totality, will help lower and middle
2 income taxpayers.

3 In fact, in looking at the various analyses that have
4 occurred as a result of these changes in the tax package
5 and of the restructuring, the Joint Tax Committee
6 estimated that those earning less than \$50,000 will see
7 their share of federal taxes drop from 14 percent under
8 current law to 13.8 percent in the year 2006. The
9 largest reductions in the effective tax rates will apply
10 to those in the income ranges of \$20,000 to \$40,000.

11 In addition, as a result of now having this
12 refundability of the child tax credit, we will also see
13 important benefits. Again, according to Joint Tax, the
14 Chairman's package in the year 2001, in total reductions
15 in federal taxes, from 1.5 percent to 1.3 percent, for
16 those in the \$10,000 to \$20,000 income category, reducing
17 those taxes by \$3 billion. By 2006--and that is the
18 fifth year of the implementation of this package--this
19 level is down again to 1.1 percent.

20 Again, if you look at the upper income, and I know
21 there are those who still have concerns with the upper
22 income, the top one percent, according to the Citizens
23 for Tax Justice, this package gives 19 percent of the
24 income tax cut to the top one percent who pay 36 percent
25 of our Nation's federal taxes as opposed to what was in

1 the President's original package of 31 percent.

2 Now, I know there have been some issues raised with
3 respect to back-loading this tax cut over the next 10
4 years. But obviously it is being structured in the
5 manner in which these projected surpluses are scheduled
6 to accrue.

7 Obviously, we are not using all of the surpluses for
8 tax cuts, we are using them for other priorities in
9 addition to setting aside those surpluses that belong to
10 Social Security and Medicare.

11 So I do think it is important that we realize that
12 this is just part of our overall effort to identify key
13 issues, key priorities, not only in funding of programs,
14 setting aside what belongs to Social Security and
15 Medicare, but also what the American taxpayer rightfully
16 deserves because of the inordinate burden that they have
17 been facing with the highest tax burden since World War
18 II.

19 Finally, in talking about the uppermost brackets, I
20 come from a State that represents small business. I
21 think it is important to mention here that we do not want
22 to subject small business men and women to a much higher
23 tax rate than what corporations are required to pay under
24 the tax schedule of 35 percent.

25 If we recall, the greatest engine in the longest

1 economic recovery in the history of our country came from
2 small businesses and the job growth that small businesses
3 generated. That is why it is important to address these
4 marginal rate reductions, because it does benefit small
5 business.

6 In fact, according to the Treasury Department, in
7 2006, 63 percent of the tax returns that would benefit
8 from reducing marginal rates in the top two brackets
9 would be reporting some income, a loss, from a business.

10 Well, Mr. Chairman, I appreciate the work that you
11 have done. Obviously, we can have agreements and
12 disagreements about where we can improve the package. I
13 think that we all share in that interest.

14 But I think, really, the question now comes down to
15 whether or not we do have a serious interest in reducing
16 the tax burden to the American taxpayer, and also what
17 happens to be in the best interests of the American
18 economy at this point in time.

19 When I look at this tax package in its aggregate, I
20 really do believe that it is structured with a political
21 and fiscal balance that will be necessary in this 50/50
22 committee and this 50/50 Senate in order to achieve a
23 significant tax package for the American people.

24 Thank you.

25 The Chairman. Thank you, Senator Snowe. I think

1 your analysis of the package is absolutely right. We
2 have to look forward to not only getting it out of this
3 committee, but getting it through the Senate, then
4 getting a conference committee report adopted in that
5 same 50/50 Senate.

6 Senator Bingaman, the Senator from New Mexico.

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1 OPENING STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR
2 FROM NEW MEXICO

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4 Senator Bingaman. Thank you, Mr. Chairman.

5 Let me congratulate you, and Senator Baucus as well,
6 on your hard work. There is a lot in this package I
7 support. Clearly, I do believe we should enact a
8 substantial tax cut. I think we can afford to do that,
9 but I do not support the proposal you brought forward.

10 I support the item that the Senator from Maine just
11 referred to, the increasing of the child tax credit, and
12 making that partially refundable. That is a positive
13 move. I support the expanding and simplifying of the
14 Earned Income Tax Credit.

15 The creating of this new 10 percent bracket, I
16 support that. The provisions related to the pension
17 expansion, I support, and the education-related
18 provisions.

19 The reasons I do not support it, are similar to those
20 you have heard from several speakers here. My basic
21 reason, is I believe the uncertainty in our economy and
22 the recent downturn in our economy makes it unwise for us
23 to endorse this kind of major, long-term, back-loaded tax
24 cut at this time.

25 We have a great many obligations we have already

1 signed up to here in this country. Those include, of
2 course, paying off our debt. The Senator from Florida
3 and the Senator from North Dakota both were eloquent in
4 their description of the opportunity and the need we have
5 to go ahead and pay that debt down while the surplus is
6 there.

7 We have the obligations under the Social Security
8 system, Medicare, defense obligations, obligations to
9 improve education. All of those, I believe, exist and
10 will persist as we proceed through this decade.

11 The Senator from Louisiana gave us the advice: do not
12 spend it until you see it. That would be good advice for
13 us to consider as we vote on this bill. The truth is, we
14 are spending, through many of these tax cuts, funds that
15 may or may not, in fact, develop.

16 I do think it is too large a reduction in revenue,
17 given what we currently know. But even as large as it
18 currently is, it is not large enough to allow for the
19 additional revenue cuts that we know we are going to
20 enact in the future.

21 The *Wall Street Journal* had a good article this
22 morning, and there have been several others in other
23 papers pointing out some of the provisions here, where we
24 are proposing a tax benefit that then goes away, such as
25 the change in the Alternative Minimum Tax, then the

1 change expires after 2006.

2 The provision Senator Torricelli has been interested
3 in for deductibility for tuition for school goes away in
4 this bill after 2005. We know that when we come up to
5 those dates there is going to be enormous pressure on the
6 Congress to extend those, and there should be. That will
7 cost additional money.

8 We also know that there are a great many tax
9 proposals kicking around the Congress and being proposed
10 and supported by the President that are not included in
11 here.

12 The President, later this week, is giving a major
13 speech where he is talking about the various tax cuts he
14 recommends to deal with our energy problems, to provide
15 proper incentives for people to conserve energy and
16 increase depreciation for investments in energy
17 infrastructure.

18 Those are also tax provisions that I would support.
19 Those will cost money. It is likely the Congress will
20 support the President's initiative in this regard.
21 Again, those will be on top of whatever is done here.

22 A second reason which has been cited, is in addition
23 to this being heavily back-loaded, it is clearly still
24 weighted toward high-income individuals.

25 The Senator from Texas did make the case that those

1 high-income individuals are paying a higher percentage of
2 the income tax than they ever did, and the Senator from
3 North Dakota correctly pointed out that that is because
4 they are obtaining a higher percentage of the income and,
5 therefore, should be paying a higher percentage of the
6 income tax.

7 So I think that there is not an adequate degree of
8 fairness in this bill. I do not join with those who
9 predict disaster if this tax cut is enacted. I think the
10 truth is, we do not know. We cannot look ahead to 2011
11 and say, at this time, what our economic circumstance
12 will be.

13 I do think we have the demographics that have been
14 referred to, we have a great many people going into
15 retirement at the end of this decade. Clearly, the
16 burden on Social Security, the burden on Medicare will
17 grow substantially.

18 But the phrase "a river boat gamble" has been used
19 many times in our recent political history. I think that
20 that is somewhat what we are signing onto here with this
21 kind of large reduction in revenue, given what we
22 currently know.

23 Let me just end with a quotation from a statement
24 that the Concord Coalition issued in March, two months
25 ago. I have not seen a whole lot change since then. The

1 statement said, "An immediate moderate tax cut is
2 justified and reasonable as a surplus dividend, given
3 last year's surplus and in light of near-term economic
4 and budgetary prospects." If anything, in the last two
5 months, those have worsened, not improved.

6 They went on to say, "However, a back-loaded 10-year
7 tax cut is not the right tool to provide short-term
8 economic stimulus, particularly at the expense of the
9 urgent long-term need to fund our senior entitlements and
10 retirement savings needs."

11 Mr. Chairman, I will stop with that.

12 The Chairman. Thank you, Senator Bingaman.

13 Now, Senator Kyl?

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1 OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM
2 ARIZONA

3

4 Senator Kyl. Thank you, Mr. Chairman.

5 First of all, let me associate myself with the
6 remarks of Senator Graham and Senator Thompson, who both
7 pointed out that very significant compromises were made
8 in order to get a bipartisan bill that we could get
9 through the committee.

10 I commend both Senator Baucus and yourself, Mr.
11 Chairman, for your work in getting this bill together in
12 a form that it will pass the committee with substantial
13 support.

14 I would like to make a couple of comments about
15 statements in opposition to the bill, then close with
16 some brief comments just about one provision of the bill
17 relating to the estate tax.

18 There has been a notion by those opposed to the
19 proposal that this is not the time for this kind of a tax
20 cut bill or this much of a tax cut. It seems to me that
21 the question is, if not now, when? If we cannot do this
22 with a \$5.6 trillion surplus, we will never do it.

23 As Senator Snowe pointed out, Americans are paying
24 the largest percentage of taxes since one year of World
25 War II when we were literally devoting all of our

1 resources to winning that war.

2 I note that this year the so-called Tax Freedom Day
3 was May 3. In other words, until about 10 days ago, we
4 were working to pay our federal taxes. Until then, none
5 of that money went to American families. So, I guess the
6 question "if not now, when" is one of the first questions
7 we should ask.

8 Second, what are we going to use this surplus for
9 anyway? Some have suggested we need to pay down the
10 debt. We had testimony before this committee, Mr.
11 Chairman, by experts who said we are paying down the
12 federal debt as much and as fast as we can. There is
13 only so much, and it can only be done so quickly. We are
14 already doing that with the surplus from the Social
15 Security trust fund.

16 If the money is left here in Washington, everybody
17 knows what will happen to it. It will be spent. My own
18 view is, we have over-charged the American taxpayers, yet
19 there are still who want the Federal Government to keep
20 the windfall. I am for returning it to the people who
21 have paid it.

22 Finally, there are complaints about the lack of
23 stimulus here and the fact that it is back-loaded. It is
24 true. Those are correct criticisms of this plan. But it
25 is the very opposition of the same critics who have made

1 this a self-fulfilling prophecy by both reducing the
2 total amount of tax relief possible from the President's
3 proposal of \$1.6 trillion, and by loading a lot of
4 additional elements to this tax proposal, they have
5 ensured that the relief for any one particular part of
6 the bill will be much less than it would have been under
7 the President's program.

8 You cannot do more with less without something having
9 to give. So the very complaint of the critics is due to
10 the fact that they have, A) reduced the total, and B)
11 loaded it with additional elements.

12 The easy way to solve the problem, obviously, is to
13 vote for more tax relief or to focus on just doing four
14 or five things really well, as the President originally
15 proposed.

16 Let me close by making a couple of comments about one
17 element of what we are doing here, and that is the repeal
18 of the death tax and the reform in the meantime. I want
19 to thank Senator Lincoln for her assistance, as well as
20 Senator Breaux and others, who have made the repeal of
21 the estate tax a truly bipartisan portion of this bill.

22 Our goals here were, number one, to reduce the estate
23 tax rates. We did that. Number two, to significantly
24 increase the unified credit. We did that. Number three,
25 to ensure ultimate repeal of the estate tax. We did

1 that.

2 I thank you, Mr. Chairman, for your assistance in
3 making that possible, and also, by the way, for the great
4 assistance of your staff who have really, really helped
5 us in putting this program together.

6 Let me just cite a couple of statistics I think that
7 should make us all feel pretty good about what we are
8 trying to do here with regard to the estate tax.

9 First of all, I think that it is important to note
10 that, even though most Americans know that they are not
11 going to directly benefit, in the sense that they are not
12 going to pay the estate tax, they still sense that there
13 is something very much wrong with a system that allows
14 Washington to seize more than half of whatever is left
15 after somebody dies and prevents hard-working Americans
16 from passing the bulk of their nest egg on to their
17 children or grandchildren. That is why the polls
18 overwhelmingly show support for repeal of the estate tax.

19 A McLaughlin and Associates poll conducted earlier
20 this year found that 89 percent of people believed that
21 it was not fair for government to tax a person's earnings
22 while it is being earned, and then tax it again after the
23 person dies. That is the way the question was phrased.
24 Seventy-nine percent approved of the idea of abolishing
25 the estate tax.

1 Other polls have reached similar conclusions. One
2 which I find especially interesting is a Gallup poll from
3 last year that found 60 percent of the people support
4 repeal, even though about three-fourths of them do not
5 think that they will ever have to pay the tax themselves.

6 They know it is unfair for others to pay it, and they
7 are not imbued with this notion of class envy such that
8 they want to deny relief to those they believe should
9 have it.

10 This is one reason why repeal is supported by a broad
11 coalition, especially of small business, minority, and
12 seniors' organizations.

13 Among the groups are the U.S. Hispanic Chamber of
14 Commerce, the National Indian Business Association, the
15 National Black Chamber of Commerce, the American Farm
16 Bureau Federation, the National Federation of Independent
17 Businesses, just to name a few.

18 I found particularly interesting a study last year by
19 the National Association of Women Business Owners. They
20 conducted a study and found that the death tax cost
21 female entrepreneurs nearly \$60,000 on death tax
22 planning, obviously money that could be used to expand
23 their businesses.

24 It showed that 39 jobs were lost per business due to
25 the costs of death tax planning during the last five

1 years. Women-owned business owners report that the cost
2 of death tax planning will prevent the creation of 103
3 new jobs per business in the next five years. Remember
4 that over half of the small businesses are women-owned
5 business, Mr. Chairman.

6 Just a couple of other statistics relating more to
7 the economy as a whole. Even though this tax only raises
8 about 1.5 percent of the Federal Government's annual
9 revenue, it exerts a disproportionately large and
10 negative impact on the economy.

11 Alicia Minnell, former member of President Clinton's
12 Council of Economic Advisors, estimates that the costs of
13 complying with death tax laws are roughly the same
14 magnitude as the revenue raised. In other words, for
15 every dollar of tax revenue raised by the death tax
16 another dollar is squandered in the economy simply in
17 efforts to avoid paying the tax.

18 The December 1998 report of the Joint Economic
19 Committee concluded that the existence of the tax this
20 century has reduced the stock of capital in the economy
21 by nearly half a trillion dollars.

22 By repealing the death tax and putting those
23 resources to better use, the Joint Committee estimates
24 that as many as 240,000 jobs could be created over seven
25 years and Americans would have an additional \$24.4

1 billion in disposable personal income.

2 Dr. Wilbur Stegger, who by the way testified before
3 this committee, testified that an immediate repeal--which
4 we are not doing here--would provide a \$40 billion
5 automatic stimulus to the economy.

6 Finally, Dr. Alan Sinai recently issued a report
7 which just notes some of the effects of repeal of the
8 death tax over the next eight years: increased GDP
9 cumulatively to \$90 billion to \$100 billion; increased
10 job growth by between 80,000 and 165,000 jobs per year;
11 increased national savings; increased level of the
12 economy's potential output by an average of \$6 to \$9
13 billion each year. The statistics go on and on.

14 My point is, the repeal of the estate tax is good for
15 the economy, it is good for American families, it is good
16 for small businesses, and I am glad, Mr. Chairman, that
17 we have found it possible to include, even though it is
18 modest and even though the repeal does not actually occur
19 until the final year of our plan, that at least we
20 provide relief in the meantime and ultimately repeal the
21 estate tax. I thank you very much for that.

22 The Chairman. Thank you, Senator Kyl.

23 We have four speakers left, I believe. Senator Kerry
24 is next, then Senator Nickles, then Senator Torricelli,
25 then Senator Lincoln.

1 OPENING STATEMENT OF HON. JOHN F. KERRY, A U.S. SENATOR
2 FROM MASSACHUSETTS
3

4 Senator Kerry. Thank you, Mr. Chairman.

5 I thank you for your personal efforts with respect
6 tot his mark-up. I want to say that I think you have
7 been very fair with all of us. I appreciate the time you
8 took to come and visit personally, as well as to listen
9 to us on the floor and elsewhere, as we work through
10 this. Both you and the Ranking Member have really worked
11 very hard to try to reach out and listen.

12 You have a difficult job. I do not envy you the
13 choices you have had to make. While obviously some of us
14 disagree, I think you have been more than fair, both of
15 you, in reaching out and trying to do this.

16 Mr. Chairman, I think it is important to look at some
17 of the history of this as we think about what is
18 happening here. I support a tax cut. I think most of
19 us--all of us, probably--support some form of a tax cut.

20 When I came here 16 years ago, one of the first
21 legislative efforts that I joined up in was the Gramm-
22 Rudman-Hollings Deficit Reduction Act. In fact, I was
23 then one of the first three original co-sponsors of that
24 effort. That was, in fact, considered to be heresy back
25 home. People did not quite understand where we were

1 coming from in 1985 on that subject. So, I have had a
2 consistent effort to try to, I think, be responsible
3 about how we treat the fiscal choices we make here.

4 In 1993, we made another tough choice. I would
5 remind my colleagues, and I do this not to be partisan
6 but to point out an historical fact, it was our party
7 that bit the proverbial bullet with respect to the
8 deficit in 1993, and we paid an extraordinarily high
9 price for it. Not one single Republican joined with us
10 in the Deficit Reduction Act of 1993, and we lost the
11 House and we lost the Senate in the 1994 election.

12 Ask any member of the House who lost their race that
13 year--Dave McCurdy, Lynn Shank, others from around the
14 country--and they will tell you there was only one issue
15 in their race, and that issue was the 1993 Deficit
16 Reduction Act.

17 That act was the first serious effort in Washington
18 in years to put aside the rhetoric and deal with the
19 reality of the increasing debt of this Nation. In 1979
20 when President Reagan began his efforts, in 1980 when he
21 was elected, the debt of this Nation was \$909 billion,
22 less than \$1 trillion.

23 In the span of about four, four and a half years, we
24 did what had not happened from George Washington through
25 Ronald Reagan, through World War I, World War II, Korea,

1 Vietnam, the great society. We took the debt of this
2 country to \$4.6 trillion. Because of the momentum that
3 that effort had, it was not until the Deficit Reduction
4 Act that we actually began to sort of turn the corner,
5 and only in the last couple of years pay down some of the
6 debt.

7 Now, I am not going to suggest, as a matter of
8 economics, that you cannot carry a certain proportion of
9 debt relative to your gross domestic product. Obviously
10 you can. The question is, what are the trend lines?
11 Which directions are you going in? What messages are you
12 sending to Wall Street and elsewhere, and what impact are
13 you having on interest rates and on the availability of
14 private capital to make the investments that we want in
15 the marketplace?

16 Mr. Chairman, I believe very seriously that, when
17 measured against realities, this tax effort runs counter
18 to the serious purpose that this Congress has
19 demonstrated with respect to debt reduction and with
20 respect to the fiscal choices we have in this country.

21 I congratulate the Senator from North Dakota for his
22 extremely perceptive, and I think courageous, statement
23 about where this may go. We may differ on some of the
24 nuances of it, but not at all on the overall substance.

25 I like the fact, Mr. Chairman, that we have the

1 pension reform in here, education initiative, marriage
2 penalty. These are things we all support, we want to do,
3 within the constraints of the pie that is available.

4 I particularly am grateful to you, Mr. Chairman, for
5 working with me and with Senator Snowe and Senator
6 Lincoln on the child tax credit so that we can help out a
7 great many more children.

8 I would just like to share with my colleagues what we
9 have done. This is an example of the kinds of choices we
10 may have to make. Senator Kyl said if we would do four
11 or five things really well, we would be better off.

12 Well, the four or five things that the President
13 chose to do very well, indeed, did very well by those who
14 have done very well. But we left out a lot of people.
15 In the President's proposal, just taking children, for
16 example--and there are other areas to take--for families
17 with children, the President only gave \$13,205,000
18 coverage. Some 26 million children were left out, and 13
19 million families. This is the President who promised to
20 leave no child behind.

21 The House proposal left out 11 million families, and
22 21 million children. Mr. Chairman, because you were
23 willing to work with us and with Senator Snowe and
24 Senator Lincoln, we now can say that this bill has been
25 improved. It will leave out, I regret to say, only 10

1 million children, 16 million less than the original
2 choice that came before the U.S. Senate.

3 I think the question is still on the table why we are
4 leaving out 10 million children, but those are the
5 choices that we make.

6 I listened to Senator Gramm talk about the
7 distribution and how we should not engage in discussions
8 about class, because the rich people are those who pay
9 most of the taxes.

10 But my colleague from North Dakota has pointed out,
11 they do not pay the percentages that Senator Gramm used.
12 They pay about 22 percent in terms of total taxation.

13 The reason is, most Americans, people earning \$50,000
14 or less, pay 66 percent of their tax burden in the
15 payroll tax. Because they do not have as much income and
16 the income tax is progressive, which has been a
17 longstanding concept of how we are fair in America, they
18 only pay 25 percent of their tax of the income tax.

19 On the other hand, people earning more than \$200,000
20 pay only 12 percent in payroll tax, but 86 percent in
21 income because, indeed, they are left with a lot more
22 disposal income than most Americans.

23 Now, my principal objection is not distribution. For
24 the first five years, Mr. Chairman, the distribution is
25 really not bad in this bill. I think it is important for

1 Democrats to acknowledge that in the first five years. I
2 would be a lot happier if we were doing a five-year bill,
3 or a three-year bill. I will get to that in a moment.

4 But the back-ended aspects that Senator Conrad has
5 pointed to, indeed, the 2011 and after aspects, show a
6 distribution that raises very, very serious questions.

7 But the real point I want to make to my colleagues,
8 and Mr. Chairman, I want to take a moment to do this
9 because I think it is so important, we are operating in
10 the framework that was set down by the budget resolution.

11 That is what has empowered us to come here and create
12 a tax bill. That budget resolution really sets out the
13 priorities of our country, what we are going to do for
14 domestic spending, military spending, how much will be
15 given back in a tax cut. It is the broad framework.

16 I need to point out to colleagues, because it really
17 conditions how I approach this tax cut and it goes to my
18 comments about what we began in 1985 and what we tried to
19 do in 1993, that the budget resolution itself, Mr.
20 Chairman, which has laid out the parameters of this tax
21 cut with its 10-year economic projections, is simply
22 overly optimistic and, by definition, they are patently
23 unreliable.

24 It makes assumptions that we are already not even
25 meeting. It assumes that non-defense spending will be

1 held slightly below the rate of inflation for the next 10
2 years. Does anybody on this committee truly believe that
3 non-defense spending is going to be held below the rate
4 of inflation for the next 10 years? We have not held
5 spending to that level in decades. Yet, this tax cut is
6 based on that presumption.

7 Moreover, there is an assumption that no additional
8 funds will be needed for Social Security reform. Show me
9 one plan for Social Security reform that anyone has
10 offered, privatization or otherwise, that does not need
11 additional funds, at least for transitional costs. The
12 transitional costs that we have seen are up around the \$1
13 trillion level.

14 Moreover, although it put \$300 billion aside for
15 Medicare, most of that, it is assumed, is for the
16 prescription drug plan, which is the precise cost of the
17 \$300 billion, or somewhere in that range.

18 But that will have to compete for all of the Medicare
19 reform costs, which people already acknowledge are real,
20 as well as for the discrepancy we have each year that we
21 have been struggling with for the Balanced Budget Act's
22 shortcomings for our hospitals and for the medical system
23 of this country.

24 Whereas, we were supposed to take \$115 billion out of
25 Medicare, we have taken \$265 to \$270 billion out. All

1 over the country we have health maintenance, we have
2 hospitals, we have nursing homes, we have home health
3 care, that have been reduced as a consequence and the
4 quality of care is diminishing. Now, these are
5 realities. They are not going to go away.

6 The second thing I say, is that the projected surplus
7 itself raises enormous questions, Mr. Chairman. A little
8 over three years ago in January, the Congressional Budget
9 Office projected the Federal Government would accumulate
10 a 10-year unified surplus of \$660 billion. Not \$5.6
11 trillion, \$660 billion. That was three years ago.

12 They said that the 10-year projections were not based
13 on cyclical effects, but on certain beliefs regarding the
14 prospects of our economy. I would point out that all of
15 those beliefs on which those judgments are based are in
16 question today.

17 Now we see, for instance, those economists projected
18 that the economy would grow at a rate of 2.4 percent in
19 2001. That is a full half a point higher than CBO
20 anticipated in 2001 for its budget outlook only three
21 years ago.

22 I think we should ask the question, why the sudden
23 transition from \$660 billion to \$5.6 trillion? What has
24 changed? Is it the result of major deficit reduction
25 here? The answer is no, because over the past three

1 years discretionary spending has grown by an average rate
2 of well over four percent. The Balanced Budget Act of
3 1997 slowed the growth of Medicare, but Social Security
4 and Medicaid spending both continued to increase.

5 So basically what happened, Mr. Chairman, is the same
6 economists that predicated a 10-year surplus of \$600
7 billion changed that, but changed it on assumptions which
8 we are already not meeting.

9 The productivity levels are the most interesting of
10 all. From 1996 to 2001, we had this incredible burst of
11 energy in our economy because of the Internet and
12 technology. We saw the Nasdaq and the market respond to
13 that.

14 As a consequence, we saw an enormous reaping of the
15 20 percent capital gains tax as people sold off. That
16 will not be repeated in the near term, certainly. In
17 addition, we saw the productivity rate reach an
18 unprecedented 2.9 percent level.

19 The only matching point similar to that was the years
20 1960 to 1965, during the sort of printed circuit board
21 technology burst in Texas, Massachusetts, and elsewhere.
22 Then it was 2.7 percent, Mr. Chairman. That is a 25-year
23 spread between reaching those levels.

24 Notwithstanding what we have seen as the historical
25 level of productivity, which is 1.5 percent, this tax cut

1 and this budget resolution are based on the notion that
2 we are going to continue somewhere at the high of 2.7 or
3 so. Already for the first quarter we see productivity
4 rates considerably lower than that, in fact, down over
5 the last three months.

6 So, Mr. Chairman, when you put that difference in,
7 economists have tried hard to warn us of these dangers.
8 There are 24 pages in the January CBO report that warn us
9 about this incredible capacity for variance, and they
10 tell us what will happen--and this is very important--if
11 we simply go back to the pre-1996 conditions,
12 specifically, of a productivity growth average at the
13 historical rate--not a pessimistic rate--of 1.5 percent,
14 Medicare and Medicaid spending grow a mere 1 percent
15 faster than the baseline. The baseline, Mr. Chairman,
16 was 3 percent. We had 3 percent growth last year.

17 But if it is just 1 percent and if there is an
18 increase in personal tax liabilities such as the recent
19 capital gains grab that I talked about a moment ago, if
20 you have that, Mr. Chairman, just those three things that
21 I just said, and every indication is that is where we
22 are, then the budget surplus falls from \$5.6 trillion to
23 \$1.6 trillion. A full \$4 trillion would be eliminated.

24 Now, I have to say to you, that is not a doomsday,
25 that is probably where we are heading. When you look at

1 the problem, in addition to that, of the spending
2 assumptions, we are going to have a whole additional
3 spending difference, as we all know, because of the
4 military increase and because of the realities that we
5 have in the budget resolution.

6 You are looking, at least, at a \$60 billion increase
7 in this year alone. Then if you look at the out years,
8 the Medicaid growing 2 percent faster than CBO projected,
9 this tax cut does not stand up, nor does the budget
10 resolution itself.

11 Now, Mr. Chairman, to me, that is not conservative.
12 It is not conservative to put in place a tax cut, given
13 the assumptions, the fragility on which they are based,
14 when we have worked as hard as we have to put ourselves
15 in the position of fiscal responsibility that we are in.

16 That is without, I might add, even looking at what we
17 know will happen, with what Senator Conrad talked about,
18 Medicare and Social Security and the on-rush of the baby
19 boomers who will be retiring in the next 10 years.

20 You cannot fix the Social Security system, except in
21 about three ways. You either cut the benefits, you raise
22 the taxes, or you find some combination. Nobody is
23 talking about that.

24 So I would simply close by saying, Mr. Chairman, that
25 we can afford a tax cut based on our outlook for the next

1 three years, perhaps five.

2 But to have so much of this back-ended, including the
3 estate tax, which does not even figure into the
4 distribution charts because it is outside of this in the
5 year 2011, and it represents a loss of about \$660 billion
6 in that one year alone when it is finally taken out, not
7 in a phase-out as we show in the charts that we have.

8 This is a completely distorted distribution
9 presentation and it is, in fact, I think, the farthest
10 thing in the world from a conservative approach to the
11 fiscal discipline that we have put in place for this
12 country.

13 So as someone said, I think it was Senator Conrad, it
14 is fun and it is really nice politically, but from a
15 policy perspective I do not think it represents the long-
16 term best interests of our Nation.

17 I would rather see us do something on a shorter span,
18 which also does something in terms of the immediate needs
19 of the Nation with respect to fiscal stimulus, which this
20 does not do at all.

21 So, I thank the Chair for the indulgence. I know it
22 was a long opening statement. But I think it is really
23 important for the record to reflect that this is based on
24 a critical analysis of the assumptions and not on
25 politics or on class warfare.

1 The Chairman. I listened to your caution, as I
2 listened to Senator Conrad's caution. I think it is very
3 legitimate that you ask us to consider what all the
4 variables are.

5 But as I listened to your cautioning us about the
6 fact that growth might not be as much as we anticipated,
7 I would ask you to visit with people on your side of the
8 aisle who so often, when we talk about the need to make
9 changes in Social Security to guarantee its solvency for
10 the long term of 75 years that we have to look ahead,
11 that many people on your side of the aisle say, well, all
12 this country needs, and insinuated in it is, all we need
13 is 4 percent growth and that we are going to get it, and
14 that will take care of the Social Security problem.

15 So, if your caution is all right on the side of not
16 going with tax cuts because of what you say about growth,
17 then that ought to indicate that we have to move very,
18 very quickly to do something about Social Security.

19 Senator Kerry. Mr. Chairman, let me just say that I
20 do not say that about Social Security.

21 The Chairman. But some on your side of the aisle
22 that do not want to wrestle with a very tough issue say
23 that.

24 Senator Nickles?

25

1 OPENING STATEMENT OF HON. DON NICKLES, A U.S. SENATOR
2 FROM OKLAHOMA

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4 Senator Nickles. Mr. Chairman, thank you very much.

5 Just a couple of comments. A lot of people are
6 revisiting history, talking about the excesses of the
7 Reagan tax cuts. He did have a significant tax cut, but
8 revenues in 1980 were \$517 billion. In 1990, they were
9 double that, over \$1 trillion. Just a little footnote.

10 It is also interesting, in comparison to the Reagan
11 tax cut because some people have said this is the largest
12 tax cut since the Reagan tax cuts of 1981, Ronald Reagan
13 was elected, also in a Republican Senate, and the maximum
14 tax rate was 70 percent. Eight years later it was 28
15 percent. So, it does make a difference. A big
16 difference. But during that period of time, also, I
17 would just note that revenues doubled in that 10-year
18 period of time.

19 It is interesting what happened in 1993, because I
20 have heard our colleague, Senator Kerry, allude to 1993.
21 In 1993, the maximum rate was raised from 31 percent to
22 39.6, plus the Medicare tax.

23 The Medicare tax, you could say, for an individual,
24 is 1.45, or individual and employer because it was on
25 both, was 2.9. If you add the two together, the 1993 tax

1 increase took the maximum rate from 31 percent to 43.5
2 percent.

3 It is pretty dramatic. It was dramatic in what
4 Ronald Reagan was able to do, dramatic in what President
5 Clinton was able to do in maximum rates, if you only want
6 to look at maximum rates. I think the bill that we have
7 before us is way too timid, Mr. Chairman, on maximum
8 rates. Way too timid. We did not do nearly enough.

9 Maybe it was because a lot of different things people
10 wanted to put in for refundable tax credits, or other
11 things. There are a lot of things in this bill, but we
12 did not do enough on rates, at least in my opinion.

13 I want to compliment the Chairman and Ranking Member
14 for coming together. I did not file any amendments, but
15 I want to improve this bill. I would just compare it to
16 what Bill Clinton did in 1993. He made the maximum rate
17 increase retroactive to January 1, 1993. It was a hell
18 of a tax increase to go from 31 percent to basically 42.5
19 percent. Wow. You add 39.6 plus 2.9, that is 42.5
20 percent.

21 What we do in this bill, is we reduce that by one
22 point next year and one pointing the year 2005. The
23 maximum tax rate still is over 40 percent if you add the
24 Medicare tax in the maximum rate.

25 So my point is that President Bush's proposals take

1 it down to 33 percent, but he leaves in the Medicare tax
2 increase. That is a tax increase on income and has
3 nothing to do with Medicare. It is an income tax. So,
4 for anybody to ignore that, we segregate it and say that
5 is Medicare, but it is an income tax. So, you have total
6 income tax today of 42.5 percent.

7 I guess you could reduce that by 1.45 if you wanted
8 to ignore the employer contribution. But we are being
9 way too timid in the reduction, not only on that rate,
10 but on all the rates.

11 We have loaded this thing up. I hear some of the
12 class warfare rhetoric, and I am simply amazed. At least
13 the Chairman's mark, with Senator Baucus, makes the 15
14 percent bracket, or for the low part of the 15 percent
15 bracket, the 10 percent retroactive. So, it is really
16 loaded.

17 Then if you look at the refundable credits, I do not
18 agree with those. I think we should give tax credits for
19 taxpayers. To do refundable credits, that is the
20 spending program. We are expanding EIC. Eighty percent
21 of EIC is a spending program. In many cases, it greatly
22 exceeds what the payroll tax is. I have heard some
23 people say, well, it offsets not only income tax, but it
24 should offset payroll tax.

25 In many cases, EIC exceeds payroll taxes and income

1 taxes for individuals with a couple of kids. Now we are
2 talking about, let us add to that a refundable credit for
3 the child care tax credit. I was one of the sponsors of
4 making the child care credit \$500 in 1997, which we
5 passed. Now we are talking about making it \$1,000. Now
6 we are talking about making it refundable.

7 I happen to disagree with that policy because we are
8 going to be writing checks. The government is going to
9 be writing a lot of checks, in many, many cases, greatly
10 in excess of any taxes that anybody paid to the Federal
11 Government, including payroll taxes.

12 If we want to have an increase to Aid With Families
13 With Dependent Children, let us do that. If we are going
14 to compensate people for more kids, let us just do it
15 directly. I do not think we need to do it through the
16 Tax Code, and I am afraid that is what we are doing.

17 So I make those points, Mr. Chairman. I want to see
18 us do a tax cut for taxpayers. I think we can do better.
19 The bill that we have before us is very, very timid. For
20 us to have a bill that says, well, we are going to
21 eventually get around to moving the maximum tax rate in
22 seven years down three points, I think, is far too timid.

23 So I make those points, Mr. Chairman. Some people
24 have suggested we should take every rate and reduce one
25 point per year, or maybe skip a year if necessary for the

1 rate, and do that across the board. The percentage of
2 reduction would still be greater for the lower income.
3 To me, that would even be a better distribution than what
4 we have under the current tax credit.

5 Be that as it may, I am going to work with the
6 Chairman. I have heard a lot of our colleagues. I
7 listened to every colleague's statement. Some people do
8 not want a tax bill and they have 20 some-odd amendments
9 to try and gut the tax bill. Then they will still vote
10 against it.

11 I would urge the Chairman and the Ranking Member, let
12 us work together and try and pass a good tax bill. Let
13 us be listening and cooperative with those people who
14 will be supportive of the tax bill. And for those who
15 are just trying to undermine it, I would hope that we
16 would defeat those amendments.

17 Also, Mr. Chairman, the greater number of amendments
18 that are passed, the less the tax cut will be. It is
19 simple addition. So, I would hope that we would be very
20 reluctant to be adding a lot of amendments to this bill
21 which will either come from personal rates, from the
22 death tax repeal, to come from the child credit, or so
23 on.

24 So I would hope that we would be pretty reluctant to
25 be adding amendments that will reduce the overall rate

1 reductions for individuals.

2 Thank you, Mr. Chairman.

3 The Chairman. Thank you, Senator Nickles.

4 Now I turn to Senator Torricelli, then Senator
5 Lincoln. Then we will have our walk-through of the mark.

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1 OPENING STATEMENT OF HON. ROBERT G. TORRICELLI, A U.S.
2 SENATOR FROM NEW JERSEY

3

4 Senator Torricelli. Thank you, Mr. Chairman, very
5 much. I appreciate the opportunity to speak to the
6 legislation.

7 Mr. Chairman, let me begin by commenting, as some of
8 my colleagues have, about your role and Senator Baucus'
9 role. It is a difficult enough assignment to lead this
10 committee but, in your opening months as Chair of the
11 committee and Ranking Member, to have before you one of
12 the most significant pieces of legislation the committee
13 has ever considered, was an enormous challenge.

14 The people of Iowa and the people of Montana should
15 be very proud of both of your service. This is an
16 extraordinary effort. Each of your ability to include
17 every member of the committee, to have balanced
18 legislation, to approach this without rancor or division,
19 and produce a balanced product, is an enormous credit,
20 Senator Baucus, to you, and to Senator Grassley. I am
21 very proud of the work that you did.

22 I also want to begin by commending some of those who
23 are not here, or may not even be supporting this
24 legislation. This is an intricate product, produced over
25 many months, as a reflection of circumstances that have

1 been produced over many years.

2 Everyone who helped bring this legislation to
3 creation would not even vote for it today. Let me
4 suggest to you what I mean. If it were not for Bill
5 Clinton in the 1993 deficit reduction legislation, we
6 would not be voting on this bill today. There would not
7 be a surplus. The revenue would not be available.

8 In many respects, though I know he would criticize
9 individual components of the bill, Bill Clinton's name is
10 all over this bill.

11 Senators Conrad and Daschle have given a critique of
12 the legislation. But, indeed, it is a reflection of how
13 the entire institution has participated in writing this
14 bill, even in their opposition. It is better legislation
15 because it was reduced in scale, made more balanced and
16 more fair because of Senator Daschle's commentary and the
17 warnings of Senator Conrad.

18 We may or may not agree with every component of their
19 analysis, but they certainly contributed to the
20 atmosphere, a sobering of the process to ensure that we
21 were careful in how we approach writing this bill.

22 This is why every member of the committee and every
23 member of the Senate should feel some pride in the
24 legislation that is passed here today because it is more
25 than bipartisan. It reflects a deliberative and detailed

1 process for both the supporters and the critics to help
2 fashion the eventual legislation.

3 It is, Mr. Chairman, in my judgment, difficult to
4 overstate the significance of what is done here today.
5 This is not simply tax reduction. The committee is
6 passing a blueprint that will guide each and every major
7 decision of the Federal Government for the next decade.
8 Major spending initiatives and other tax initiatives will
9 all be guided by this legislation.

10 The use of this revenue for a tax reduction will have
11 a definite impact on people's social ambitions, events,
12 plans, and other priorities. It is, however, in my
13 judgment, the right thing to do. The scale of the
14 legislation having been reduced to \$1.35 trillion is
15 affordable and balanced.

16 I believe it is a reflection of the debate of recent
17 months. Every income category in the country is now
18 participating to some significant degree in rate
19 reduction.

20 I do not minimize that there is an element of risk in
21 tax reduction over such a long period of time to such a
22 significant degree. But there is always an element of
23 chance. No one can predict with certainty the degree of
24 the surplus. It may prove to be less. It may prove to
25 be more.

1 But this Congress is capable, as the years pass, of
2 watching the data, forecasting the surplus, and making
3 adjustments. There are some who say it may not be
4 responsible to reduce taxes this much in advance of a
5 mounting surplus. I believe it would not be responsible
6 to watch the surplus mount in the face of a rising tax
7 burden on individual American families and do nothing.

8 Sometimes the most complex of issues can lend
9 themselves to a simple analysis. I will offer one. In a
10 time of peace, economic prosperity, with a growing
11 federal surplus, it is simply wrong that 20 percent of
12 the gross domestic product of the United States is paid
13 in federal taxes. It is not right, it cannot be
14 justified, and it must be changed. So I begin with that
15 premise that this is not a defensible level of taxation
16 in the country.

17 The question then becomes, if the level is not
18 appropriate and the Nation can afford a tax cut of these
19 dimensions, whether the components of the tax cut are
20 proper and balanced.

21 I began the debate by setting out several criteria
22 that I thought were important for my State of New Jersey,
23 and interests that I thought were important to the
24 country.

25 The first of these, was sensitivity regionally to my

1 area of the country. A relatively high cost of living in
2 the northeast, with the inflation of recent years, has
3 pushed people of relatively modest means into income
4 categories where they have inappropriate levels of
5 federal income taxation.

6 It is a situation where police officers, nurses, or
7 school teachers can have family incomes of \$50,000,
8 \$60,000 and \$70,000 and no longer find themselves in the
9 lowest categories of federal income tax, they are not
10 subjected to income tax levels once designed for people
11 of relatively high wealth. I made clear at the outset I
12 would not support an income tax cut unless this situation
13 were addressed.

14 Three years ago, Senator Coverdell and I proposed an
15 income tax cut not entirely dissimilar to what the
16 committee is going to vote upon today. We advocated
17 moving these middle income families into a new 15 percent
18 tax bracket.

19 There is nothing more significant, in my estimation,
20 in this tax cut than the fact that what Senator Coverdell
21 and I proposed three years ago is now included in this
22 bill.

23 Under this legislation the 15 percent bracket will be
24 expanded for families, by 2006 to \$72,000, and by 2010 to
25 \$86,000. A significant part of middle income America is

1 being put back in the lowest tax brackets where they were
2 always intended to be, and where they belong. For my
3 State, this is critical.

4 Aside from the economic impact, it is simply morally
5 not justifiable to take a middle income family that is
6 struggling to pay a mortgage, property taxes, and educate
7 their children and have them pay 28 percent of modest
8 family incomes to the Federal Government.

9 Second, it has been my belief that, in times of
10 prosperity with a federal surplus, there is a significant
11 category of Americans who simply should not be paying
12 income taxes at all.

13 A family with an income of \$25,000, struggling to
14 feed, house, and clothe their children, in my estimation,
15 should largely not be part of the federal income tax
16 system. We accomplish this by not only expanding the
17 child credit to \$1,000, but by also making it refundable
18 for low income families.

19 Two hundred and eighty thousand New Jersey children
20 will now be eligible for some form of the credit. That
21 is enormously important in not reducing the tax burden on
22 working families of low incomes, but in many respects
23 eliminating it. For this, Senator Lincoln and Senator
24 Snowe deserve enormous credit. Without them it would not
25 be in this bill, and that is critical.

1 Third, it has been noted that for millions of
2 Americans--indeed, perhaps a majority of Americans--who
3 pay the 15 percent tax rate, that they will be receiving
4 no income tax cut at all.

5 Let me hesitate here for point of emphasis. With all
6 due respect to my colleagues, that is wrong, that is
7 false, that is not fair. If that were the case, I would
8 vote against this bill and I would argue against it
9 strenuously.

10 That majority of Americans who pay 15 percent of
11 their income in federal income taxes will have their
12 taxes significantly reduced, because the first \$12,000 of
13 taxation will be subjected to the 10 percent rate. So
14 the base of their income will receive a one-third
15 reduction in income tax rates.

16 They will then have the expanded child credit, which
17 will reduce significantly, and in some cases eliminate,
18 their federal tax burden. Then for those having children
19 going to college, there will be a further and new
20 deduction which I will address in a moment.

21 So it is important to remember, because it is a
22 principal reason why I will be voting for this bill
23 today, that in every income category, at every level of
24 economic life in America, everyone is participating in
25 this tax cut and the addition of the 10 percent rate is a

1 critical component.

2 Third, nothing has brought me more satisfaction in
3 this tax reduction than the cause that I championed
4 individually and have fought for so hard. For this, I am
5 grateful for Senator Snowe who joined with me in this
6 effort, Senator Schumer, who has led this fight for
7 several years, Senator Grassley and Senator Baucus, who
8 have been so responsive.

9 It is the question of the deductibility of college
10 tuition. For a middle income family living in my State
11 of New Jersey, there is no greater financial burden.
12 There is nothing that brings more financial fear to
13 middle income families than the cost of a college
14 education.

15 The cost of a college education has risen by 40
16 percent in the last decade. It is an unfortunate reality
17 that the State of New Jersey exports more of its students
18 to colleges in other States than any other State in the
19 Nation. The cost is disproportionately high for families
20 in New Jersey.

21 But no matter where you live in America, it is an
22 unsustainable cost. At a time when we all recognize that
23 the quality of education is the foundation of our
24 economic prosperity, it makes no sense that, while so
25 many other things in American business and American life

1 are tax deductible, this central element of our national
2 economic, social, and political life, this foundational
3 part of our country, a college education, is not
4 deductible.

5 I am enormously proud that there is now going to be
6 relief. The average student in America leaves college
7 with a \$15,000 to \$20,000 debt. We cannot increase loans
8 or grants fast enough to maintain the economic viability
9 of families who are facing this debt.

10 Middle income families are taking second mortgages on
11 their houses, indebting family businesses, borrowing from
12 retirement accounts. Students are going into debt that
13 may last years and compromise the quality of their lives,
14 causing postponements of families.

15 This bill contains a deduction of college tuition.
16 Over the course of years, it will rise to \$5,000 per
17 family. It is not a complete answer, but it is real and
18 substantial relief. It is, unfortunately, sunsetted in a
19 period during the tax bill.

20 I trust every Senator will recognize that, after
21 Americans begin deducting college tuition, there is no
22 force on earth that will prevent this Congress from
23 maintaining that deductibility. That is the only reason
24 why I have agreed to the compromise. But it is in the
25 bill, and I am very proud of it.

1 Finally, the legislation contains something else that
2 I have fought for for years with Senator Coverdell and I
3 believe, after his tragic death, is a great monument to
4 his service in this Congress.

5 Senator Coverdell and I led for years the cause of
6 education savings accounts. Unfortunately, the accounts,
7 as they now exist in law, are limited to \$500. This
8 legislation will raise that to \$2,000 and include K-12
9 education so that every American family, from the birth
10 of their children, through their own resources, those of
11 their family, and the larger community, can begin saving
12 money to enhance a public school education or provide a
13 private school education at a school of their choice, to
14 the quality that they demand. It is a very worthwhile
15 provision.

16 Also, under provisions that I have offered to Senator
17 Hatch, the income limitation for participation in an
18 education IRA has been increased to \$220,000 for
19 families. The income limit for deduction of student
20 interest expenses has been raised to \$65,000 for single
21 filers and \$130,000 for joint filers.

22 Many families who, because of income limits, are
23 ineligible for Hope scholarships, will now be eligible
24 for tuition deduction.

25 In each of these respects, this problem of people

1 with modest means and middle income families, through
2 inflation or prosperity, being pushed up against limits,
3 you cannot credibly argue to a middle income family in
4 the State of New Jersey that, because they make \$65,000,
5 they are so wealthy they should not be able to deduct the
6 cost of a student loan.

7 It is not only wrong, it is insulting. Under this
8 bill, concerning the legislation I have offered with
9 Senator Hatch as an amendment, that is now going to be
10 raised in each of these categories.

11 I cannot, Mr. Chairman, as much as I compliment you
12 and Senator Baucus, claim that this is a perfect bill.
13 If I were writing it, indeed, if each of you were writing
14 it, it would be different in many respects.

15 But it is not insignificant that the legislation is
16 not only bipartisan. It includes people with different
17 philosophies in different regions of the country.

18 I believe we have come as close as this institution
19 is capable of getting to having a bill that genuinely
20 reflects the country, our political parties, and our
21 disparate needs.

22 I am very proud of this legislation and proud to be
23 part of it. I do not argue that, as the decade passes,
24 many of these judgments will not be revisited. We do not
25 know with certainty the level of economic growth. No one

1 can reasonably predict exactly the kind of surpluses that
2 are going to materialize. That is not an excuse to do
3 nothing. It is not an excuse to provide no tax relief.

4 It only creates a reason to have reasonable
5 estimates, make good judgments, and promise to revisit
6 the issue if fiscal responsibility requires us to look at
7 this question again.

8 I am going to support the bill. Mr. Chairman,
9 Senator Baucus, thank you for your patience and your very
10 hard work in bringing this forward to the Senate.

11 The Chairman. Thank you, Senator Torricelli.

12 After Mrs. Lincoln gets done, we are then going to go
13 through the walk-through. Then I hope members will stay,
14 because this is where you get your questions answered
15 about specific provisions of the bill. It is my hope
16 then that we can adjourn at 12:30, and we will reconvene
17 at 2:30.

18 Mrs. Lincoln, I also want to tell you, I am not
19 oblivious to the fact that you were the seventh one here
20 this morning. I will explain to you in private why I did
21 not call on you until the last one.

22

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1 OPENING STATEMENT OF HON. BLANCHE L. LINCOLN, A U.S.
2 SENATOR FROM ARKANSAS

3

4 Senator Lincoln. Mr. Chairman, it is quite all
5 right. I am just delighted to have my turn. I know you
6 are glad to call on me, because I am the last one.

7 Thank you, Mr. Chairman, and to Senator Baucus, for
8 your patience and hard work. I echo the words of
9 everyone else.

10 In any legislation that I look at, I look for
11 balance, Mr. Chairman. This bill is not perfect. No
12 bill ever is. But that is because legislation is not a
13 work of art, it is a work in progress.

14 I applaud Chairman Grassley and our Ranking Member
15 Senator Baucus for their strong and honest commitment to
16 craft a bipartisan and balanced tax bill. They have done
17 an excellent job.

18 Throughout the process leading to this mark-up, I
19 have advocated to the Chairman and to others the need for
20 tax fairness for low-income working families, the kind of
21 families that I represent in Arkansas who spend most of
22 what they earn on their groceries, their utility bills,
23 and their rent.

24 Some have suggested during this process that these
25 working families should not be included in this plan.

1 However, I challenge anyone who claims that these workers
2 are not taxpayers. They pay their fair share in taxes,
3 in federal payroll taxes, in excise taxes, taxes at the
4 gas pump, and sales tax at many grocery stores in many of
5 our States. I ask, should we not find room for them in a
6 \$1.3 trillion tax cut?

7 While I represent a low-income State and have tried
8 to represent that to the Chairman and to others, I am
9 also interested in tax fairness and tax relief for high-
10 income taxpayers and I am glad that we have worked to
11 that end.

12 Although this package addresses some of the AMT
13 problem in the first five years, I am alarmed that we
14 have not done enough on the AMT. I fear that our
15 irresponsibility as a Nation will come back to haunt us
16 if we do not do something as this bill continues down the
17 road.

18 I am glad of the immediate 10 percent bracket, the
19 expansion of the 15 percent bracket. The pension pieces
20 that are in there that Chairman Grassley and Senator
21 Baucus have worked so hard on I think are important, not
22 only to our savings rate but to our economy.

23 I believe we must have equity for all taxpayers, and
24 fairness will provide greater diversity and participation
25 in the processes of our democracy in this great Nation.

1 It is my hope that the delicate balance that has been
2 achieved by Chairman Grassley and Senator Baucus in this
3 compromise bill will be maintained as we work to improve
4 the bill during its journey that it will begin as it
5 leaves this committee, and I do hope we pass the bill
6 out.

7 Thank you, Mr. Chairman. I appreciate your patience.
8 The Chairman. Thank you very much, Senator Lincoln.
9 Senator Conrad. Mr. Chairman?

10 The Chairman. Yes. Senator Conrad?

11 Senator Conrad. I thank the Chairman. I would just
12 like to take a moment to respond to something Senator
13 Torricelli said.

14 I had earlier indicated there is no rate reduction
15 for those at the 15 percent bracket. Senator Torricelli
16 took exception to that. I just want to reaffirm, that is
17 a fact. There is no rate reduction for the 15 percent
18 bracket. Every other bracket gets a rate reduction.

19 Senator Torricelli noted that they get the benefit of
20 the 10 percent bracket. Well, that is true of every
21 bracket. He said they get the advantage of the
22 additional child care credit. That is true of every
23 bracket.

24 But what is specific about the 15 percent bracket, it
25 is the only bracket that, on top of those provisions,

1 does not get rate reduction. That is the point I made.
2 That point is precisely accurate.

3 I thank the Chairman for this opportunity to correct
4 the record.

5 The Chairman. I am now going to ask Mark Prater and
6 Russ Sullivan, the Chief Tax Counsels for the Finance
7 Committee--Majority in the case of Mr. Prater, and
8 Democratic in the case of Mr. Sullivan--to give us a
9 brief walk-through of the Chairman's mark.

10 Mr. Prater. Thank you, Mr. Chairman, Senator
11 Baucus, members of the committee.

12 The Chairman's mark is divided into----

13 The Chairman. Could I, before you start, say that
14 we also have at the table to help us with any questions
15 we need answered Lindy Paull, Chief of Staff of the Joint
16 Council, and Mark Weinberger, the Assistant Secretary for
17 Tax Policy for the Treasury Department. We welcome you
18 back, Ms. Paull, and you, Mr. Weinberger, from a previous
19 role you had involved in this process.

20 Mark, go ahead.

21 Mr. Prater. Thank you, Mr. Chairman.

22 There are seven categories of tax relief in the
23 Chairman's mark: marginal rate cuts, the child tax
24 credit, marriage tax relief, education tax incentives,
25 estate and gift tax reform and repeal, pension and IRA

1 improvements, and Alternative Minimum Tax improvements.

2 What we will do, is Russ and I will move back and
3 forth between titles as we go through the bill. The
4 marginal rate reduction piece is, as was noted earlier,
5 based on a new 10 percent bracket for \$6,000 of income
6 for singles, \$10,000 for head of households, and \$12,000
7 for married couples, following the President's basic
8 architecture. That is effective beginning this current
9 year. It is retroactive.

10 Senator Nickles. Mark, you said that it is
11 following the President's architecture. But, if I
12 remember, the House went to 12 percent and I think the
13 President phases down 1 percent per year.

14 Mr. Prater. That is correct, Senator Nickles. This
15 is an acceleration, retroactively, if you will, of the
16 architecture of the President's plan.

17 The next piece deals with the other marginal rates.
18 There is a 3.6 percent rate reduction off the current
19 39.6 percent bracket that is reduced in segments, the
20 first occurring in 2002, the second occurring in 2005,
21 and the third and final piece occurring in 2007.

22 The other rates, including the 36 percent bracket,
23 the 31 percent bracket, and the 28 percent bracket, those
24 are all reduced in corresponding fashion. Those rate
25 reductions are effective beginning next year.

1 The third piece of the rate reduction package is a
2 partial repeal of the so-called Pease itemized deduction
3 cut-back. The effect of the repeal would be to raise the
4 threshold for this cut-back to \$200,000 if it were in
5 current dollars, \$245,500 in translated dollars in the
6 year 2009. Finally, the personal exemption phase-outs
7 are repealed effective in 2009.

8 Mr. Sullivan. Members of the committee, the
9 Chairman's mark allocates \$190 billion to expansions of
10 the child credit. There are three principal components
11 here. The amount of the credit is increased from \$500 to
12 \$600 in 2001, and then gradual \$100 incremental increases
13 until it reaches \$1,000 per child in 2011.

14 Second, the mark expands refundability of the child
15 credit, allowing families with one and two children
16 earning \$10,000 or more to claim the credit at a rate of
17 15 percent of their earnings in excess of \$10,000.

18 Families with three or more children would also be
19 permitted to claim a credit under those terms, or claim
20 what they can under current law. Finally, the child
21 credit is allowed permanently under the Alternative
22 Minimum Tax.

23 Mr. Prater. The next portion of the Chairman's mark
24 is dealing with marriage tax relief. This contains three
25 proposals that have previously been approved by the

1 committee, albeit in different effective dates and at a
2 different level on the last one, which I will get to.

3 The first, is to eliminate the marriage penalty built
4 into the standard deduction that would be effective in
5 the year 2006. The same marriage penalty would be
6 eliminated with bracket widening in the 15 percent
7 bracket.

8 Finally, the third piece would extend the phase-out
9 of the married limit on the Earned Income Credit, and
10 that would be effective in 2002. That phase-out number
11 would go up by \$3,000. The committee has previously
12 approved \$2,500.

13 Mr. Sullivan. The Chairman's mark allocates about
14 \$33 billion over 10 years to education-related
15 provisions. This package is similar to what this
16 committee reported out earlier this year, with a couple
17 of changes.

18 The mark expands education savings accounts by
19 increasing the maximum contribution from \$500 to \$2,000
20 per year, and allows withdrawals for K-12 expenses.

21 It also provides tax-free treatment for State-
22 sponsored qualified tuition plans and permits private
23 prepaid tuition plans to be established in the future.

24 It makes permanent the program that permits employees
25 to exclude from income employer-provided tuition

1 assistance for them to go back to college. The mark also
2 expands the program to allow this exclusion for graduate
3 programs.

4 Senator Nickles. Before you move on, going from
5 \$500 to \$2,000 for the educational IRA, what is the
6 effective date of that?

7 Mr. Sullivan. The effective date of that, I
8 believe, is 2002.

9 Senator Nickles. And the educational assistance
10 that is tax-free to the employee, that is employer-
11 provided educational assistance?

12 Mr. Sullivan. That is correct.

13 Senator Nickles. Does that include company-provided
14 computers?

15 Mr. Sullivan. No. This is limited to tuition
16 assistance provided by employers.

17 Senator Nickles. Tuition assistance to higher
18 education, vocational education, specialty schools?

19 Mr. Sullivan. Yes. But under current law it is not
20 allowed for graduate programs. This provision would
21 expand it to allow graduate schools.

22 Mr. Prater. Senator Nickles, computer-related
23 courses that occur in the curriculum of any of those
24 kinds of programs would be included.

25 Senator Nickles. But if a company were to give all

1 of their employees a computer, that is a taxable gift?

2 Mr. Prater. I believe that would be compensation
3 currently, yes. That is not included in the mark.

4 Senator Nickles. Thank you.

5 Mr. Sullivan. Fourth, the mark allows student loan
6 interest to be deductible beyond the current 60-month
7 limit, and it does eliminate the marriage penalty,
8 increasing the income limitations with respect to that
9 provision in law.

10 It also contains two school construction-related
11 provisions. The principal one permits public/private
12 partnerships to issue private activity bonds to fund
13 school construction.

14 The provision that was not in the bill that was
15 marked up by the committee earlier this year is the
16 deduction for college tuition expenses that Senator
17 Torricelli talked about in his opening statement.

18 It would allow for a deduction of up to \$3,000 for
19 the years 2002 and 2003 for single individuals with
20 incomes up to \$65,000, and couples up to \$130,000. Then
21 in 2004 and 2005, the maximum amount would be \$5,000 in
22 tuition deduction.

23 Senator Nickles. With the same income limitations?

24 Mr. Sullivan. The same income limitations. In
25 those last two years, families above those amounts, for

1 singles earning \$65,000 to \$80,000, and couples \$130,000
2 to \$160,000 would be permitted a lower amount of
3 deduction at \$2,000.

4 Mr. Prater. Moving on to the estate and gift tax
5 reform and repeal section, there are really three major
6 components of relief here. First, is in the basic estate
7 and gift tax system. Second, is in the conversation
8 easement area. Third, is with respect to the generation-
9 skipping transfer tax.

10 Going first to the estate and gift tax reforms and
11 repeal, there would be a gradual reduction in the rates,
12 beginning with the repeal of the 5 percent bubble, then a
13 phase-down in the rates starting with a 50 percent rate
14 reduced in 2002, 49 percent in 2003, 48 percent in 2004,
15 47 percent in 2005, 46 percent in 2006, then for the
16 period of 2007 through 2010, 45 percent.

17 Correspondingly, the unified credit, which covers the
18 lower end of estates, would be increased to \$1 million in
19 2002 and 2003, \$2 million in 2004, \$3 million in 2005
20 through 2008, \$3.5 million in 2009, and \$4 million in
21 2010.

22 In addition, the estate death tax credit would be
23 reduced on a sliding scale. In 2010, repeal would occur
24 of the estate tax, but the gift tax would remain in place
25 at a rate of 40 percent. There would be a million dollar

1 gift tax exemption. The step-up in basis would be
2 retained at the basic rates of \$1.3 million per decedent,
3 and \$3 million for surviving spouse transfers.

4 The second category of estate tax----

5 Senator Nickles. Before you move, Mark.

6 Mr. Prater. Yes, sir.

7 Senator Nickles. You are talking about an increase
8 in the unified credit.

9 Mr. Prater. Yes, sir.

10 Senator Nickles. But you are talking about \$1
11 million, \$2 million, \$3 million, \$4 million, as basically
12 an exempted amount. Are we replacing the credit with an
13 exemption?

14 Mr. Prater. No, Senator Nickles. You are noting
15 the system that we had in effect in last year's bill,
16 which was a replacement system. The unified credit is a
17 credit against the tax, so the effect of any tax over and
18 above the unified credit amount is that that tax pays a
19 marginal rate on that schedule, which in this case can be
20 material, in the 30s, 40s, and 50s.

21 Senator Nickles. It starts out at 37.

22 Mr. Prater. Right.

23 Senator Nickles. How much more expensive is it if
24 we did, as we proposed last year, move away from the
25 unified credit into the exemption?

1 Mr. Prater. It does lose more revenue. After a lot
2 of discussions among the members interested, there seemed
3 to be an interest in trying to combine rate reduction
4 with unified credit movement. But you are correct that,
5 with respect to the effect, the marginal rate effect over
6 and above the unified credit amount is significant at
7 those points.

8 Senator Nickles. Did the House not replace the
9 credit with an exemption?

10 Mr. Prater. That is correct.

11 Senator Nickles. And is that not what we did last
12 year in the bill that we passed that the President
13 vetoed?

14 Mr. Prater. Yes, sir.

15 Senator Nickles. A little area for improvement.
16 Thank you.

17 Mr. Prater. The next category is the conservation
18 easement provision that would expand the current
19 conservation easement benefit with respect to the 25-mile
20 and 10-mile limits previously approved by the committee.

21 Finally, there is a package of reforms to the
22 generation-skipping transfer tax that, again, have
23 previously been approved. They deal with the deemed
24 allocation of the generation-skipping transfer tax
25 exemption, retroactive allocation of the same exemption,

1 and severing of trusts.

2 Three final pieces: modification of certain valuation
3 rules, relief from late elections, and substantial
4 compliance.

5 Senator Graham. Mr. Chairman?

6 The Chairman. Senator Graham.

7 Senator Graham. I understand that in the estate tax
8 area there is a faster phase-out of the State share of
9 the estate tax than of the federal share. Is that true,
10 and could you give us some numbers as to the impact of
11 that?

12 Mr. Prater. I think, Senator Graham, your summary
13 is correct of that. I cannot give you the exact numbers.
14 I can tell you that the concept here is that, since
15 repeal, by definition, removes the State death tax
16 credit, that the staff felt it appropriate to give the
17 States a period of time to implement or change their
18 legislation.

19 Right now, as you know, most States have a pick-up
20 tax system, where the State inheritance tax refers to the
21 tax credit that we have in the Code now.

22 Mr. Sullivan. Senator Graham, you are correct in
23 that the State share is repealed in 2005. Under the
24 mark, the estate tax continues in existence, although
25 producing lesser amounts of revenue, from 2005 through

1 2011.

2 Senator Graham. Why should we not have a phase-out
3 of the State share that is harmonious, parallel, with the
4 phase-out of the federal share? What is the policy
5 rationale for that?

6 It seems to me rather ironic that, at the very same
7 time that we are debating on the floor the Elementary and
8 Secondary Education Act, and we know that the States
9 provide the vast primacy of funds for the support of
10 elementary and secondary schools, that we would be
11 considering a tax bill that would punish the States vis-
12 a-vis the Federal Government through our decision to
13 repeal the federal estate tax.

14 Mr. Sullivan. That ultimately is a consequence of
15 repeal. But you are right, we are doing it at an earlier
16 time. States would have the option. They could
17 implement their estate tax along similar lines to collect
18 the same amount of revenue currently collected through
19 the federal revenue sharing program, or they could choose
20 not to.

21 Several States have automatic enactment clauses that,
22 if the federal estate tax does go away, then the State
23 still collects this amount. But most States are tied to
24 the federal program.

25 Senator Graham. Mr. Chairman, I am going to offer

1 an amendment at an appropriate time to at least not treat
2 the States any more disadvantageously than we are going
3 to treat the Federal Government in terms of the impact of
4 the repeal of the estate tax.

5 The Chairman. Obviously you have that right, and we
6 will entertain your amendment.

7 Would you proceed?

8 Mr. Sullivan. The next section of the bill has to
9 do with pensions and IRAs, a \$40 billion package that is
10 based on the proposals that were passed by this committee
11 last fall, with lesser revenue costs by limiting the
12 amount of expansions in these areas.

13 The principal components are increasing the maximum
14 contribution to individual retirement accounts. The
15 current \$2,000 limitation will be increased to \$2,500 in
16 2002, and gradually increase to \$5,000 over 10 years.

17 In addition, there would be increases in the maximum
18 contribution to defined contribution plans, such as
19 401(k) plans, from the current maximum limit of \$10,500
20 to \$15,000.

21 There is a new credit for low-income taxpayers
22 designed for couples under \$30,000 in income that would
23 be a 50 percent credit of their contributions to a
24 defined contribution plan or an IRA of up to \$2,000.

25 Senator Nickles. That would be a credit?

1 Mr. Sullivan. That is correct.

2 Senator Nickles. A tax credit?

3 Mr. Sullivan. That is correct, Senator Nickles.

4 Senator Nickles. So the Federal Government is going
5 to basically, from reduced taxes, pay for somebody to put
6 money into an IRA?

7 Mr. Sullivan. That is correct, under the Chairman's
8 mark.

9 Senator Nickles. How much does that cost? Where
10 are you, right at the top?

11 Mr. Sullivan. That provision costs \$10 billion over
12 10 years. It is in the category of provisions for
13 expanding coverage, and is number 10, entitled "Non-
14 Refundable Credit For Certain Individuals for Elective
15 Deferrals and IRA Contributions."

16 Senator Nickles. Was that in the bill that we had
17 last year?

18 Mr. Sullivan. Yes, Senator Nickles, it was in the
19 bill that the Finance Committee passed last year.

20 Senator Nickles. Was that in the bill that the
21 House passed?

22 Mr. Sullivan. No, Senator Nickles, it is not in the
23 House-passed bill.

24 Senator Nickles. So let me figure out what you are
25 trying to do, because this is pretty significant. So you

1 are trying to give this individuals that presently have
2 an IRA, or that do not have them, it does not make any
3 difference, that are not participants of another pension
4 plan?

5 Mr. Sullivan. I am sorry. Please state the
6 question again.

7 Senator Nickles. I am trying to figure out who is
8 going to get this tax credit for contributing to an IRA.

9 Mr. Sullivan. The individuals under the income
10 limit specified, which is, for the maximum credit,
11 \$30,000 for a couple, \$15,000 for an individual.

12 Senator Nickles. Just a minute. So it is for a
13 couple that has income up to what level?

14 Mr. Sullivan. Thirty thousand dollars.

15 Senator Nickles. Thirty thousand dollars. We are
16 going to give them a tax credit of how much?

17 Mr. Sullivan. Fifty percent. So if they put \$2,000
18 into their 401(k), they would get a credit of \$1,000.

19 Senator Nickles. Up to a maximum of \$2,000.

20 Mr. Sullivan. For the couple.

21 Senator Nickles. The couple.

22 Mr. Sullivan. Right. The maximum credit would be
23 \$1,000.

24 Senator Nickles. To be a beneficiary they could not
25 be a participant of another company plan, or could?

1 Mr. Sullivan. Yes, they can.

2 Senator Nickles. They could.

3 Mr. Sullivan. This would be their employer-
4 sponsored plan, 401(k). Or, if they did not have one,
5 then they could get this credit for contributions to an
6 individual retirement account.

7 Senator Nickles. Could they be a federal employee
8 and make \$25,000 and do this? In other words, if their
9 employer offers a 401(k), they get this on top of the
10 401(k)?

11 Mr. Sullivan. No, they do not get an extra
12 contribution to their 401(k). But the first \$2,000 in
13 contribution to their 401(k) would qualify for this
14 credit.

15 Senator Nickles. I am trying to figure out how
16 expansive you are going. You have an individual who
17 works for a company. The company offers no pensions.

18 Mr. Sullivan. Right.

19 Senator Nickles. They make \$30,000, combined
20 couple. There are not too many people, whose sole income
21 is \$30,000, who could put in \$2,000. But, if they did,
22 they would get a \$1,000 tax credit.

23 Mr. Sullivan. That is correct.

24 Senator Nickles. They could even borrow the money
25 and get a \$1,000 tax credit for that purpose, right?

1 Mr. Sullivan. Correct.

2 Senator Nickles. All right. Now, could they do it
3 if their company provided a pension plan?

4 Mr. Sullivan. Yes.

5 Senator Nickles. Could they do it if their company
6 provided a 401(k)?

7 Mr. Sullivan. Yes.

8 Senator Nickles. So if a company has a 401(k) and
9 they put in 5 percent, and the employee puts in 5
10 percent, so they have this 401(k) over here all tax-
11 deferred, they could also have the IRA count, as you have
12 proposed, with the tax credit?

13 Mr. Sullivan. No. They could either count it for
14 their 401(k) contributions to their employer plan, if
15 their employer offers a plan. If their employer does not
16 offer a 401(k) plan they would have to do it through the
17 IRA, but they could not get both.

18 Senator Nickles. All right. Thank you.

19 Mr. Sullivan. The package contains a number of
20 other provisions dealing with increasing portability of
21 retirement accounts, reducing some regulatory burdens,
22 and some provisions aimed at permitting women to better
23 prepare for retirement.

24 Mr. Prater. Mr. Chairman, moving on, the next piece
25 deals with the Alternative Minimum Tax. Under the

1 Chairman's mark, there are two Alternative Minimum Tax
2 relief provisions.

3 One, is to make permanent the tax treatment, the
4 exclusion from the AMT for non-refundable and refundable
5 personal credits.

6 The second, is to raise the exemption under the AMT,
7 which has not been adjusted since the 1986 Tax Reform
8 Act, and to raise that amount by \$2,000 for singles,
9 \$4,000 for joint return filers.

10 As you can see in the Revenue Table under the
11 footnote, for the five-year period this improves the AMT
12 vis-a-vis the current baseline. In other words, there
13 would be fewer taxpayers in AMT than would be in the AMT
14 under current law under this proposal. So it both holds
15 harmless the effect of the bill's changes from the
16 Alternative Minimum Tax, and takes more taxpayers off of
17 the system.

18 The Chairman. Mark, is there anything about the
19 modifications that are here that need to be explained, or
20 are they pretty self-explanatory?

21 Senator Bingaman. Mr. Chairman, can I ask a
22 question on that AMT issue?

23 The Chairman. Of course you can. Proceed, Senator
24 Bingaman.

25 Senator Bingaman. By the year 2006 when we

1 eliminate this increased exemption for the AMT, whoever
2 is the expert on the AMT, do we have an estimate as to
3 how many people will be subject to the AMT at that time?

4 Mr. Prater. Senator Bingaman, if you look in the
5 footnote to the Revenue Table, page 8, footnote 16.

6 Mr. Sullivan. On the very back of the Revenue Table
7 chart.

8 Senator Bingaman. All right.

9 Mr. Prater. That has an explanation of what the
10 effect is. The first line there is the present law, or
11 the baseline, of the AMT. The second one is the effect
12 of the Chairman's mark.

13 Senator Bingaman. So, under current law, if we do
14 not pass this bill or anything like it, there will be 8.7
15 million people who are subject to the AMT. Is that what
16 this says?

17 Mr. Sullivan. Correct.

18 Mr. Prater. Correct. In 2006.

19 Senator Bingaman. If we do pass this bill, there
20 will be 9.2 million subject to the AMT?

21 Mr. Prater. That is correct.

22 Mr. Sullivan. That is correct.

23 Senator Bingaman. Then the next year, after we drop
24 this out, we will add another 6 million to the AMT in
25 2007.

1 Mr. Prater. Correct.

2 Senator Bingaman. Add another 12 million in 2008,
3 and add another 3 million in 2009. That is what that
4 means? All right. Thank you, Mr. Chairman.

5 Senator Conrad. Mr. Chairman?

6 Senator Kerry. Mr. Chairman?

7 The Chairman. Senator Conrad, then Senator Kerry.

8 Senator Conrad. Thank you, Mr. Chairman.

9 If I could just inquire on the Alternative Minimum
10 Tax. As I see this, in 2001 we currently have, under
11 present law, 1.5 million people affected by the
12 Alternative Minimum Tax. Is that correct?

13 Mr. Prater. Correct.

14 Senator Conrad. And under current law, that would
15 increase to over 20 million in 2011.

16 Mr. Prater. Correct.

17 Senator Conrad. And under the Chairman's mark, that
18 will increase to 39.6 million people. Is that correct?

19 Mr. Prater. That is correct.

20 Senator Conrad. So we are going to go from 1.5
21 million people affected by the Alternative Minimum Tax
22 today to, under the Chairman's mark, 39.6 million people
23 affected by the Alternative Minimum Tax. That is even
24 with the Alternative Minimum Tax provisions that are in
25 this bill?

1 Mr. Sullivan. Correct.

2 The Chairman. Senator Conrad, I hope you are aware
3 of the fact that the bill put in by your party in March
4 at, I think the \$950 billion mark of tax reduction, would
5 have increased the number of people on the AMT by 7
6 million, and that was not addressed in your mark either.

7 Senator Conrad. Mr. Chairman, may I respond to
8 that?

9 The Chairman. Yes.

10 Senator Conrad. That is just not true. I authored
11 that. We provided a \$900 billion tax cut, but that was
12 for the budget resolution. There were no specific
13 elements, because a budget resolution has no specific
14 elements, as to what would make up the tax cut. That is
15 left to this committee.

16 So, in terms of what we introduced on our side with
17 the budget resolution, that was a \$900 billion tax cut,
18 but it did not have specific assumptions because the
19 budget resolution does not determine the specifics. This
20 committee determines the specifics.

21 Mr. Sullivan. Senator Conrad, I believe Senator
22 Grassley was referring to the bill Senator Daschle
23 introduced providing economic stimulus up front, which
24 was not the \$900 billion package, but was just the
25 reduction of the 15 percent rate to the 10 percent rate.

1 Senator Conrad. Well, that was not the \$900 billion
2 package.

3 Mr. Sullivan. That is correct.

4 Senator Conrad. He referenced the \$900 billion
5 package.

6 The Chairman. I did reference it. I would stand
7 corrected by Mr. Sullivan. At that point, 7 million
8 people would be thrown on AMT, am I not right, and it did
9 not make provisions for that?

10 Mr. Sullivan. Under that bill, that is correct.

11 The Chairman. All right.

12 Senator Baucus. Mr. Chairman, I do not think the
13 question is who put what in what bill. That is not
14 really the question here.

15 The real question here is, how are we going to give
16 appropriate AMT relief? I think, clearly, that is an
17 issue that we are all concerned with.

18 There is not a Senator here who does not recognize,
19 particularly given the questions asked by the Senator
20 from New Mexico, that we have got a problem. There are a
21 lot of Americans who, in the future, are going to be
22 paying AMT than today. So the question is, what do we do
23 about all of that as we try to put this bill together?

24 I grant you, there is not nearly enough in this bill
25 to satisfy the AMT problems that are going to occur down

1 the road. This is a first cut. During the first five
2 years, fewer Americans will be paying the Alternative
3 Minimum Tax than under current law.

4 I suspect, frankly, that there is going to be another
5 tax bill sometime between now and 2011. [Laughter]. I
6 am not sure of that, but I would lay odds on that. If
7 there is, I suspect that, whether that subsequent tax
8 bill is this year, whether it is next year, or whenever,
9 that we are going to find an opportunity, because we
10 must, to address this AMT problem. I think all Senators
11 are working and trying to find a solution.

12 Senator Bingaman. Mr. Chairman, could I just ask, I
13 know that the reason that we terminate the expansion of
14 the AMT after 2006 is because it is expensive to keep it
15 in place through the full term of this tax bill.

16 Do we know how much additional revenue is lost by
17 going ahead and keeping that expansion in place during
18 that time?

19 Senator Baucus. How much does it cost to keep it?

20 Senator Bingaman. Yes. Since we decided not to do
21 that, how much?

22 The Chairman. Can somebody at the table answer that
23 question?

24 Ms. Paull. I am sorry. I do not have that estimate
25 with me.

1 The Chairman. Can you have it, maybe, by sometime
2 this afternoon then?

3 Ms. Paull. Sure.

4 The Chairman. What I mean is, if it is available,
5 assuming that it can be gotten that quickly. All right.

6 Senator Kerry, then Senator Rockefeller.

7 Senator Kerry. Thank you, Mr. Chairman.

8 Mr. Chairman, I was just wondering if I should
9 interpret the attendance on your side of the aisle as a
10 sign of great interest in getting this to the conference
11 committee and rewriting it as fast as possible.

12 The Chairman. You could find some other way to
13 embarrass me. [Laughter].

14 Senator Baucus. I might add, just one slight
15 problem this committee has, particularly on the
16 Republican side, so many are committee chairmen.

17 The Chairman. But we do not want you to change
18 that.

19 Senator Baucus. No. [Laughter]. I think there is
20 greater attendance when they become Ranking Members. But
21 I might say that that is one problem we have with
22 attendance.

23 Senator Kerry. I am just having fun. Do not worry
24 about it. It does not merit any response at all.

25 If I could ask, on the AMT, when you say we are going

1 down, for instance, in 2001, from 1.5 million to 1.3
2 million, it is entirely possible--I assume it is, in
3 fact, true--that in the 1.3 would be people who have been
4 thrown into it who have never been there before.

5 In other words, it is not a straight reduction of the
6 1.5 who are currently in it. But in fact, because of
7 what we are doing with respect to other components of
8 this bill, the child credit, for instance, et cetera, you
9 may have people who are thrown into AMT status who were
10 not there prior. Is that correct?

11 Mr. Prater. That is entirely possible.

12 Senator Kerry. And if that happens, how are we
13 picking those winners and those losers, and can you
14 define who they are?

15 Mr. Prater. Well, clearly, the basic foundation
16 here is to go off the exemption, which, if it had been
17 indexed for inflation as the rest of the Tax Code, the
18 regular tax system has been, then we would not have a big
19 problem here. So we are taking one of the root causes of
20 the AMT problem and trying to address it, albeit it in
21 the short term.

22 The other piece is, of course, the child credit, the
23 refundable credit and refundable child credit, which has
24 been a material factor in the up-front AMT problem. So,
25 the answer to you is yes.

1 I cannot tell you exactly the profile of those
2 people. There are pockets of AMT taxpayers throughout
3 the rate system. Clearly, that phenomenon will continue
4 in any proposal that has broad-based tax relief, as this
5 one does.

6 Senator Kerry. Does that impose on us some kind of
7 burden to try to be more certain of who is, in fact,
8 affected in what ways so we can make a decision as to
9 whether we ought to be dealing with it up front?

10 There is going to be a very uneven consequence if,
11 all of a sudden, we are intending to do something with
12 two or three components of our credits and we wind up
13 literally undoing them, and we do not know who they are.

14 Ms. Paull. Senator Kerry, if I could just interject
15 a little bit. Two of the reasons individuals tend to be
16 in the AMT, and they do not tend to go back and forth, is
17 because if their income is relatively stable, if they are
18 wage earners or something like that, it is because they
19 have a large family or they live in a high-tax State.

20 They do not tend to go back. They are kind of the
21 cadre of people that are stable in there in the AMT that,
22 once they get in, they kind of stay in. More and more
23 and more of those people will be going in over time, as
24 you see under the baseline estimates of additional people
25 going into the AMT.

1 As Mark said, we looked at a variety of ways to try
2 to alleviate this problem when it comes to substantial
3 rate cuts. The most broad-based way to deal with it is
4 through these exemption increases.

5 Otherwise, if you tried to target somebody who lives
6 in a high-tax State, you will get some people there, but
7 you will not help others. If you try to target the large
8 families, then you will help some people there and no
9 others.

10 So the broadest way to deal with it is through these
11 exemption increases. I think you pretty much know that
12 you are going to help people, as a result of their being
13 on the margin and the rate increases are causing them to
14 flip over into the AMT, and this brings those people who
15 were on the margin of just getting ready to go into the
16 AMT, to bring them back.

17 So I think, after a lot of work on this earlier this
18 year, we found that this is going to be the most stable
19 way. I think it is pretty much targeting the people who
20 are getting shifted into the AMT as a result of the bill,
21 and doing it in a broad way rather than picking winners
22 and losers.

23 Senator Kerry. All right. Fair enough. I
24 appreciate the answer.

25 What is the rationale then, or what is the

1 supposition? Is it what the Ranking Member just said,
2 that we are going to come back and revisit this? Or how
3 else do you deal with the very large numbers in the back
4 years?

5 Ms. Paull. I think the Chairman and Ranking Member
6 asked that the bill be structured to give a time period
7 where the committee could focus on this, because it has
8 been an interest of the committee for some time.

9 This gives you a five-year time period, the way the
10 bill is structured, where you are not adding people to
11 the AMT--in fact, you are subtracting people, modestly--
12 to give the committee time to roll up their sleeves and
13 deal with this problem. This is a structural problem
14 with the AMT. It is made worse by rate reductions. It
15 is made worse only if you did the 10 percent bracket.

16 Senator Kerry. Right. I have seen that. I realize
17 how that happens.

18 Ms. Paull. Right. So the structure of this
19 particular mark was to say, do the most you can for a
20 period of time so the committee can have the time to
21 address it. This gave, basically, a five-year window for
22 you to come back and deal with this problem.

23 Senator Baucus. Mr. Chairman, if I might just
24 comment.

25 The Chairman. Yes.

1 Senator Baucus. I would just further add here, I
2 think that the AMT is an unnecessary complication,
3 generally, in the Tax Code. It may have served a purpose
4 years ago. I question whether it serves that same
5 purpose today. As we all know, Joint Tax has a
6 recommendation to eventually eliminate the AMT.

7 My thought is that this committee should, as Ms.
8 Paull has suggested, give the Chairman some really deep
9 thought about how we go about accomplishing that, with
10 probably appropriate offsets, because we have to address
11 progressivity in the Code as well.

12 But I just think it creates more problems, the AMT
13 does, than it solves today. It is going to get worse. I
14 believe we should try to find some way eventually,
15 following the recommendations of Joint Tax, to eliminate
16 it, but again make sure that appropriate offsets are
17 enacted.

18 The Chairman. Senator Lincoln, is this on the same
19 subject?

20 Senator Lincoln. Yes.

21 Senator Kerry. I would just finish one thought
22 about that. We all need to be mindful. I accept what
23 you are saying and I respect that that is the way you
24 want to structure it. But it also locks this committee
25 in, and locks us into a future where it may be easy to

1 deal with depending on where we are, but it also may be
2 very, very difficult. That is tied to the other things
3 we are choosing to do in this bill.

4 The Chairman. Could I ask for a quick question?
5 Because Senator Rockefeller has been waiting to get in on
6 another subject.

7 Senator Lincoln. Absolutely.

8 I did point out in my opening statement the
9 importance of this issue to me, and I have worked on it
10 an awful lot. I think it is something that is very
11 responsible on our behalf that we have got to address.

12 But I would also point out, and I have not been here
13 that long, that the exemptions have been coming on an
14 annual basis. So, point-in-fact, in this bill we
15 actually provide those exemptions for five years as
16 opposed to having to do it annually, which we have been
17 doing for the last 10 years, basically.

18 So I think it does, as Ms. Paull indicates, give us
19 time to do something, and I think we should. So I would
20 like to echo those words of my colleagues. But the fact
21 that we have actually given ourselves some time to do
22 that as opposed to just annually reauthorizing those
23 exemptions. I think we have given ourselves some time.

24 I would just like to ask, without asking Ms. Paull
25 too much, what the possibility would be of getting some

1 estimates on indexing it at phase-out, if that is
2 possible.

3 Ms. Paull. Yes. Sure. That is possible. I do not
4 know if it is possible today.

5 Senator Lincoln. All right. That is fine.

6 Ms. Paull. But we will be happy to supply that.

7 Senator Lincoln. Absolutely. Thank you.

8 Thank you, Mr. Chairman.

9 The Chairman. Senator Rockefeller said he would
10 rather wait until we come back. So we are going to
11 recess now until 2:30. For the members or their staffs,
12 there is a 2:20 vote on the Senate floor. So I hope that
13 members of this committee will vote first so that we can
14 immediately start amendments when we get back.

15 [Whereupon, at 12:35 p.m., the meeting was recessed.]

16 [The afternoon session of the meeting continues on
17 page 200.]

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Tax Relief Markup
5/15/01

200

1 AFTERNOON SESSION

2 [2:49 p.m.]

3 The Chairman. The committee will come to order.

4 We are just now finishing up our walk-through by the
5 staff. Senator Rockefeller was ready to ask a question
6 as we adjourned for the caucuses, so I am going to turn
7 to Senator Rockefeller at this point.

8 Senator Rockefeller. Thank you, Mr. Chairman.

9 These are sort of scattered. But as I look at the
10 revenue chart--and I would just ask this to the Joint
11 Committee, I guess, or to anybody--according to the tax
12 tables, with the 10 percent listed as number one under
13 the marginal rate reduction provisions, it is about \$438
14 billion. A little bit over that. That is the 39 to 36,
15 I would assume. Is that right?

16 Mr. Sullivan. Are you talking about the first line?

17 Senator Rockefeller. If it is \$438 billion, then
18 down below you have everything else as \$397 billion. I
19 guess what I need to find out, is two things. One, is
20 the 39 to 36 percent reduction, how much is that?

21 Second, what would be the 36 to 33?

22 Mr. Sullivan. So you want a breakdown of the
23 various components of the cost.

24 Senator Rockefeller. Those two figures.

25 Ms. Paull. I can give you a rough estimate. We

1 tried to break those down, since I noticed there was a
2 trend in amendments.

3 Out of the 397, the second line, that is where you
4 are going to see the breakdown. The 39.6 percent bracket
5 going, in steps, into 36 percent is roughly \$120 billion
6 of the \$397 billion.

7 Senator Rockefeller. The 30----

8 Ms. Paull. Thirty-nine point six, going in steps,
9 down ultimately to 36, is roughly \$120 billion over 10
10 years.

11 Senator Rockefeller. All right.

12 Ms. Paull. The 36 percent bracket, going down in
13 steps to 33 percent, which is also folded into the 397
14 number, would be roughly about \$40 billion. These were
15 very rough estimates we did last night. I hope you will
16 not permanently hold me to them, but that is what we
17 think it is. It is close.

18 Senator Rockefeller. You have answered my question.

19 Another one, again, on another subject. If the
20 marriage penalty relief were changed from the 2006 to
21 2002, what would the cost of that be?

22 Ms. Paull. I can give you, roughly, the cost from
23 the House bill. They begin in 2002 with a five-year
24 phase-in.

25 Mr. Sullivan. Senator, are you interested in both

1 the standard deduction, the 15 percent bracket, and the
2 earned income piece, all three pieces?

3 Senator Rockefeller. Just the marriage penalty
4 relief, period.

5 Mr. Sullivan. All right.

6 Ms. Paull. These numbers are not against this mark,
7 but they are going to be roughly in the ballpark.
8 Actually, the standard deduction for married couples in
9 the House bill was not phased in. It was fully effective
10 in 2002, and that would have been \$60 billion in the
11 House bill.

12 Senator Rockefeller. I am sorry. I could not hear.

13 Ms. Paull. Sixty.

14 Senator Rockefeller. Sixty billion.

15 Ms. Paull. Without any phase-ins, fully effective
16 next year.

17 Senator Rockefeller. All right.

18 Ms. Paull. The 15 percent bracket in the House bill
19 was phased in over six years, beginning in 2004. That
20 was about \$150 billion. There are only so many of these
21 we can re-do, but I think that gives you at least an idea
22 of the magnitude that those costs would be.

23 Senator Rockefeller. My last question, or second-
24 to-last question. On the partially refundable question
25 on the child tax credit, obviously one worries that that

1 leaves out lots of folks, lots of kids. I would be
2 interested to know the estimate, between having it
3 partially refundable and refundable. how many children
4 are left out? Do you have that figure? I may be asking
5 a hard one, but I think it is answerable. Because their
6 parents do not have enough money.

7 Ms. Paull. Senator, I am not sure I have the answer
8 to that question. I have how many families with children
9 are benefitting from the bill, which is 30 million
10 families.

11 I have how many families are benefitting from this
12 refundable proportion of the proposal, which is roughly
13 about \$10 million. It grows to about \$13 million halfway
14 down the road. I do not know the rest of the picture in
15 terms of the other numbers of children.

16 Senator Rockefeller. I have a list here of children
17 that would receive no help from the child credit because
18 it is not, as I personally would hope, fully refundable.
19 But it is not a total list of the entire country.

20 It gives New Jersey \$197,000, Arizona \$121,000,
21 Massachusetts \$248,000, my own State \$68,000. But is
22 that something you could find out? If I have this much
23 information, you surely must have more.

24 Ms. Paull. I would be happy to try to find that
25 out. I will ask the question for you and get back to

1 you.

2 Senator Rockefeller. I think it is a reasonable
3 question.

4 Ms. Paull. Sure.

5 Mr. Sullivan. Senator, to clarify, you want to know
6 then how many children----

7 Senator Rockefeller. Are left out.

8 Mr. Sullivan. [Continuing]. Are under \$10,000, so
9 they would not benefit from the proposal as it is in the
10 Chairman's mark.

11 Senator Rockefeller. Correct. Correct.

12 The final, is on the R&D tax credit. That is, the
13 making of it to be permanent. My guess is, and if you
14 could verify this it would be helpful, the cost of making
15 it permanent would be about \$47 billion. Is that about
16 right? I do not know the math, what that percent is of
17 that \$47 billion, of the \$1.350 trillion. You can
18 calculate that and give it to me on a piece of paper, if
19 you want.

20 Ms. Paull. It is not in the bill, though.

21 Senator Rockefeller. I know that.

22 Ms. Paull. Oh. All right.

23 Senator Rockefeller. But I am asking the question.

24 I know it is not in the bill, but Senator Hatch and I
25 want to do it.

1 Ms. Paull. All right. It looks like 3.5 percent.

2 Senator Rockefeller. Three and a half percent? All
3 right. Thank you.

4 I thank you, Mr. Chairman.

5 Senator Conrad. Mr. Chairman?

6 The Chairman. Senator Conrad?

7 Senator Conrad. Might I ask a few questions?

8 The Chairman. Yes. But then when you are done,
9 then we will get started on the amendments. Please, go
10 ahead. We have the requisite number of people that are
11 in the room. Since we have already had a quorum declared
12 this morning, we can then proceed with the minimum number
13 of people that we have here now.

14 So, proceed with your questions.

15 Senator Conrad. Thank you, Mr. Chairman. I have
16 four questions, and I think they can be answered fairly
17 quickly. The first, would be, do we have an estimate of
18 what estate tax repeal would be the second 10 years, what
19 the cost of that would be?

20 Ms. Paull. No, we do not, Senator Conrad. A lot of
21 people ask us these questions. We have a 10-year
22 baseline that we receive from the Congressional Budget
23 Office, and we estimate changes in law off of that
24 baseline. We do not have a 20-year baseline.

25 Senator Conrad. If we had estate tax repeal in the

1 first 10 years, effective immediately, what would the
2 cost of that be then?

3 Ms. Paull. It depends on the structure of the bill.
4 The baseline for estate and gift tax is roughly \$400
5 billion over this 10-year period. Then there would be
6 some interaction with the income tax. So, as I said, it
7 depends on how you come out on the structure of the bill
8 as to how much higher it would be than the \$400 billion.

9 Senator Conrad. The second question, is there is no
10 rate reduction at the 15 percent rate. Is that correct?

11 Ms. Paull. The 15 percent rate is, in essence,
12 split. The present law brackets are split into a 10
13 percent bracket and a 15 percent bracket. So what you
14 really have, is carving out, roughly, 20 to 25 percent of
15 the 15 percent bracket and establishing a new bracket.

16 So if you are in that part of the 15 percent bracket
17 only, you have gotten a rate cut. But if you are in the
18 other part of the 15 percent bracket, you have gotten the
19 benefit of the new 10 percent bracket.

20 Senator Conrad. But everybody gets the benefit of
21 that.

22 Ms. Paull. But you have not gotten a marginal rate
23 cut unless you are going to benefit from a widening of
24 the 15 percent bracket under the marriage penalty relief.

25 Senator Conrad. So there is no rate reduction for

1 the 15 percent rate, those that do not have the benefit
2 of being moved to the new 10 percent rate.

3 Ms. Paull. Well, they get the benefit of the 10
4 percent rate, though.

5 Senator Conrad. Right.

6 Ms. Paull. Their marginal rate stays at 15 percent,
7 if that is what you are asking.

8 Senator Conrad. Right. There is no change in the
9 marginal rate at the 15 percent bracket, for those that
10 are not moved to the new 10 percent rate.

11 Senator Baucus. Except for marrieds.

12 Ms. Paull. Unless you are a married couple and you
13 are benefitting from the expansion of the 15 percent
14 bracket in the marriage.

15 Senator Conrad. But everybody in every category
16 benefits from the new 10 percent rate, they benefit from
17 the other provisions. As I understand it, there is rate
18 reduction at every rate level except the 15 percent.

19 Ms. Paull. Except, Senator, if you do the math--I
20 did it at one point and this is what is sticking in my
21 head--even if you are at the very top part of the 15
22 percent bracket, you are getting, roughly, a 9 percent
23 tax cut. There is a range of tax cuts you get when you
24 are in the 15 percent bracket.

25 Senator Conrad. That is because of the new 10

1 percent rate.

2 Ms. Paull. It could be as high as 33 percent at the
3 low end, and at the other end it could be 9 percent. So
4 people are getting a tax cut.

5 Senator Conrad. But that is not my question.

6 Ms. Paull. But if you are asking, did the statutory
7 rate change, no. There is still a 15 percent rate.

8 Senator Conrad. Right. So there is no change in
9 the statutory rate at the 15 percent rate. Some of those
10 people are dropped down to the 10 percent rate. All of
11 them have the benefit of a 10 percent rate, so they get
12 tax reduction. But they do not get a new rate.

13 At every other rate level, those things also apply.
14 They get the benefit of a 10 percent rate, but they also
15 get a rate reduction. In fact, at the top level, they
16 are getting a 3.6 percent rate reduction: 39.6 percent
17 goes down to 36 percent over time.

18 What would the cost be of a 3 percent rate reduction
19 to the 15 percent rate if it was phased in? Do we have
20 numbers like that? If it was phased in in the same way
21 that the top rate reductions are, same years.

22 Ms. Paull. I do not have that information.

23 The Chairman. I think it is reasonable.

24 Ms. Paull. Nobody asked for it before. There are
25 so many moving pieces that people have asked for for this

1 mark-up. We would be happy to provide it to you, but I
2 am not sure if I can provide it to you today.

3 Senator Conrad. I would just like to know, if I
4 could.

5 Ms. Paull. All right.

6 Senator Conrad. If we were treating that 15 percent
7 rate the way we are the higher rates, what would the cost
8 be?

9 Those are the questions that I had, Mr. Chairman.

10 The Chairman. Thank you very much.

11 I want to speak a word of thanks, and also partly
12 explanation, to you, Senator Conrad, for the Joint
13 Committee, as well as the Finance Committee. They have
14 worked under some very difficult circumstances since 1:30
15 Friday afternoon when Senator Baucus and I reached an
16 agreement. I want to thank them for doing it.

17 But, also, providing numbers for what we have in our
18 mark is one reason, probably, why they do not have other
19 information you might want. But whatever information you
20 might want, we will attempt to get it for you.

21 Senator Conrad. I have no criticism of them for not
22 having the answers or that number. I know they have been
23 under enormous pressure to produce the wealth of
24 information that has been done.

25 The Chairman. All right.

1 Senator Nickles. Mr. Chairman?

2 The Chairman. Yes. Do you have a question for the
3 walk-through? Because I would like to go to amendments.

4 Senator Nickles. Yes. I would just kind of make a
5 caveat on that. The scoring, as I understand it--correct
6 me if I am wrong, staff--but for reducing the 15 percent
7 rate to 10 percent for the period is \$438 billion out of
8 a total rate reduction section of \$846 billion. In other
9 words, over half of it.

10 Now, another way of doing it, instead of creating a
11 10 percent bracket, you could just reduce the 15 percent
12 bracket on the same phase-down that we did the other
13 brackets. Is that an option that staff looked at? It
14 might be more equitable that way.

15 Mr. Prater. Senator Nickles, we looked at all kinds
16 of different options, phase-ins, on all the brackets,
17 across the board. Certainly there are a lot of different
18 ways you could get the relief.

19 Senator Nickles. I alluded to this in my comments.
20 I think I said the House went immediately from 15 to 12.
21 Maybe we should be doing, instead of the 15 to 10
22 immediately, retroactive, maybe we should move the entire
23 15 percent bracket phase-down to a 12 percent bracket, as
24 Senator Conrad is kind of alluding to, a corresponding
25 rate reduction--that was my point--instead of the

1 immediate 10 percent reduction.

2 Have that be for the entire 15 percent bracket
3 instead of the portion of the 15 percent bracket that has
4 an immediate jump, is my point. There are different ways
5 of doing it. It might be more equitable for somebody, in
6 the \$30,000 or \$35,000 range, joint return, and that
7 might make more sense.

8 If the staff is going to be doing a little more
9 homework on that, that might be something that we would
10 look at. Not in addition to the 10 percent immediately,
11 but, frankly, to phase the 15 percent rate down as we did
12 the other corresponding rates, the entire bracket.

13 I thank my colleagues. Thank you, Mr. Chairman.

14 The Chairman. I thank the staff for their work in
15 explaining the mark that is before us. That is the mark
16 that Senator Baucus and I reached agreement on Friday.
17 We have a modification to that mark now. I move to
18 modify the Chairman's mark. Without objection, the
19 Chairman's mark is modified.

20 Now, we have several amendments. I suppose, with so
21 few people here, we are going to take advantage of
22 whoever will offer amendments from those who are in
23 attendance.

24 But I want people who have amendments that they want
25 to offer to come and do it because, as I indicated

1 before, we are under constraint to move through these.
2 Senator Baucus and I are committed to making sure that
3 there is fair consideration of all amendments that you
4 want to be adopted.

5 Senator Conrad. Mr. Chairman, might I just inquire-
6 ---

7 The Chairman. You know what? My staff just reminds
8 me, we did not describe the modification. The reason I
9 did not do that, is I asked before if it was necessary
10 for a description of the modification and you went to
11 other questions. I assumed that you did not feel that it
12 was necessary to explain it. Do you want it explained?

13 Senator Baucus. Mr. Chairman, I think it would just
14 be helpful to read the explanation of the modification so
15 we know what we are doing here.

16 The Chairman. All right.

17 Ms. Paull. Mr. Chairman?

18 Senator Murkowski. You should have run with it, Mr.
19 Chairman.

20 The Chairman. Pardon?

21 Senator Murkowski. You should have run with it.

22 [Laughter]. No objection from the panel.

23 Ms. Paull. Mr. Chairman, there are actually three
24 modifications, I believe, on the desk. They have three
25 separate little numbers up in the corner.

1 The first one, which I believe is numbered JCX43,
2 basically, is generally kind of a clean-up of the
3 Chairman's mark. We found some small errors. Also,
4 addition of a provision that would delay some corporate
5 income tax payments to shift a little bit of money from
6 year to year to make sure that the HI trust fund issue is
7 addressed.

8 Senator Conrad. Would I be able to inquire on that?

9 The Chairman. We had better let you do it. Go
10 ahead. Proceed.

11 Senator Conrad. I thank the Chairman.

12 So let me understand this, now. You are shifting
13 income to avoid rating the Medicare trust funds. Is that
14 what is going on here?

15 Ms. Paull. It basically is to move some of the
16 revenues from this year, which as you know are very
17 difficult, to address and to score in this year, even
18 though there is a lot of tax relief that is going to be
19 provided for this year, to make basically a 15-day
20 adjustment in the corporate income tax payments so that
21 the money can be evened out for this year and next year.

22 Senator Conrad. Wait a minute. Wait. Wait.

23 Ms. Paull. A similar thing happens in a couple of
24 years.

25 Senator Conrad. Wait a minute. What you are

1 saying, is you are going to take money out of this year,
2 and by a timing change, you are going to move it to next
3 year so that you are not raiding the Medicare trust fund
4 next year. So that means you are reducing revenue this
5 year.

6 How much are you going to reduce revenue this year
7 for this purpose?

8 Ms. Paull. Twenty-three billion dollars. Although
9 I do not think that is what was necessary.

10 Senator Conrad. Twenty-three billion dollars, you
11 are going to reduce. So what does that do to the
12 forecasted surplus for this year?

13 Ms. Paull. This bill, if enacted, would reduce the
14 surplus by a total of----

15 Senator Conrad. That is not my question. I am not
16 talking about this bill. I am talking about this little
17 maneuver that we are just talking about here.

18 Ms. Paull. Well, you do have to enact it for it to
19 make a difference on the surplus.

20 Senator Conrad. It is being proposed. I am asking,
21 what is the proposed maneuver here due to this year's
22 projected budget surplus? It reduces it by \$23 billion.

23 Ms. Paull. I believe there is an additional \$10
24 billion in the bill that has been on the table as well
25 that would reduce this this year.

1 Senator Conrad. I am not talking about that. I am
2 talking about this maneuver. This maneuver reduces the
3 surplus this year by \$23 billion, just a timing change on
4 corporate receipts, so that you are not raiding the
5 Medicare trust fund next year.

6 Ms. Paull. This is something that has been done in
7 the past on a number of occasions.

8 Senator Conrad. I think it is very interesting,
9 what is going on here.

10 Senator Baucus. Mr. Chairman, I do not quite
11 understand the Senator's concern. I mean, I have heard
12 the Senator, ad nauseam, complain about potentially
13 raiding the hospital insurance trust fund. I would think
14 the Senator would not want to raid the hospital insurance
15 trust fund.

16 Senator Conrad. I do not. But I do not want to do
17 it through the fiction and artifice of taking money from
18 this year's surplus, which means you have reduced this
19 year's surplus, to cover what you are doing next year.

20 Senator Baucus. It is a shift to help make sure we
21 do not raid the trust fund.

22 Senator Conrad. I know exactly what it is.

23 Senator Baucus. What is wrong with that?

24 Senator Conrad. It is robbing Peter to pay Paul.
25 You have not accomplished a thing. All you have done is

1 taken money from this year's surplus, you have reduced
2 this year's surplus to cover a raid on next year's
3 Medicare trust fund. That is kind of a sleight of hand
4 here.

5 The Chairman. Would you proceed, Ms. Paull?

6 Ms. Paull. The second modification has to do with
7 the potential effects of the Byrd rule for
8 reconciliation. There were a number of provisions,
9 principally in the pension package, that did not have any
10 revenue effect. So, the amendment would be to drop those
11 provisions out of the bill because this will be a
12 reconciliation bill and not be subject to the Byrd rule.

13 In addition to that, there is the 10-year sunset that
14 the Byrd rule also requires, which is also addressed in
15 that modification.

16 Senator Conrad. Mr. Chairman, could we just know
17 what this is? Are you talking about doing away with the
18 10-year sunset here?

19 Mr. Sullivan. No. The provision would be to make
20 sure that the Chairman's mark does sunset the tax
21 provisions at the end of 2011 so that, going to the
22 floor, it would be in compliance with the Byrd rule.

23 Ms. Paull. It follows the procedure that this
24 committee did, I believe, in 1999.

25 The Chairman. If you want to help us get 60 votes

1 and make it a permanent law, we will take you up on it.

2 Ms. Paull. Was it last year or 1999? For the last
3 two years. There is a sunset and a separate provision
4 that restores the permanency.

5 The Chairman. Does that finish the explanation?

6 Ms. Paull. There is actually one more.

7 The Chairman. All right. Proceed, then.

8 Ms. Paull. Number 45. There are a couple of
9 additional items that will be added to the mark. The
10 first one that is listed is a new tax credit for student
11 loan interests, which would be effective in 2009 and
12 later.

13 Senator Nickles. I thought the Chairman's mark had
14 interest deductions for student loan interest, but I did
15 not think it was a tax credit.

16 Ms. Paull. The Chairman's mark does have a student
17 loan interest deduction expansion from present law. This
18 adds onto the Chairman's mark a new credit for student
19 loan interest up to \$500. It is elective. You get
20 either the deduction or the credit.

21 Senator Nickles. Mr. Chairman, I question the value
22 or the wisdom of doing that.

23 The Chairman. Well, I will be glad to let you talk
24 to Senator Snowe as to why that is a very good idea.

25 [Laughter].

1 Senator Snowe. Thank you for the opportunity, Mr.
2 Chairman.

3 The Chairman. Remember, she is a Republican.
4 [Laughter].

5 Senator Snowe. I do not think he needs to be
6 reminded, Mr. Chairman. [Laughter].

7 The Chairman. All right. Is that the end of the
8 explanation?

9 Ms. Paull. Mr. Chairman, I wish it was. We have a
10 couple more very important provisions.

11 The next two provisions have to do with the
12 installment payment of estate and gift tax. There is an
13 expansion of the installment payments provision in two
14 circumstances, one having to do with companies that do
15 not qualify under present law because their income is
16 principally loan finance income as opposed to other kinds
17 of active income. They would be given a five-year
18 installment payment under the bill.

19 Similarly, holding company structures are prevented
20 from the installment payment. They would also be given a
21 five-year installment payment under this amendment.

22 In addition, the pension package would include a
23 provision dealing with crew members of foreign vessels.
24 These are the same crew members who were exempted from
25 income tax just because they have a few hours in the

1 United States, periodically, in 1997. This would also
2 exempt them from all of the testing rules for the
3 domestic pension plans that they do not participate in.

4 There is one additional clarification of the timing
5 of pension plan contributions.

6 The Chairman. All right. Without objection, then
7 the Chairman's mark is modified.

8 Senator Rockefeller, would you be prepared to go
9 forth with your amendment?

10 Senator Rockefeller. I am, Mr. Chairman. I hope
11 this will sort of enliven the audience here. This is
12 Rockefeller amendment number one, page 26.

13 If there is anything that everybody on both sides
14 could agree on, although they might not agree as to how
15 exactly to do it, it would be a prescription drug benefit
16 for the 39 million Medicare beneficiaries and people who
17 are disabled.

18 We have been going back and forth on this issue for
19 about five, six, seven years. It goes back to the Pepper
20 Commission, it goes back to the Children's Commission, it
21 goes back to endless, endless discussions we have had
22 about it. I do not think there is much disagreement in
23 the country that it is needed.

24 I want to force the issue a bit on this because I
25 cannot tolerate the thought of the people that I

1 represent, and the people that I do not all over the
2 country, who are making decisions which are brutal in the
3 quietness of the night and in the quietness of their
4 lives, in the desperation of their lives.

5 My amendment is not a vote against a tax. The tax
6 that I am referring to is the upper bracket tax. It is
7 this proposition, that if we mean what we say about the
8 prescription drug benefit, if Americans, and in this case
9 the Senate Finance Committee, mean what they say about a
10 prescription drug benefit and we mean to do this for the
11 American people, two things I know. One, is that we can
12 reach agreement.

13 I have often said that it is very hard to take an
14 actuarial benefit and a defined benefit and put the two
15 together, but, in fact, it can be done. It can be done.
16 The compromise can be reached.

17 I think that the doing of this amendment ought to be
18 made, ought to be done, and that we should not adjust the
19 top tax rate until this amendment is done. My amendment,
20 therefore, makes the top tax rate bracket contingent upon
21 the passage of a universal--that means all--prescription
22 drug benefit.

23 I think that is direct. I think that gets at the
24 heart of who we are as a committee and who we are as a
25 Nation. It is something that I, for one, feel

1 . tremendously powerful about, talking about a premium
2 subsidy for all beneficiaries. This is in the spirit of
3 Medicare as it was constituted.

4 As I indicated, this is not voting against the top
5 tax rate. It is simply saying that we do prescription
6 drug benefit. When we have done that, then we do the top
7 tax rate. That is my amendment, Mr. Chairman. I move
8 its adoption.

9 The Chairman. Thank you very much.

10 This committee, this summer, will be very, very much
11 involved in the prescription drug/Medicare issues. Staff
12 is working very hard on it. Last year, this committee
13 was castigated because it held too many hearings on
14 Medicare, Medicaid, and other health issues and did not
15 do much.

16 We built on that with the hearings that we have had
17 this year, and hopefully will have product and
18 discussions between Republicans and Democrats shortly
19 after we get this tax legislation out, and will move
20 forward. I would hope, again, that we could have a
21 bipartisan agreement on what this committee might put
22 forth.

23 So I want you to know that improving Medicare and
24 adding a drug benefit to the program is certainly the
25 right thing to do for current and future generations of

1 Medicare beneficiaries.

2 Having said that, and telling you what my intention
3 as Chairman of this committee is, and even the Ranking
4 Member and I have had some of our weekly meetings on this
5 very subject already, I cannot support inclusion of this
6 amendment in the mark.

7 Over the next 10 years, our budget resolution
8 provides for over \$3.5 trillion to be spent on Medicare.
9 That is more than 2.5 times the size of the tax cut that
10 we are dealing with.

11 Furthermore, included in that total of the 10-year
12 budget resolution is up \$200-300 billion to strengthen
13 and improve Medicare, including the coverage of
14 prescription drugs. That was my amendment to the budget
15 resolution adopted on the floor, and it was part of the
16 compromise that we voted on last week.

17 So, I am fully committed to moving Medicare
18 legislation out of committee, and I hope to do it before
19 the August recess. I have said this on a number of
20 occasions. The committee can still hold hearings. I
21 will be glad to sit down and talk to Senator Rockefeller
22 as much as he wants me to talk with him about it.

23 I think that there is progress at the staff level,
24 and it has been going on for some time. There is no need
25 for us to tell working people that Medicare is keeping

1 them from getting tax relief. In a sense, this would be
2 doing that. I honestly believe there is room for both,
3 and I think the budget that was adopted proves that. So,
4 I would ask consideration of the committee to defeat this
5 amendment.

6 Is there any further discussion? I will start with
7 Senator Breaux.

8 Senator Breaux. Mr. Chairman, thank you. I want to
9 say that I do not think there is anyone who is more
10 dedicated or who has worked harder to accomplish the
11 concept of providing prescription drugs for our Nation's
12 seniors through the Medicare program than Senator
13 Rockefeller has. He has been very dedicated in that
14 goal.

15 Either fortunately or unfortunately, Congress takes
16 up one issue at a time and we do not do everything all at
17 once. As I think it would be wrong for anyone to suggest
18 that we could not do Medicare prescription drugs for
19 seniors until we reduce the marginal rates, I would also
20 take the position that it is not the correct position to
21 have that we cannot do anything with marginal rates until
22 we provide prescription drugs under Medicare.

23 In fact, I think both should be done. I think that
24 what I heard from the Chairman is actually very
25 encouraging. I think that progress so far is indicative

1 of him following through with the goal of trying to put
2 together a package that can do exactly what Senator
3 Rockefeller is suggesting, and that is to provide a good
4 prescription drug program, under the Medicare program,
5 for all of our seniors.

6 But I do not think you can say you cannot do this
7 portion of the tax bill until we do that, any more than
8 we could say you cannot do that before we do the tax
9 bill. So, I think we do them as they come down the pike,
10 and hopefully we will do them all.

11 Senator Rockefeller. Mr. Chairman, if I could
12 respond to that, understanding that Senator Bingaman also
13 wants to make remarks.

14 The way I calculate this, and I understand that you
15 cannot do two things at once. That is precisely the
16 point. The question is, you have to do what you think is
17 the most important. You take votes as they come and you
18 make choices as they present themselves to you.

19 It is my judgment that, if we enact this piece of
20 legislation, not even including what I think will be
21 added on after this legislation has passed, nor including
22 what I think will be added on when this legislation goes
23 to conference, that there will be no money for a
24 prescription drug benefit. If, as I do sincerely believe
25 that, try to get a prescription drug benefit while there

1 is money on the table.

2 A prescription drug benefit is not inexpensive. If
3 it is done properly, and the Chairman would agree that
4 the one presented by the President is insufficient, as
5 would I, it is going to be expensive. If we pass this
6 legislation and this kind of amendment is not brought
7 forward, the money will not be there.

8 At the end of the day, we will not have those series
9 of compromising conferences--compromising in the good
10 sense--wherein we achieve a prescription drug benefit.
11 The money will not be there. I believe that. I just
12 totally believe that. I think this is an important and
13 necessary amendment, and would ask for a vote on it.

14 Senator Snowe. Mr. Chairman?

15 The Chairman. I think I should get Senator
16 Bingaman, first, then Senator Baucus.

17 Senator Bingaman. Mr. Chairman, let me just state a
18 question. I am just unclear as to how the amendment
19 relates to what has been adopted by the Senate and by the
20 Congress in this budget resolution.

21 The budget resolution does direct this committee to
22 enact a tax cut of up to this amount that you have got in
23 this bill, and also specifies an amount that can be used
24 for the prescription drug benefit out of this committee.
25 Is that correct?

1 The Chairman. Up \$200-300 billion. You can call
2 that a Republican amendment because it was mine. But
3 remember, the Democrat amendment was \$311 billion, and
4 Senator Rockefeller spoke for that. So I do not think
5 there is much difference between the two parties on the
6 amount of money we are talking about.

7 Senator Bingaman. I guess my question, sort of as a
8 matter of procedure, is if the Finance Committee goes
9 ahead and enacts this tax bill and then adds to it with
10 one or more additional tax bills in the future, does that
11 in any way affect our ability to go ahead and report a
12 prescription drug benefit bill in the amount of \$300
13 billion that would still be in compliance with the budget
14 resolutions?

15 The Chairman. The answer is no. But let me say
16 that, if you disagreed with that, remember, if other tax
17 bills come out, remember that they are protected. There
18 will be regular order.

19 They will either have to be offset, or they are
20 protected by a point of order, or they are protected by
21 the 60 votes to stop a cloture. So, I think there ought
22 to be plenty of protection out there if you think that
23 other tax bills will impact negatively on the \$300
24 billion.

25 Senator Nickles. There is a 60-vote budget point of

1 order.

2 The Chairman. Yes.

3 Senator Bingaman. But, in fact, as a matter of
4 procedure, there would be no effect of us passing
5 additional tax bills or reporting them to the floor, or
6 passing them through the Senate on our ability to do the
7 prescription drug benefit, in your view.

8 The Chairman. No. But remember, as a practical
9 matter, 60 votes is a large number of votes to get; sixty
10 votes over a point of order is as much; offsetting is
11 somewhat difficult. The other thing is, this committee
12 is working in a bipartisan way as well.

13 Senator Bingaman. Thank you.

14 The Chairman. All right. Senator Baucus asked for
15 the floor. Then I will get Senator Snowe.

16 Senator Baucus. Mr. Chairman, I want to start out
17 with what Senator Breaux said. There is no stronger
18 champion for seniors, particularly seniors who deserve
19 prescription drug benefits under Medicare, than Senator
20 Rockefeller.

21 I do not know anybody who has done such great work,
22 whether it is the Pepper Commission, or all the other
23 work he has done in health care generally, but
24 particularly in this case. I agree with him. Clearly,
25 we have to move very quickly, this year, on enacting a

1 universal prescription drug benefit.

2 I think the Senator knows that the Chairman and I,
3 and our staffs, have had about six to eight meetings
4 already in putting together a prescription drug benefit
5 bill. It is something that is at the top of my agenda,
6 as I know it is the top agenda of a lot of Senators.
7 Partly, it is because there is such a need.

8 I am not going to take a lot of time of the Senate
9 here, but I think it is instructive and it is helpful to
10 remind ourselves every once in a while just how great the
11 need is. Families USA came out with a recent report that
12 in the past year prices for the 50 drugs used most often
13 by seniors rose, on average, twice the rate of inflation;
14 15 of those rose at three times the rate of inflation in
15 this last year; and 11, four times.

16 If they take a drug like Prilosec, which is used to
17 treat ulcers and digestive problems, it would cost a
18 person \$1,400 a year--that is, someone that does not have
19 health insurance coverage that provides for prescription
20 drug benefits. If you are a senior citizen, on average,
21 with about \$10,000 a year income, that is more than 10
22 percent of your income just to pay for that one drug.

23 So there is a clear need, and I pledge to the Senator
24 that I am going to do everything I can to help get a
25 measure passed this year.

1 The budget resolution does provide for \$300 billion
2 that is set aside specifically for this purpose. As I
3 read the budget resolution, Section 211(a), even if a
4 subsequent tax bill were to come before the Senate, and I
5 am quite confident there will be one, probably, one way
6 or another, there are these budget points of order that
7 have been mentioned by the Chairman.

8 But that has nothing to do with this \$300 billion.
9 This \$300 billion is a set-aside for prescription drug
10 benefits. And there are no instructions to this
11 committee as to how to fashion it, how to put it
12 together, but the \$300 billion is there. It is outside
13 of reconciliation. There is this extra \$300 billion set
14 aside in the budget.

15 So my judgment is that we should proceed with this
16 bill. There is a strong commitment here to enact a
17 prescription drug benefit. There is \$300 billion
18 provided for in the budget.

19 In addition to that, I just do not know how wise it
20 is to condition passage of one major bill upon another,
21 because that sets a precedent that could backfire in lots
22 of unfortunate ways. But the main thing, I would tell my
23 very good friend from West Virginia, he certainly has my
24 commitment to get a good, solid prescription drug benefit
25 bill passed this year.

1 The Chairman. Does the Senator want to proceed with
2 his amendment with all of these assurances that you have
3 gotten?

4 Senator Rockefeller. I do.

5 The Chairman. All right. I am being facetious.

6 Senator Rockefeller. I know that. I know that, Mr.
7 Chairman. I know your sense of humor. I respect it, as
8 I respect you, as I have said on many occasions. I also
9 respect Senator Baucus.

10 The reason that I do want to proceed with the
11 amendment is because it is one thing to say that there
12 will be a number of other bills that will be offered,
13 whether they are defense bills, capital gains, or
14 whatever it is. They certainly will happen.

15 Yes, some will be subject to a point of order, some
16 will be subject to all kinds of things. But I have a
17 feeling, a very, very strong feeling, that many of these
18 are going to be irresistible to the majority of Senators-
19 -at least, a sufficient majority of Senators, whether it
20 is 60 or whether it is 51.

21 That is why I foresee there being no money for
22 prescription drugs. I genuinely foresee there not being
23 money for prescription drugs, even though it is provided
24 for in this budget. Therefore, I want to proceed with
25 the amendment and I ask for the yeas and nays, or

1 whatever is appropriate.

2 The Chairman. Senator Snowe has the floor, first.

3 Senator Snowe. Thank you, Mr. Chairman. I will be
4 very brief.

5 I think we all agree with the intent of the amendment
6 that was offered by Senator Rockefeller, as well as all
7 members of the Finance Committee, to address this most
8 compelling issue. So, I do not doubt the sincerity and
9 passion of the Senator from West Virginia.

10 I just think that we can do both included in this tax
11 package, and also addressing the prescription drug issue.
12 These are not mutually exclusive issues. I would hope
13 that we can proceed on a dual track.

14 Just to put this in perspective, two years ago, as a
15 member of the budget committee, I and Senator Wyden were
16 able to insert an amendment to get \$40 billion in a
17 reserve fund over the last years for prescription drugs.
18 At that time, that was almost a doubling of what then-
19 President Clinton had proposed in his budget.

20 Now, this year, in working with Senator Grassley, we
21 had inserted the \$300 billion reserve fund for the
22 precise purpose of developing a prescription drug
23 program.

24 So, you can see the significant increases that have
25 occurred with the cost of this program, and I think the

1 acknowledgement by the Congress and by the Senate on this
2 issue with respect to the significant costs that will be
3 associated ultimately with a prescription drug program.

4 Last year, and I know in the last Congress, this
5 committee held more than 15 hearings on the issue of
6 prescription drugs.

7 So, clearly, I think there is undoubtedly recognition
8 of the fact that we have to address this most vital issue
9 to seniors, when the average cost of prescription drugs
10 to seniors is \$800 to \$1,000 a year, and 50 percent of
11 seniors rely just on their Social Security check as their
12 sole means of income.

13 So I hope that we will be able to address this issue,
14 Mr. Chairman and members of the committee. If each of us
15 has a commitment to ensuring that we are going to tackle
16 this issue this year, then it can be done.

17 In response to Senator Rockefeller's concerns about
18 whether or not there will be existing funds within the
19 budget to provide for this prescription drug program, in
20 addition to the \$300 billion reserve fund there is also a
21 contingency fund of \$400 to \$500 billion that also could
22 be used as well for this purpose.

23 Thank you.

24 Senator Hatch. Mr. Chairman?

25 The Chairman. Senator Hatch.

1 Senator Hatch. Mr. Chairman, as I understand it, we
2 are on the Rockefeller amendment.

3 The Chairman. Yes. Number one.

4 Senator Hatch. I understand the need to pass a
5 meaningful Medicare prescription drug benefit. However,
6 this amendment does propose some serious constitutional
7 difficulties.

8 First, the amendment requires that the Congress
9 enact, and that the President sign, a bill for outpatient
10 drug benefits.

11 The second requirement, is the more troubling. It
12 states that the Finance Committee must certify that any
13 prescription drug legislation complies with the
14 requirements stated in the amendment. This requirement
15 directly contravenes the Supreme Court's ruling in *INS*
16 *vs. Chada*.

17 In that case, the Supreme Court struck down the so-
18 called legislative veto because it violated the
19 presentment clause in Article 1, Section 7, and also
20 because it violated the bicameral requirement of Article
21 1, Sections 1 and 7 of our constitution.

22 Now, although this amendment is not a veto, per se,
23 it is perhaps more constitutionally suspect because it
24 gives the Finance Committee, not even the entire Senate,
25 the authority to decide when a piece of legislation goes

1 into effect.

2 Now, this arrangement violates the constitution's
3 clearly-stated means of enacting laws, which requires
4 that legislation pass both the House and the Senate and
5 then be signed by the President.

6 This amendment also essentially states that a tax
7 reduction of the top rate, even after it passes the House
8 and Senate and it is signed into law by the President,
9 remains contingent on the passage of an unrelated bill,
10 and also remains contingent on the certification of the
11 Finance Committee.

12 The Congress has a variety of means of linking
13 unrelated legislation, as we all know. These links are
14 part of the political process. When a bill or several
15 unrelated bills are tied together, they are part of the
16 package. When such package is passed by both Houses and
17 signed by the President, it becomes law.

18 The U.S. constitution only grants the President the
19 power to veto a Congressional act. The procedure in
20 amendment one places this political process and deal
21 making solely in the hands of one Senate committee, and
22 such a procedure does contravene the constitutional
23 scheme, and also flouts clear Supreme Court precedence.

24 Now, had this power been placed in the Judiciary
25 Committee, I might have had a different view of the

1 amendment, of course. [Laughter]. Now, that is a joke.

2 Finally, let me just make one point perfectly clear.
3 I strongly support a prescription drug benefit for our
4 seniors. However, this amendment is not the appropriate
5 legislative vehicle.

6 Chairman Grassley is committed to the issue and has
7 indicated that the Finance Committee will consider this
8 issue later this summer. I believe that members of the
9 Finance Committee should work with the Chairman's
10 schedule for considering Medicare prescription drug
11 legislation. But this amendment would be patently
12 unconstitutional. I apologize I had to say that about my
13 friend's amendment, but I felt obligated to do so.

14 The Chairman. If you are for the Rockefeller
15 amendment----

16 Senator Rockefeller. Mr. Chairman, can I just say
17 that I happily strike Section 2 of my amendment, which
18 would obviate most of what the good Senator has just
19 said.

20 The Chairman. The Senator has the right to modify
21 his amendment. It is modified.

22 Senator Kerry. Mr. Chairman?

23 The Chairman. Senator Kerry?

24 Senator Kerry. Before you rush to a vote here, it
25 is interesting to me, particularly now that the

1 modification has been made so that all that is involved
2 here is fundamentally a condition with respect to a
3 particular component of the tax reduction itself, what
4 strikes me as interesting, is the assurances are so firm
5 and so certain that it is hard to understand why people
6 would not be willing to say, this is easy. We are going
7 to state our intention, as a committee, to put what is
8 within the jurisdiction of this committee on the same
9 priority as a rate reduction.

10 The truth is, we have been struggling much longer, in
11 this committee and elsewhere, to get the prescription
12 drug coverage than we have to get a rate reduction. I
13 think most people would agree that the 14 million seniors
14 who do not have it are in a far more compelling status
15 than those who have full coverage and all the money in
16 the world to buy their drugs in that upper percentage
17 where the rate is linked.

18 So if there is a statement of priority and a
19 statement of interest here, it seems to me this is it, a
20 very simple one. If the assurances are as strong as we
21 are being given, then this is going to happen. If it is
22 going to happen, then let us make it clear. I think
23 Senator Rockefeller's concerns about how much money may
24 in fact be available in this pool, and what the pressures
25 may be on Medicare, are well taken.

1 A lot of us do not want to be put at risk with
2 respect to the choices that we are going to have after
3 this Tax Act is, in fact, effected. We have already
4 seen, in the last few moments, how much was it? Twenty-
5 three billion dollars was moved by virtue of a 15-day
6 technical change so that we do not raid Medicare next
7 year. We have just avoided that predicament by moving
8 \$23 billion, like that. It seems to me it would be very
9 simple to pass this amendment and state the priority of
10 this committee..

11 The Chairman. Those in favor vote aye, those
12 opposed vote no. The clerk will call the roll.

13 The Clerk. Mr. Hatch?

14 Senator Hatch. No.

15 The Clerk. Mr. Murkowski?

16 Senator Murkowski. No.

17 The Clerk. Mr. Nickles?

18 Senator Nickles. No.

19 The Clerk. Mr. Gramm of Texas?

20 The Chairman. No, by proxy.

21 The Clerk. Mr. Lott?

22 Senator Lott. No.

23 The Clerk. Mr. Jeffords?

24 The Chairman. No, by proxy.

25 The Clerk. Mr. Thompson?

1 The Chairman. No, by proxy.
2 The Clerk. Ms. Snowe?
3 Senator Snowe. No.
4 The Clerk. Mr. Kyl?
5 Senator Kyl. No.
6 The Clerk. Mr. Baucus?
7 Senator Baucus. No.
8 The Clerk. Mr. Rockefeller?
9 Senator Rockefeller. Aye.
10 The Clerk. Mr. Daschle?
11 Senator Rockefeller. Aye, by proxy.
12 The Clerk. Mr. Breaux?
13 Senator Breaux. No.
14 The Clerk. Mr. Conrad?
15 Senator Conrad. Aye.
16 The Clerk. Mr. Graham of Florida?
17 Senator Graham. Aye.
18 The Clerk. Mr. Bingaman?
19 Senator Baucus. Aye, by proxy.
20 The Clerk. Mr. Kerry?
21 Senator Kerry. Aye.
22 The Clerk. Mr. Torricelli?
23 Senator Torricelli. Aye.
24 The Clerk. Mrs. Lincoln?
25 Senator Lincoln. Aye.

1 The Clerk. Mr. Chairman?

2 The Chairman. No.

3 The Clerk. Mr. Chairman, the tally is 8 ayes, 12
4 nays.

5 The Chairman. Consequently, the amendment is
6 defeated.

7 I now call on Senator Hatch.

8 Senator Hatch. Mr. Chairman, I thank you. I would
9 like to call up two Hatch amendments, numbers one and
10 two. These amendments, which I will withdraw today and
11 which I have planned to offer on the floor, would extend
12 permanently the research and experimentation credit, or
13 at least number one would.

14 I believe that a permanent research credit is one of
15 the most important elements of President Bush's tax plan
16 because it is so tied in with the issue of economic
17 growth and our future prosperity.

18 According to Chairman Greenspan, our productivity
19 growth, which has been a key factor in producing the
20 economic growth of the past few years, and also in
21 creating our projected budget surplus, would not have
22 been possible without the innovations of recent decades,
23 especially in the information technologies.

24 The research credit is a key factor in keeping these
25 innovations coming. A temporary credit is inherently

1 limited in its ability to do this.

2 Mr. Chairman, I am afraid too many of us are stuck in
3 the mind-set that this credit can just be taken care of
4 with an extenders package, so why bother about this issue
5 now? I want to emphasize that the extension is not the
6 issue here. We can, and probably always will, extend the
7 credit when the time for its expiration comes.

8 The issue is whether or not we should magnify the
9 power of this credit by making it permanent. The
10 conditions for a permanent extension now are better than
11 they have ever been, and are likely to ever be again. We
12 should not let this bill go by without doing this. This
13 is about long-term growth. This is about innovation.
14 This is about productivity gains that have brought us
15 where we are today, and can help us stay prosperous in
16 the future as we deal with the entitlement changes ahead.

17 Mr. Chairman, I have appreciated the support of the
18 committee on the past on this amendment, and I intend to
19 offer this amendment on the floor and hope that you will
20 support me. I hope I can count on the support of the
21 rest of the members of this committee, all of whom voted
22 with us last July for permanence.

23 I hope my colleagues will not call this up at this
24 time, because I believe we can win on the floor, where I
25 believe it is not the appropriate place to bring it here.

1 I also want my colleagues who have also filed
2 research credit amendments to know that, because I
3 believe our chances for success are better on the floor,
4 and to protect the Chairman's mark, I will oppose any
5 research credit amendments today. I urge you to join me
6 in offering the amendment on the floor.

7 Now, the second amendment, which I also will not
8 offer today, but would like to bring up this important
9 issue and ask for your help, Mr. Chairman, in trying to
10 solve this problem sometime this year, you and Senator
11 Baucus.

12 It has been brought to my attention that the tax
13 benefits for book publishers to donate their excess book
14 inventories to schools, to libraries, or to literacy
15 programs are about the same or even less than taking the
16 books to the landfill.

17 The Internal Revenue Code needs to be clarified to
18 explicitly provide that donations of book inventories to
19 schools and libraries provides a worthwhile tax benefit
20 so that these books could be helping people everywhere
21 and not just thrown away, which is what is happening
22 today.

23 I understand that the Joint Committee on Taxation has
24 estimated that this provision would cost \$246 million
25 over 10 years. But it seems to me that a small, but

1 important, provision like this one should be included in
2 the education tax title of this bill. I will not offer
3 this amendment here today, but would like your help in
4 finding a place for this correction in the near future,
5 Mr. Chairman and Mr. Democrat Leader on the committee.

6 The Chairman. Obviously, without making any
7 promises, which I cannot do at this point and do not want
8 to do, I will pledge to work with you and try to get each
9 of these issues taken care of.

10 Obviously, the R&D is one that is talked about almost
11 every day insofar as the permanency of that in tax law.
12 To some extent, the President's support of it in his
13 program gives a great deal of weight to what you request.

14 Senator Graham. Mr. Chairman?

15 The Chairman. I think I should call on Senator
16 Graham, first.

17 Senator Graham. Could I ask a question of Senator
18 Hatch, then make a comment?

19 The Chairman. Yes.

20 Senator Graham. Senator, you indicated that
21 amendment two had a price of approximately \$246 million.

22 Senator Hatch. Right.

23 Senator Graham. What is amendment one?

24 Senator Hatch. Amendment one is about \$47 billion
25 over 10 years. I intend to bring that up on the floor.

1 Senator Graham. What is the current scoring of the
2 Chairman's mark?

3 Ms. Paull. I believe you have a table before you.
4 There have been a few little changes, but pretty much the
5 table before you at the moment gives you the idea of the
6 scoring of the Chairman's mark.

7 Senator Graham. And what is that number?

8 Ms. Paull. It is \$1,347,569,000,000.

9 Senator Graham. So we have something less than \$3
10 billion between the Chairman's mark and the budget
11 resolution.

12 Ms. Paull. It is roughly \$2.4 billion. However,
13 the way that budget resolution works, is you have to look
14 at the first two years and see if you went to \$100
15 billion. We are slightly under \$100 billion, so that is
16 why there is a \$2.4 billion shortfall there.

17 Senator Graham. But there would not be sufficient
18 funds.

19 Ms. Paull. No. You would have to cut something
20 else back in this bill.

21 Senator Graham. I wonder, Senator Hatch, if you had
22 offered your amendment number one, did you have a
23 recommendation of how to adjust that?

24 Senator Hatch. What the offset would be?

25 Senator Graham. Yes.

1 Senator Hatch. I do not, at this point. That is
2 one reason why I am waiting until the floor, and I would
3 like my colleagues to wait with me. Then I would like
4 your support on the floor, however I have to bring it up.
5 I hope that I can find a good way to do it, with or
6 without an offset.

7 Senator Graham. Well, I am very supportive of
8 making the R&D credit permanent.

9 Senator Hatch. I know you are.

10 Senator Graham. I could not agree more with your
11 observation. If what you are trying to do is to motivate
12 people to make long-term investments in research and
13 development, you are not going to do that very
14 effectively when the period of the incentive is short and
15 suspect.

16 But I am also concerned that we not get into a
17 situation where things that are as important as the R&D
18 permanent extension become the means by which we are
19 going to bust the \$1.35 trillion total tax relief which
20 is provided for in the budget resolution.

21 Senator Hatch. If the Senator would yield, that is
22 what I am concerned about as well. We have to do this.
23 This is the right time for us to make that R&D tax credit
24 permanent, to give that permanency to it. But I think we
25 have a better chance of doing it on the floor, and I

1 think if the Senators stick with me, I think we will get
2 it done.

3 Senator Graham. As long as we are prepared to do it
4 within the \$1.35 trillion, and that this does not become
5 the first of an avalanche of additional tax measures
6 which go beyond the figure that the Senator has agreed
7 to.

8 Senator Hatch. Well, I cannot promise the Senator
9 anything, but I would like to do it that way. If I
10 cannot, I am going to do whatever I can to get it made
11 permanent.

12 The Chairman. Senator Kerry, first, then Senator
13 Torricelli.

14 Senator Kerry. Mr. Chairman, I am, frankly, very
15 puzzled by why we are not prepared to vote in the Finance
16 Committee on a permanent R&D tax credit. I mean, we have
17 been fighting for this for years around here. We support
18 it every single year. It passes overwhelmingly in the
19 U.S. Senate. Frankly, it ought to be in the mark. I
20 think this is part of the problem with this bill that
21 Senator Conrad, I, and others are talking about.

22 We have already got newspapers filled with stories
23 about Tax II that is coming down the road, a whole set of
24 business taxes that are being planned. This is not the
25 whole tax bill, and that is part of the problem.

1 Now, if we are not willing to reconcile it here in
2 the Tax Committee, what is changing on the floor of the
3 U.S. Senate that is suddenly going to make it so much
4 more permissible?

5 The Chairman. Quite frankly, Senator Kerry, if this
6 amendment is adopted on the floor it is going to have to
7 have an offset from someplace else.

8 Senator Kerry. Well, it has got to have an offset
9 now. It has to have an offset at some point in the
10 future. What is the difference?

11 The Chairman. I am sure that Senator Hatch wants to
12 give it considerable thought.

13 Senator Kerry. He has not thought about it in all
14 of the years that we have passed that? Senator, please.
15 Are you saying to me, Senator Hatch, that we cannot find
16 some offset here?

17 Senator Hatch. Well, I am going to look for an
18 offset, there is no question about that. I have not been
19 able to find it so far where I could get a consensus.
20 But I am going to look for an offset. I am going to do
21 whatever it takes to get a permanent tax credit through,
22 because I think almost everybody on this committee agrees
23 that it is something that needs to be done.

24 I also respect the Chairman and the Ranking Member of
25 this committee who have a tiger by the tail here, and I

1 am trying to get some time here so that we can do this
2 right and get it done.

3 Senator Kerry. I am just having trouble figuring
4 out how it is easier to do on the floor of the U.S.
5 Senate than it is in the committee of jurisdiction.

6 Senator Baucus. Mr. Chairman, maybe I can respond
7 to the Senator on that point.

8 As the Senator from Utah said, there is very strong
9 support in this committee for making the R&D/R&E tax
10 credit permanent. It does not expire until June 2004, so
11 there is a little bit of time remaining. But, certainly,
12 it should be made permanent. In fact, I am the co-
13 sponsor of Senator Hatch's bill to make it permanent.

14 Now, we have been wrestling with the total number in
15 this bill, trying to find out how we have come up with
16 the tax bill. I have a lot of experience, as I know the
17 Senator does, that many, many, many times a very
18 meritorious issue will arise during a committee mark-up,
19 but at the mark-up we do not see exactly how to fit it
20 in. This is a \$47 billion matter.

21 I have every expectation that--where there is a will
22 there is a way--in between now and the floor, the
23 Senators are going to do their very best to try to find a
24 way to fit this in. It might mean some adjustments. It
25 might mean some changes someplace. That is the whole

1 purpose of the legislative process.

2 Senator Kerry. Well, I understand that.

3 Senator Baucus. Here we are at this point, just
4 testing the waters to see what the support is. I am
5 quite confident that the more there is support, the more
6 we will try to find a way to fit this in. But at this
7 point, I do not see how we do it.

8 I honor Senator Hatch's decision. Namely, if we
9 force it to a vote now, it does not help matters very
10 much. Maybe we could find a way between now and the
11 floor.

12 Senator Kerry. Mr. Chairman, if there is some
13 accommodation that is going to occur between now and the
14 floor as to these numbers, that is one thing. But we do
15 this every year. I mean, we have been talking about the
16 tax extenders since day one on the whole subject of the
17 budget resolution and potential tax bill.

18 We have added up tax extenders, in every single
19 addition we have done, to show the problems with the
20 President's approach. We have always said, you are not
21 counting about four-tenths of a billion dollars. You are
22 not counting about \$400 billion in total with respect to
23 all of the tax extenders.

24 Now, all of a sudden here we are, the Tax Committee,
25 with the bill in front of us, with a mark that does not

1 contain what for four months we have been saying you are
2 not counting. You are not counting it again today.

3 The suggestion is going to be that we are going to
4 maybe go down the floor and finesse it, or bust the
5 number, with all of us knowing that there are a whole
6 bunch of other tax issues yet to come down the road.
7 This is not the total tax package. That is what many of
8 us are deeply concerned about when measured against the
9 other choices that we have in front of us. I mean, this
10 is just truth in budgeting, truth in tax policy.

11 Now, if you are saying to me that we can find some
12 accommodation that legitimately works within the numbers,
13 I will work with you, Mr. Chairman. I know some other
14 Senators felt very strongly that we ought to vote on this
15 today.

16 But I find it very hard to understand how we can come
17 here and suggest that we are really being comprehensive
18 and doing our job when we have known this is one of those
19 items that we have been saying has not been counted for
20 four months, and it is not being counted today.

21 Senator Hatch. If the Senator would yield. This is
22 important. This committee has had to extend this every
23 year. We finally got a five-year extension.

24 Now, I have to admit, I have been working very hard
25 on both sides to try and get this resolved, and I intend

1 to get it resolved, one way or the other.

2 I would like the Senator's help, and my other
3 colleagues' help on both sides, because we need to make
4 it permanent this year. If we can get away with that and
5 get that done, it will be a tremendous benefit to our
6 future.

7 So I will work very hard with my friends on the other
8 side, and friends here, to get this thing done and get it
9 done right.

10 The Chairman. Senator Torricelli, then Senator
11 Rockefeller. Then, I think, since he is going to
12 withdraw the amendment, we will move on to a Democrat
13 amendment.

14 Senator Torricelli. Thank you, Mr. Chairman.

15 Mr. Chairman, while I am sympathetic to Senator
16 Kerry's desire that, indeed, the R&D tax credit would be
17 in this legislation, I nevertheless want to express my
18 support for Senator Hatch's efforts.

19 I am particularly sympathetic with the idea that
20 there are going to be changes or suggestions. In fact, I
21 can guarantee it, because I have one, and you are about
22 to hear about it.

23 It would not be surprising to you that the R&D tax
24 credit would be important to me or my State. New Jersey
25 produces 50 percent of the pharmaceutical products in the

1 world and we have \$20 billion worth of annual research
2 just on medical issues, aside from Bell Labs and some of
3 the other high-technology concerns.

4 But there is a perception, I think, that all, or
5 most, of the important medical research in the country is
6 in these pharmaceutical industries. Indeed, much of it
7 is.

8 But I would ask Senator Hatch's consideration, as we
9 move to the floor, with what is an emerging reality in
10 the country, and that is biotechnology firms. Much of
11 the most important medical research in the Nation has
12 moved to these single-issue firms. They may research one
13 problem, one disease, with one product and may not be
14 profitable. Some may never be profitable.

15 But as you are constructing the R&D tax credit, it is
16 important to remember this. If we are really going to
17 impact some of the cutting-edge technology in the
18 country, it may be necessary to look at a refundable tax
19 credit designed for these very small firms.

20 So, as we move to the floor, I would like to work
21 with you on this. I would leave it as reasonable in
22 scale and scope, but indeed would adjust the R&D tax
23 credit to deal with the reality of where some of the
24 cutting-edge research is at the moment. I look forward
25 to working with the Senator from Utah.

1 Senator Hatch. If the Senator would yield, I really
2 would appreciate that. I remember years ago when we
3 decided we were going to do the orphan drug bill,
4 everybody was screaming and shouting, we do not need
5 that, that will not do any good. We had very few orphan
6 drugs, in other words, drugs for populations of 200,000
7 or less.

8 We passed that little bill that cost hardly anything,
9 it just had tax incentives. Today, we have well over 200
10 prescription drugs and spin-offs into drugs that have
11 helped much larger populations. You are talking about
12 something that is very important, and I would be happy to
13 work with the Senator.

14 In fact, we are working on that. I will work very
15 closely with the Senator and others as well on the
16 Democratic side, as well as the Republican side, to do
17 that because that is important stuff.

18 Senator Torricelli. Thank you.

19 The Chairman. Senator Rockefeller was the next
20 person to ask for the floor.

21 Senator Rockefeller. Mr. Chairman, I strongly
22 support this amendment. I think, once again, we are up
23 right against a fundamental decision. That is, are we
24 going to, at a time when we are probably dipping into
25 some sort of a downturn, prepared to strengthen our

1 effort at research and development, which is something,
2 although they are not a good example now, that the
3 Japanese always did. When they would go into a downturn
4 they would cut lots of things, but they would never cut
5 R&D. American firms would cut R&D and then not cut other
6 things. For years and years, the Japanese cleaned our
7 clock with that. But that is history.

8 This is tremendously important to do. We will do it
9 year in and year out, perhaps. But I also share the view
10 that, when we get to the floor, and because of the bills
11 that will not yet have been passed but which will erode
12 or eviscerate our federal financial base, that we will
13 not have the money to make this permanent. I think it
14 cost about \$45 billion, something of that sort.

15 I do have an offset. I think, again, it is a proper
16 one. It is a very different kind of a construct. This
17 is not about prescription drugs, but it is about an
18 entirely different kind of health care, and that is the
19 health care of the future of the high-tech industry and
20 the development of America in endless numbers of ways.

21 So that, obviously, offset, would be the same high
22 bracket. I will not press the issue, since the Senator
23 does not want to bring it to a vote.

24 The Chairman. Senator Bingaman. Then I would like
25 to move on.

1 Senator Bingaman. Mr. Chairman, I just wanted to
2 make a point in answer to Senator Torricelli's
3 suggestion. I strongly support making the R&D tax credit
4 permanent. I hope very much we can do that.

5 The notion that we would do so, and also make it
6 refundable, or some portion of it refundable, I think,
7 certainly is worth looking at. But it is completely
8 contrary to what we have been given in the way of budget
9 recommendations by the administration.

10 So far, all of the recommendations are to cut R&D
11 expenditures in the physical sciences. Not in the life
12 sciences, but in the physical sciences. If we are going
13 to cut the direct appropriations and expenditures, it
14 seems odd to me that we would be considering putting in
15 place some kind of refundable tax credit that would go to
16 the same companies that have depended upon that R&D
17 expenditure in the past.

18 The Chairman. Senator Baucus wanted to make a short
19 comment.

20 Senator Baucus. Mr. Chairman, I just want to
21 reemphasize my commitment to these extenders, which are
22 currently not in the bill, but in finding a way to pass
23 them, extend them, as soon as we can.

24 That would include not only the R&D, but frankly, I
25 think, like the active financing under sub-part B, which

1 does expire at the end of this year. That is another one
2 that we have to find a way to extend. I am confident we
3 will, but just not at this point. We are going to do it.

4 The Chairman. Senator Hatch has withdrawn his
5 amendments.

6 I have been told that Senator Conrad would like to
7 go. Senator Conrad, with amendment number 22. Is that
8 right?

9 Senator Conrad. Yes, sir.

10 The Chairman. Would you proceed, please?

11 Senator Conrad. Thank you, Mr. Chairman.

12 This amendment deals with the marriage penalty. It
13 is amendment 22. I think it is actually 97 in your list
14 of amendments. It is my amendment number 22.

15 Mr. Chairman and members of the committee, this deals
16 with the problem we have in the Chairman's mark, that the
17 marriage penalty is not addressed in the next five years.
18 There is no help on the marriage penalty at all next
19 year, the year thereafter, the year thereafter that, or
20 the year thereafter that.

21 In fact, there is no marriage penalty relief in the
22 next five years. We only get full marriage penalty
23 relief in 2011. So, clearly, marriage penalty relief is
24 not a priority in this plan. That really runs counter to
25 what every member of this committee has talked about,

1 that marriage penalty is a top priority.

2 So it seems to me we ought to match what we actually
3 support and vote for with what we talk about. This
4 amendment is designed to do that. This amendment would
5 move up to immediate marriage penalty relief, so that it
6 will begin in the first year.

7 Now, under my amendment the standard deduction for
8 married couples would gradually increase until it is
9 double the deduction for single individuals in 2006 and
10 thereafter.

11 Second, the top income limit on the 15 percent
12 bracket for married couples would also gradually increase
13 until it is double the limit for single individuals in
14 2006 and thereafter.

15 Under this approach, the most important provisions
16 creating a marriage penalty for average middle-class
17 Americans would be eliminated within five years.

18 So, members of the committee and Mr. Chairman, this
19 amendment would improve the bill in several ways. First,
20 it would provide marriage penalty relief more quickly,
21 strengthening families and reducing and removing tax
22 disadvantages to marriage.

23 Second, the mark really hides the true cost of the
24 marriage tax relief provisions contributing to the back
25 loading that threatens our fiscal stability in the next

1 decade. My amendment, I believe, adds to the fiscal
2 responsibility of the package by moving the full cost of
3 the proposal into the 10-year scoring window.

4 Third, this amendment improves the fairness of the
5 package. The marriage penalty provisions that my
6 amendment moves forward applies mostly to moderate income
7 families, while the upper rate cuts that are slightly
8 reduced to pay for the acceleration of the marriage
9 penalty relief benefit primarily wealthier individuals.

10 So, Mr. Chairman and members of the committee, the
11 pay-for is to offset the cost of the amendment by
12 reducing the first percentage point reduction in the
13 upper bracket rates.

14 That is the way of paying for addressing the marriage
15 penalty beginning immediately instead of waiting five
16 years to do anything, and not finishing the job until the
17 end of this 10-year period.

18 The Chairman. Is the Senator's statement done?

19 Senator Conrad. Yes.

20 The Chairman. Senator Rockefeller, first. Who else
21 had their hand up? Senator Rockefeller, then Senator
22 Breaux.

23 Senator Rockefeller. Mr. Chairman, actually, I not
24 only very strongly agree with this amendment and its
25 offset, but this is amazing to me because I have been--

1 and I am sure we all have been--all over our States.
2 When it comes to a tax cut, I think that virtually 100
3 percent of the people of my State, and I assume
4 throughout the country, believe that if there is one
5 thing that is going to happen, it is going to be this.
6 They think it is going to happen now.

7 They have a right to think it is going to happen now,
8 because there is no reason for it not to. These are
9 people that need the help. The rhetoric that has been in
10 our caucus, and I assume in the other caucus of the
11 marriage penalty, it is akin to the death tax. Getting
12 rid of this is tremendously important. Everybody agrees
13 with it.

14 All of a sudden, we find out is not going to be done
15 for five years. Why, again, should we wait and hold them
16 hostage to a one percent reduction in the top rate? It
17 does not make any sense to me. People are expecting this
18 to happen, and I think we had better vote for it.

19 The Chairman. Senator Breaux?

20 Senator Breaux. Mr. Chairman, thank you. I respect
21 the effort that the Senator is making. I think that the
22 chart that he indicated indicates the fact, obviously,
23 that it does not take effect until five years out, then
24 continues up after that.

25 I think the point that he makes, is that he would

1 rather it be done earlier so people would get the effect
2 of it and get the relief earlier on, because I think
3 there is general agreement that the marriage penalty, in
4 fact, should be addressed and relief should be given. I
5 agree with that.

6 The problem is, there are a lot of other areas in the
7 bill that also, some would argue, should be done
8 immediately as well. For instance, the marginal rate
9 reductions.

10 I mean, they are not fully kicked in until the year
11 2007 either. Whether it is the 28 percent bracket, the
12 31 percent bracket, or the 36 percent bracket, or the
13 39.6 bracket, all of those are gradually phased in as far
14 as the relief is concerned.

15 So whether we are talking about the marriage penalty
16 being gradually phased in for the relief that is
17 ultimately given, or whether the marginal rate reductions
18 for all taxpayers that is given ultimately, those things
19 are phased in as well. Obviously, one of the reasons is
20 because of the cost of these programs. They are
21 expensive, and that is why all of them are generally
22 phased in.

23 One that is not, is the creation of the new 10
24 percent bracket, which I think, obviously, is intended to
25 be a stimulus. I think that is important to do

1 immediately because it can have some stimulus effect.
2 But it seems like everything is phased in over
3 approximately the same period.

4 Senator Nickles. Mr. Chairman?

5 The Chairman. Senator Nickles. Then Senator
6 Bingaman asked for the floor. I hope that will be the
7 end of the discussion. Is anybody else asking for the
8 floor? Senator Conrad.

9 Senator Nickles. Mr. Chairman, just a couple of
10 comments.

11 One, I appreciate my colleague's interest in
12 repealing the marriage penalty. I wish we had had more
13 votes last year when we voted to repeal the marriage
14 penalty and President Clinton vetoed it. That was much
15 more immediate than this one. I wish that this was moved
16 up quicker.

17 But we are doing pitifully on the rate reduction
18 right now. This is the second amendment. We said, well,
19 let us postpone rate reductions. This, I guess,
20 postpones rate reductions for all categories. I
21 strenuously object to that. We should give tax cuts for
22 taxpayers.

23 If we can do more, maybe we need a bigger tax cut.
24 But some of my colleagues that are now trying to put more
25 in, or trying to accelerate R&D, trying to put this

1 provision in are saying, well, we do not want tax cuts
2 across the board. I just disagree.

3 If we had a larger tax cut, maybe if it was 1.6 or
4 something, we could do both of the proposals that came up
5 just a moment ago without taking away the tax cut that we
6 have now allocated, as minimal as it is, for taxpayers.

7 We did not phase in the tax increase, or Congress did
8 not, in 1993, to raise the rate from 31 percent to 39.6
9 percent, and added a Medicare surcharge, basically the
10 2.9 percent, on top of that. That was not phased in. As
11 a matter of fact, it was retroactive.

12 Now we have a very gradual tax reduction phased in
13 exceedingly slow. People are saying, let us make it
14 slower. Let us drag it out even further. I would
15 strenuously object to that. I wish, if people really
16 wanted to get rid of the marriage penalty, they would
17 have supported it in the first place last year, and urged
18 President Clinton to sign it.

19 Senator Conrad. Mr. Chairman, might I respond to a
20 couple of the arguments that have been made here?

21 The Chairman. Yes. Then we will go to Senator
22 Bingaman.

23 Senator Conrad. I thank the Chairman.

24 Mr. Chairman, Senator Breaux said, well, it does take
25 a long time to start, but we are phasing in the rate

1 reductions in about the same way. Not true. The rate
2 reductions, marginal rate reductions, begin next year.
3 We do not do anything on the marriage penalty for five
4 years. We do not complete the job of addressing the
5 marriage penalty until the end of the period.

6 So I think this is a matter of kind of putting our
7 money where our mouth is. We have got everybody running
8 out and giving speeches about marriage penalty. Now when
9 it comes time to vote, it comes time to do something, we
10 have got this package and it does nothing on the marriage
11 penalty for five years. Nothing. It does not even
12 begin.

13 The other reductions begin right away. I do not get
14 it. I do not understand why we are not addressing the
15 marriage penalty, beginning immediately, just like we are
16 doing with the top rate reductions. It is a matter of
17 priorities. I would say the top priority is marriage
18 penalty relief. That comes ahead of top rate reduction.

19 This does not do away with the other rate reduction.
20 It reduces the amount of the top rate reductions in order
21 to start doing marriage penalty relief in the same way we
22 are doing top rate relief.

23 On the question of what happened last year, some of
24 us had a different idea of marriage penalty relief. Some
25 of us believed what we ought to do is give people the

1 choice. Let them decide which was the best way to file.

2 That would have handled all of the over 60 places in
3 the Tax Code where the marriage penalty is put in place.
4 So, I would hope my colleagues would look at this as a
5 way of improving this package.

6 The Chairman. I want to remind you that, thanks to
7 Senator Jeffords, we do give immediate relief to low-
8 income married families. The low-income families are
9 given relief with a \$3,000 expansion of the EIC.

10 Senator Bingaman?

11 Senator Bingaman. Mr. Chairman, maybe the
12 professional staff can help with this. I am sure there
13 is a logical explanation. But this marriage penalty
14 relief begins in 2005. We have got a couple of
15 provisions in the bill which start pretty much
16 immediately, and end about 2005, 2006.

17 I am wondering why, for example, on this deduction
18 for college tuition, it was decided that that should be
19 in place for this first period, then the marriage penalty
20 relief should be in place for the second half, and not
21 the deduction for college tuition. The same thing with
22 the Alternative Minimum Tax.

23 The Chairman. Let me answer it for you: to get
24 Senator Torricelli's support. [Laughter].

25 Senator Bingaman. But he was not interested in the

1 second half of this 10-year period, Mr. Chairman?

2 The Chairman. He was interested in a lot more, let
3 me tell you. [Laughter].

4 Senator Bingaman. Is that the logical explanation I
5 was looking for?

6 Senator Torricelli. Logical and convincing.

7 Senator Bingaman. How about the Alternative Minimum
8 Tax. Was there somebody insistent upon that during the
9 first five years and not for the period after that? It
10 seems to me, if it makes sense to delay this marriage
11 penalty relief until 2005 or 2006, why are we not
12 delaying the relief of the Alternative Minimum Tax that
13 same way?

14 The Chairman. I think I will give you a technical
15 answer to that. Would staff want to answer that?

16 Mr. Prater. Mr. Chairman, we felt that, since the
17 AMT problem hits in the first five years and that is
18 something that taxpayers have to be dealing with
19 immediately, we put the resources that were allocated for
20 AMT relief into that period because it is a compliance
21 issue.

22 Again, as the Chairman said, our interest is also
23 putting pressure on long-term reform here and putting a
24 microscope onto the problem to isolate all of the pieces
25 and to produce long-term reform.

1 The Chairman. And do not forget, we made it
2 permanent for the child credit. We used to just extend
3 it from year to year, and it is extended for five years
4 now. I do not claim that that is a big move, but it is
5 starting to tackle the issue. There is going to be a
6 cliff here where Congress is going to have to be forced
7 to act, maybe. Unless Congress is forced to act, they
8 never act. That is kind of the way I look at it.

9 Senator Baucus?

10 Senator Baucus. Mr. Chairman, we all want to
11 address marriage penalty. I think it is instructive,
12 though, just to remind ourselves of the facts about the
13 marriage penalty.

14 It is my understanding that, if you take a couple
15 with a couple of kids, it is hard to know how many people
16 are in a marriage bonus as opposed to a marriage penalty
17 situation. But I saw some numbers which indicated that,
18 on average, 80 percent of marrieds in that category are
19 in a bonus position, not a penalty position.

20 There are provisions in the Tax Code which create a
21 bonus for more married couples than there are provisions
22 which create a penalty for married couples in the Code.
23 Essentially, as I said, the break is about 80/20 for a
24 typical family with a couple of kids.

25 Now, that does not mean we should not address the

1 penalty problem. We certainly should. We cannot,
2 though, solve all of the problems at once in this bill. It
3 is an impossibility. But it is a start.

4 The matter that the President mentioned, extending
5 the plateau by \$3,000, the EITC for marrieds, is no small
6 matter. I know the Senator knows that a huge marriage
7 penalty exists today for couples who are in an EIT
8 situation, but because the EITC is indiscriminate with
9 respect to whether you are married or unmarried, if you
10 are married you are hit a lot more than if you are not
11 married.

12 That came out very strongly in the testimony before
13 this committee when we were dealing with these issues. I
14 just think that should not be lost at all, the importance
15 of that, recognizing that we have a lot further to go.

16 As the years progress, or maybe months progress,
17 maybe by the time this bill gets to the floor we can find
18 a way to deal with it. But we cannot solve all of the
19 problems all at once. We just have to do the best we can
20 with what we have got.

21 The Chairman. Before Senator Lott speaks, and then
22 we will vote, I just want to say that this is the first
23 vote we are going to have during this mark-up where you
24 are really getting at the basics of the bipartisan
25 agreement that we have with Senator Baucus and me, and

1 people that he has talked to in putting it together, and
2 the people I have talked to in putting it together.

3 So I hope that you will understand that this is the
4 first fundamental vote of a very balanced piece of
5 legislation we have before you, so consequently I hope
6 that we can sustain the bill the way it is and defeat the
7 amendment.

8 Senator Lott?

9 Senator Lott. Mr. Chairman, just briefly.

10 With regard to why the education provisions were
11 included in this bill, again, it shows that this is a
12 delicately balanced piece of legislation. There is
13 overwhelming support, I believe, in the Congress for an
14 education savings account.

15 I thought I heard somebody say that it did not
16 include the State pre-paid tuition plans. I believe it
17 does. Also, it has the tuition tax credit included in
18 it. Most of us do support that, and I think that is
19 clear. I think that made the package more attractive to
20 some of our members.

21 With regard to the brackets, I would note that it
22 does affect the 15 percent bracket. But the so-called
23 middle income bracket, the 28 percent bracket, would not
24 be affected by this amendment.

25 Also, how it would be paid for is by stopping the one

1 percent rate cut, which means that there would not be a
2 rate cut, I guess, until 2005. Is that correct, or not?

3 Senator Conrad. No. It reduces the amount of the
4 top-end rate cuts. The estimate that we have, is that it
5 would reduce it by about half.

6 Senator Lott. Not one point, but a half.

7 Senator Conrad. Yes.

8 Senator Lott. And would that affect just the top
9 bracket or would it affect the middle rates also?

10 Senator Conrad. It would affect the rates that I
11 earlier mentioned, which would be the 39.6 percent
12 rate, instead of the initial rate reduction being one
13 percent----

14 Senator Lott. But it also affects 36, 31, and 28
15 brackets.

16 Senator Conrad. I was going to answer the question.
17 Do you want to answer it? You just did.

18 Senator Lott. Right.

19 One final observation with regard to the marriage
20 penalty relief. We tried to do more last year. Votes
21 number 82, 83, and 87, when we tried to get cloture so we
22 could actually get a direct vote on the marriage penalty,
23 we were not able to get the 60 votes to pass this
24 legislation. Also, there was one critical vote, number
25 199, on the marriage penalty tax relief. The motion was

1 rejected 48 to 47.

2 So, this is an effort where we have been trying to
3 get more done. We could not cut off cloture and we could
4 not succeed on the motion. I think that we should
5 support the bipartisan Chairman's mark and reject this
6 amendment. There will be another opportunity to address
7 this issue down the road.

8 The Chairman. Those who support the Conrad
9 amendment vote aye, those opposed vote no.

10 The Clerk will call the roll.

11 The Clerk. Mr. Hatch?

12 The Chairman. No, by proxy.

13 The Clerk. Mr. Murkowski?

14 Senator Murkowski. No.

15 The Clerk. Mr. Nickles?

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Gramm of Texas?

18 Senator Gramm. No.

19 The Clerk. Mr. Lott?

20 Senator Lott. No.

21 The Clerk. Mr. Jeffords?

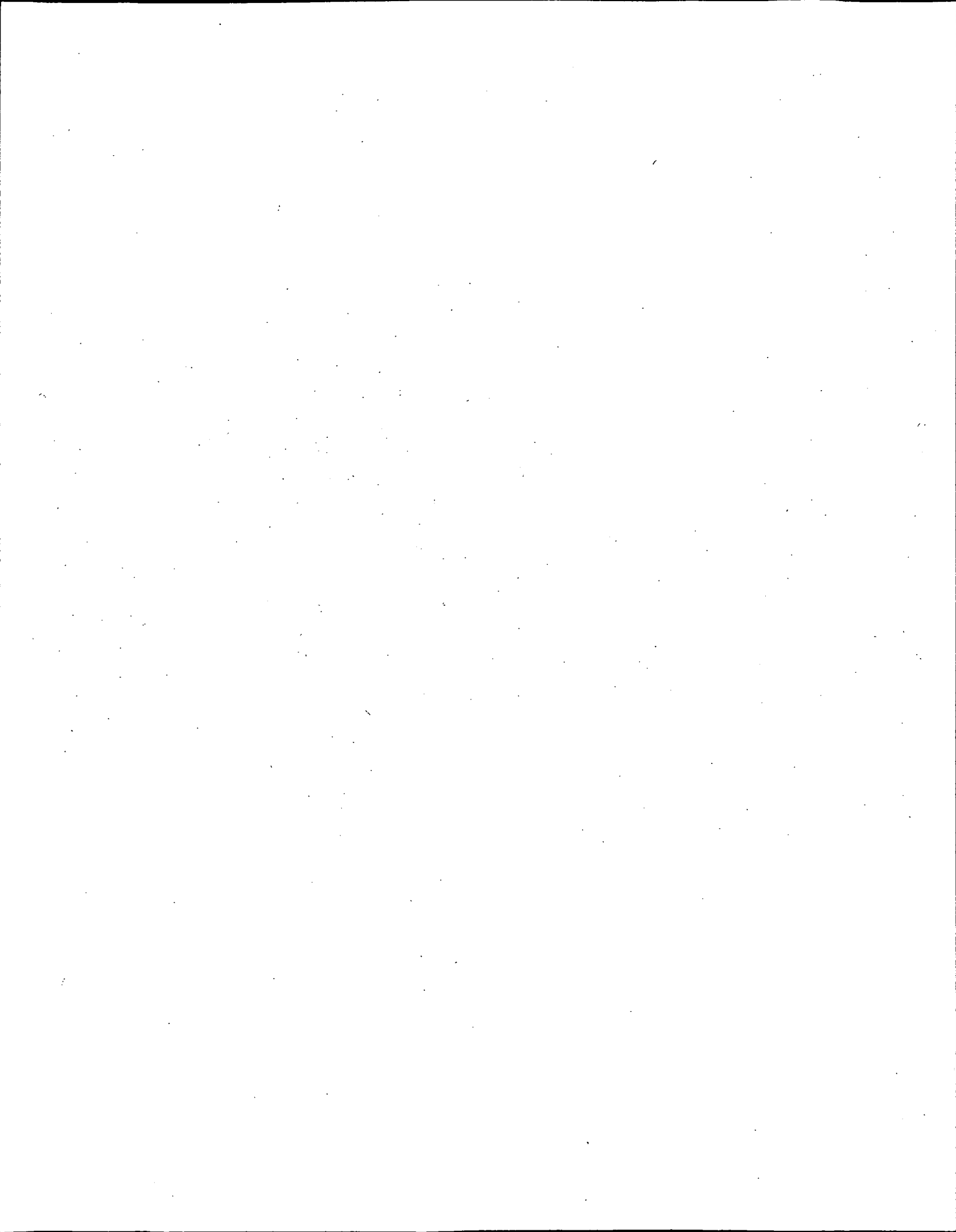
22 The Chairman. No, by proxy.

23 The Clerk. Mr. Thompson?

24 The Chairman. No, by proxy.

25 The Clerk. Ms. Snowe?

1 Senator Snowe. No.
2 The Clerk. Mr. Kyl?
3 Senator Kyl. No.
4 The Clerk. Mr. Baucus?
5 Senator Baucus. No.
6 The Clerk. Mr. Rockefeller?
7 Senator Rockefeller. Aye.
8 The Clerk. Mr. Daschle?
9 Senator Rockefeller. Aye, by proxy.
10 The Clerk. Mr. Breaux?
11 Senator Breaux. No.
12 The Clerk. Mr. Conrad?
13 Senator Conrad. Aye.
14 The Clerk. Mr. Graham of Florida?
15 Senator Graham. Aye.
16 The Clerk. Mr. Bingaman?
17 Senator Bingaman. Aye.
18 The Clerk. Mr. Kerry?
19 Senator Baucus. Aye, by proxy.
20 The Clerk. Mr. Torricelli?
21 Senator Torricelli. No.
22 The Clerk. Mrs. Lincoln?
23 Senator Lincoln. No.
24 The Clerk. Mr. Chairman?
25 The Chairman. No.



1 The Clerk. Mr. Chairman, the tally is 6 ayes, 14
2 nays.

3 The Chairman. Accordingly, the Conrad amendment is
4 defeated.

5 I call on Senator Kyl from the State of Arizona.

6 Senator Kyl. Thank you, Mr. Chairman.

7 Mr. Chairman, I have a great amendment. It is number
8 24. It is my second amendment. In another time I think
9 it would receive a great deal of support. I would like
10 to review it very briefly, and then withdraw it. It will
11 probably receive even more support as a result.

12 This is the Tuition Scholarship Tax Credit amendment.
13 Please hear what this does, because we are going to vote
14 on this one of these days, sometime, and I really think
15 it is an idea whose time has come.

16 The amendment is very simple. It proves a \$250 tax
17 credit, \$500 for joint filers, to partially offset the
18 cost of donations to tuition scholarship organizations.

19 Now, what are tuition scholarship organizations?
20 These are organizations that, at least initially, were
21 founded by a few business leaders that provide partial
22 tuition scholarships to enable needy youngsters to attend
23 a school of their family's choosing. The first one, was
24 in Indianapolis over a decade ago. Now there are more
25 than 80 of these scholarship programs nationwide.

1 For families that benefit, the programs are a
2 godsend. A study just released by the Kennedy School of
3 Government found that 68 percent of parents awarded these
4 scholarships are very satisfied with the academics at
5 their child's school, compared with only 23 percent of
6 parents who were not awarded scholarships.

7 The problem is, demand for the scholarships far
8 outstrips supply, even though families must agree to
9 contribute a significant portion of the total cost of
10 tuition. For example, in 1997, 1,000 partial tuition
11 scholarships were offered to families here in the
12 District of Columbia. Nearly 8,000 applications were
13 received. These were from very poor people, Mr.
14 Chairman.

15 Another example. In 1995, 1.25 million people
16 applied for 40,000 scholarships in a national lottery.
17 Clearly, there is a need for this kind of assistance.

18 In 1997, my State of Arizona implemented an
19 innovative plan to help meet this demand, a \$500 State
20 tax credit to offset donations to organizations that
21 provide tuition scholarships to elementary and secondary
22 students. The result? Upwards of \$40 million in
23 donations to tuition scholarship organizations. The
24 number of school tuition organizations operating in the
25 State is up from 2 to 33, and they have a wide range in

1 emphasis and orientations.

2 For example, they range from the Jewish Community Day
3 School Scholarship Fund, to Native Scholastic Enrichment,
4 to resources to the Foundation for Montessori
5 Scholarships. There is no issue of government funding
6 for private or parochial schools, obviously, because
7 there is no government money involved in the scholarship.

8 The program has withstood the test in the Arizona
9 State constitution. Nearly 15,000 Arizona students,
10 nearly all of them from disadvantaged backgrounds, have
11 received this scholarship assistance.

12 So my view is that Congress should adopt this Arizona
13 model to provide a \$250 tax credit, as I said, or a \$500
14 credit for joint filers, to partially offset the cost of
15 donations to tuition scholarship organizations.

16 They could be used to offset tuition at private
17 school, or pay the tuition costs that families in most
18 States must pay to enroll a child in a school across
19 district boundaries.

20 The Joint Committee on Taxation has estimated that
21 such a credit would lead to a loss of \$43.4 billion over
22 10 years. \$43.4 billion would finance 12.4 million
23 \$3,500 scholarships. That is a great deal of
24 opportunity.

25 My view is, if a government leaves that \$43 billion

1 in revenue in the private sector, it is going to do more
2 to help disadvantaged students than the \$100 billion-plus
3 amendment we passed to fully fund Title 1.

4 Now, Mr. Chairman, as you know, I argued against
5 adding more amendments to President Bush's tax proposal.
6 I did not threaten to withhold my support for the bill
7 unless I got my favorite provision in it.

8 So I am going to withdraw this amendment at this
9 time, but I would like to offer this program as the sense
10 of the Senate on the education bill that is currently on
11 the floor.

12 The problem is, I am in a catch-22. I cannot really
13 offer the amendment to this bill here today, and yet it
14 will get blue-slipped if we were to pass a legitimate
15 amendment on the education bill because that would have
16 to emanate from the Ways and Means Committee in the House
17 of Representatives.

18 So sometime, somehow, I would like to get this done,
19 but I gather this is not the time. Therefore, I will
20 withdraw the amendment with the hope that the little
21 explanation I have given here has piqued the interest of
22 some of my colleagues, that they will discuss it with me,
23 and help me find a way and a time when we can introduce
24 this and get this important piece of tax policy included
25 in the law of the United States.

1 Thank you, Mr. Chairman.

2 The Chairman. I will try to work with you. Thank
3 you for your withdrawal.

4 I think Senator Graham of Florida has an amendment,
5 number one, that he would like to offer.

6 Senator Graham. Thank you, Mr. Chairman. I call up
7 amendment number 109.

8 The Chairman. It is number 109. I am sorry.

9 Senator Graham. Mr. Chairman, the acceptance of my
10 amendment requires you to answer two questions in the
11 affirmative. The first, is would it be prudent to adopt
12 a series of tax bills, all of which are cumulatively
13 within the \$1.3 trillion figure that has been authorized
14 in the budget resolution rather than attempt to pass a
15 single tax bill that would exhaust that full amount?

16 I believe strongly that prudence would argue for one
17 bill at a time. We know the uncertainty of the budget
18 projections upon which the surplus, that is, the basis of
19 our consideration of this tax reduction, have had
20 historically.

21 Senators have talked about the fact that over the
22 past 10 years budget projections have been off by as much
23 as 300 percent in terms of their reality of the surplus
24 that would be available.

25 I believe it would be prudent for us to pass a

1 reasonable tax bill at this time, and then pause and
2 evaluate what is happening in a very fractious and
3 unstable economy. Then, second, do another surplus
4 evaluation, make a judgment as to whether a second tax
5 bill is prudent, and if so, for what purpose, when, and
6 for what amount.

7 The second reason why I believe that would be an
8 appropriate policy has been demonstrated in the last few
9 minutes of our debate. We know there are a lot of ideas,
10 such as the research and development credit that many
11 people here support, that we would like to see
12 incorporated in a final tax bill.

13 I fear that we are about to put ourselves in a
14 position where we are going to have to choose between
15 something we really believe is of a higher priority than
16 maybe items that are in this \$1.3 trillion single tax
17 bill, or face the prospect of busting the \$1.3 trillion
18 cap that we have agreed to.

19 I think the way to avoid having to be placed in that
20 trap is not to spend the whole \$1.35 trillion in one
21 single tax bill. But let us pass a bill now, then let us
22 examine what our priorities will be for the rest of the
23 tax bill.

24 So that is the first question that you have to
25 resolve. Is it prudent to proceed with waves of tax

1 bill, or one big tsunami of a tax bill?

2 The second question, is if we proceed in that manner,
3 what should the first bill be? My answer is, the first
4 bill ought to respond to the first challenge to the
5 American citizen in our economy at this time, and that is
6 the softening economy.

7 I understand that earlier today the Federal Reserve
8 Board again cut interest rates by a half of one percent.
9 The good news is, interest rates are likely to be
10 somewhat lower as a result of that action.

11 The bad news is, the Federal Reserve Board would not
12 cut interest rates by half of one percent unless they, in
13 their expert assessment of the economy, were concerned
14 about the direction that we were going..

15 There has been a lot of speculation, as early as this
16 morning's radio and television news, that there would not
17 be a cut today because the Fed would look at economic
18 indicators and say it is not necessary.

19 Well, clearly they came to a different conclusion.
20 That just adds to the list that the Senator from Maine
21 gave not long ago of all of the indicators that have been
22 falling upon us like a summer rain of bad news of what is
23 happening in our economy.

24 I believe the American people would like us to have
25 as our first priority--and I would suggest as our first

1 tax bill--one that we could properly describe as economic
2 stimulus. An economic insurance policy is the term that
3 Chairman Greenspan has used.

4 I would have to suggest that what is in the mark, as
5 high as my regard is for the Chairman, is an anemic
6 economic stimulus package. We are proposing, this year,
7 to have a total in terms of rate reduction, which in my
8 judgment is the most stimulative step we can take, of
9 less than \$10 billion. Less than \$10 billion in an
10 economy that is verging on an \$8 trillion economy.

11 No one can credibly argue that we are going to have
12 any economic stimulus in the year 2001, which, in my
13 judgment, is the year that we need to have the stimulus.
14 It is not just my judgment. The Senate voted, by over 90
15 votes in favor of the amendment, to put in an \$85 billion
16 stimulus in this year's budget.

17 So, friends, I believe that, clearly, we need to have
18 a robust stimulus and have it now. Recently, the
19 President has given us an additional reason. When asked,
20 what is your short-term energy policy, what do you
21 propose to do about the soaring gasoline prices, what was
22 his answer? His answer was, my tax policy. We need to
23 cut taxes in order to have a short-term energy policy.

24 Well, let me just give you some numbers. The amount
25 of reduction that we have for the balance of 2001 would

1 amount, for a single taxpayer, to about \$5.77 a week.

2 For a married couple, it would be double that amount.

3 My calculations are that the price of gasoline since
4 November of 1999, when then-Governor Bush announced his
5 tax policy, has increased by 48 cents a gallon. That is
6 almost \$6 a week in increased gasoline costs for the
7 average motorist who drives his car 1,000 miles a month
8 and gets 20 miles to the gallon.

9 So we are saying that the tax stimulus is not even as
10 much as the increase in the price of gasoline. There
11 will not be anything left for an economic stimulus if we
12 now redefine it as an energy program, other than the
13 stimulus that will accrue to those who are selling the
14 gasoline.

15 So, Mr. Chairman, I believe that we need to have a
16 credible economic stimulus. I would suggest that the
17 plan, as outlined in amendment number one, meets that
18 test.

19 What would we do with our stimulus? First, we would
20 adopt the 10 percent bracket as recommended by the
21 President, but we would modify it in two ways. His
22 original 10 percent bracket did not start until the year
23 2006. We would propose, as the Chairman proposes, that
24 we make it effective now, even retroactive, to January 1.

25 Second, we would expand the ranges. The President's

1 plan which has been adopted in the Chairman's mark would
2 provide that the new 10 percent rate would apply to the
3 first \$6,000 of taxable income for an individual, \$12,000
4 of taxable income for a married couple. I would propose
5 that we increase those two numbers to \$9,500 for an
6 individual and \$19,000 for a married couple.

7 What would that amount to? That would amount to a
8 married couple getting, whatever your income is, as long
9 as you earned at least \$19,000 of taxable income, a \$950
10 tax cut for the year 2001, and every year thereafter.
11 Every American taxpayer would benefit.

12 It would mean that, for the working man and woman who
13 sees their tax in the form of withholding, they would
14 have, if they get paid every other week, \$35 less
15 withholding, and therefore \$35 more that they can use to
16 pay that additional, what would be \$12, over a two-week
17 period of gasoline prices, plus actually have something
18 left over to stimulate the economy by maybe making a down
19 payment on a refrigerator, or purchasing some clothes for
20 their children, or maybe even having a summer vacation in
21 Florida, all of those things that are important to our
22 people.

23 Our plan would make this fully available this year.
24 One of the reasons that this plan is so anemic this year,
25 is that that benefit of making it retroactive to January

1 does not actually end up in people's pockets until
2 April 15, 2002. The reason for that, is because there is
3 no method by which the benefit of that early application
4 applies in terms of allocation of funds.

5 What we are suggesting, is that we ought to, for the
6 last six months of this year, double up the withholding
7 so that people would get the full \$950 this year, what I
8 consider to be the critical year in terms of our economy.

9 Now, what is the cost of this? The cost is \$60
10 billion a year to finance this program. Economists from
11 institutions like the Brookings Institute, and other
12 private economists have estimated that an economic
13 stimulus at this level would increase gross domestic
14 product this year by between one-half and three-quarters
15 of a percent higher than what it would be without this
16 level of stimulus. In an economy which has been running
17 in the 1 to 2 percent range, and may be headed lower,
18 that is a significant addition to our economic output.

19 The total cost of this over 10 years is \$693 billion,
20 or roughly half of the \$1.35 trillion that we have
21 committed for a tax cut in the budget resolution. It
22 would mean that we would have the balance of these funds
23 available to do all of the other things that we want to
24 do, and be able to look at issues like the R&D proposal
25 in the context of all of those other things that we want

1 to do.

2 So, Mr. Chairman, I urge that we adopt this policy,
3 first, because it is a prudent way to approach a 10-year
4 program of tax reduction and because it recognizes that
5 our number one priority is the American economy.

6 The Chairman. Thank you, Senator from Florida.

7 The Senator from Texas?

8 Senator Gramm. Well, Mr. Chairman, it is a very
9 appealing amendment. It would cut your tax cut in half
10 and it would change one bracket, the 15 percent bracket.

11 But I would like to address, very briefly, this whole
12 idea, which is a false idea, in my opinion, that you have
13 got to put money in people's pocket in order to induce
14 them to change behavior.

15 Economists have what is called rational expectation
16 theories that basically say consumption is dependent not
17 just on current income, but on a rational expectation of
18 future incomes.

19 I will give you a perfect example that occurs every
20 year in this very room. Alan Greenspan, for four years,
21 came before the Banking Committee and argued that he had
22 to raise interest rates because people were responding to
23 rational expectations: due to the run-up in equity
24 values, they moved from a period of savings to a period
25 of substantial dissavings. In fact, this was this wealth

1 effect that Alan Greenspan talked about for four years.

2 Where was it coming from? It was principally coming
3 from the fact that, every quarter, people were getting
4 their 401(k) and their IRA statements, and they were
5 showing that the value of these investments was rising.
6 Based on that rising value, they actually dissaved 5
7 percent in one year.

8 Now, the interesting thing is, on average, it was
9 going to be 20 years before anybody got the money.
10 Twenty years before they got any money out of an IRA or a
11 401(k). But this created a wealth effect that dominated
12 American monetary policy for four years. What is
13 relevant to people in their spending, is what do they
14 expect their income to be over an extended period of
15 time?

16 There is no doubt whatsoever about the fact that the
17 bipartisan proposal that is before us, if your objective
18 is to get people to respond, you are going to get a lot
19 more response out of the proposal that you have made on a
20 bipartisan basis than you are going to get out of a
21 proposal that simply gives--it reminds me of the old
22 George McGovern "give everybody \$1,000 thing," quite
23 frankly. It would give everybody, what, \$950.

24 The point I want to make is, you do not have to have
25 the money now for it to affect consumption behavior. I

1 think the proof, and the simplest proof, is the Alan
2 Greenspan example.

3 Also, if you want more proof, assume that Senator
4 Torricelli and I make the same income. Assume, however,
5 that he knows that somebody's rich kinfolk is going to
6 die and leave him \$100 million, and I know that someday
7 somebody is going to die and leave me nothing. Who do
8 you think spends more of their current income, Senator
9 Torricelli or me? He does.

10 Now, here is my point. Nobody doubts that our
11 spending behavior would be totally different, even though
12 our income is identical and even though Senator
13 Torricelli was not going to get all of this money for 20
14 or 30 years. That is what is called rational
15 expectations.

16 So I, Mr. Chairman, think we ought to reject this
17 amendment.

18 Senator Graham. Mr. Chairman, can I close on my
19 amendment?

20 The Chairman. Yes, you may.

21 Senator Graham. I said there were two issues here.
22 The Senator from Texas has not spoken to the first issue.
23 I did not say this was going to be the only tax bill. I
24 said, rather than take the approach that there was only
25 going to be one tax bill, that we ought to adopt a

1 strategy, a prudent, conservative Scottish strategy of,
2 let us have a series of tax bills with a period of
3 examination after each one of those to determine the
4 timing, the amount, and the direction of each subsequent
5 tax bill.

6 Why do we have to today, on the 15th of May, 2001,
7 make a decision for the totality of our tax policy from
8 now until the next 11 years? That is inherently an
9 irrational decision.

10 Second, rational expectation. There are lots of
11 reasons why rational expectation today would cause the
12 American consumer to put their credit card and their cash
13 back in their wallet when the Federal Reserve Board tells
14 you time after time that the economy is so weak that we
15 have to have these significant interest rate reductions.

16 When the newspapers tell you that not only has
17 unemployment reached 4.5 percent, but that there have
18 been 1,000 pink slips sent out to the very company for
19 which you work, that sends a pretty strong statement that
20 says the rational expectation would be, I had better
21 withdraw my intention to buy that refrigerator, to buy
22 the new clothes for my kids, or take the vacation to
23 Florida. It is not rationally prudent, based on all of
24 the information I have available to me, for me to act at
25 this time.

1 What we are proposing is a reduction in withholding
2 tax, which has been shown to be the most significant way
3 to encourage people to change their expectations of their
4 future because they see it in black and white every time
5 they get a paycheck, that I have got more money that I
6 can spend for the things that my family wants and needs.

7 In this case, it is not just sending out a bulletin
8 that says, feel good, be happy, have good expectations.
9 We are actually putting \$35 of cash in their pocket every
10 other week. That is a pretty powerful backup to the
11 psychology of good times when you have actually got some
12 money to realize on those good times.

13 So, Mr. Chairman, I would urge that we adopt the
14 prudent approach of a series of tax bills and that we
15 adopt the position that the number one priority for this
16 Nation today is our economy, and take this opportunity to
17 purchase an economic insurance policy, and what the
18 President is now describing as an energy payment policy.
19 I believe that if we fail to do so, we will have failed
20 to meet the highest priority of our people.

21 Senator Snowe. Mr. Chairman?

22 The Chairman. Yes. Senator Snowe?

23 Senator Snowe. May I ask a question of the staff
24 concerning the impact of the retroactivity of the new 10
25 percent bracket and the refundability of the child tax

1 credit? In the Chairman's mark, in the distributional
2 effects, it says it will cost in the fiscal year \$10
3 billion. Do we have any estimate of what it would cost
4 in the calendar year?

5 Ms. Paull. If you were to look at the
6 distributional table for 2002, you would get a rough
7 estimate. It says, "Change in Federal Taxes." It is
8 close to \$50 billion.

9 Senator Snowe. In this calendar year.

10 Ms. Paull. For this calendar year your tax
11 liability goes down. Now, some of it would come through
12 withholding changes. We assume withholding will be
13 changed July 1, and the rest would come with a refund
14 check after the end of the year. I believe it is the
15 same under your proposal, Senator Graham.

16 Senator Graham. Excuse me, but I do not think the
17 first answer was quite correct. As I understand, in the
18 Chairman's mark, there would be, in the last quarter of
19 fiscal year 2001, approximately a \$9.359 million
20 reduction in withholding. Is that correct?

21 Ms. Paull. That is roughly correct, yes.

22 Senator Graham. And would there be essentially a
23 similar amount in the first quarter of 2002?

24 Ms. Paull. Of fiscal year 2002, which is still in
25 the calendar year. That is correct.

1 Senator Graham. So the two amounts of economic
2 stimulus for the calendar year 2001, which I think is the
3 critical calendar year, would be approximately \$19
4 billion. Is that correct?

5 Ms. Paull. Yes. Around \$20 billion.

6 Senator Graham. All right.

7 Now, because you are delaying the benefit that comes
8 by having this retroactive to January 1 to the return of
9 an additional amount of taxes after the beginning of the
10 next calendar year, you do not get any effect of that
11 until after January 1 of 2002, correct?

12 The Chairman. That would not be true, based on what
13 Senator Gramm said about rational expectations.

14 Senator Graham. You may get some psychological
15 benefit, but if you are talking about real cash that you
16 can do something with----

17 Ms. Paull. You can file your tax return and get it
18 as a refund. Generally, people start filing their tax
19 returns in February because they have to wait for their
20 1099s and their W-2s to come in.

21 Senator Graham. So the answer to the question, is
22 you get less than a \$20 billion tax stimulus in calendar
23 year 2001 as opposed to \$60 billion of tax stimulus in
24 2001 with the amendment that is before us.

25 Ms. Paull. I think your amendment does a very

1 similar thing, though.

2 Senator Graham. Our amendment would double up the
3 withholding for the last quarter of 2001 and the first
4 quarter of 2002 so that the full amount would be
5 distributed through withholding during the calendar year
6 2001. Then because our brackets are not \$6,000 and
7 \$12,000, but \$9,500 and \$19,000, there would be about 35
8 percent more benefit to be distributed through the
9 withholding.

10 The Chairman. Senator Snowe, did you get your
11 questions answered?

12 Senator Snowe. Yes.

13 The Chairman. All right.

14 Those in favor of the amendment vote aye, those
15 opposed vote no.

16 The Clerk. Mr. Hatch?

17 The Chairman. No, by proxy.

18 The Clerk. Mr. Murkowski?

19 Senator Murkowski. No.

20 The Clerk. Mr. Nickles?

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Gramm of Texas?

23 Senator Gramm. No.

24 The Clerk. Mr. Lott?

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Jeffords?
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Thompson?
4 The Chairman. No, by proxy.
5 The Clerk. Ms. Snowe?
6 Senator Snowe. No.
7 The Clerk. Mr. Kyl?
8 The Chairman. No, by proxy.
9 The Clerk. Mr. Baucus?
10 Senator Baucus. No.
11 The Clerk. Mr. Rockefeller?
12 Senator Rockefeller. Aye.
13 The Clerk. Mr. Daschle?
14 Senator Daschle. Aye.
15 The Clerk. Mr. Breaux?
16 Senator Breaux. No.
17 The Clerk. Mr. Conrad?
18 Senator Conrad. Aye.
19 The Clerk. Mr. Graham of Florida?
20 Senator Graham. Aye.
21 The Clerk. Mr. Bingaman?
22 Senator Bingaman. Aye.
23 The Clerk. Mr. Kerry?
24 Senator Baucus. Aye, by proxy.
25 The Clerk. Mr. Torricelli?

1 Senator Torricelli. No.

2 The Clerk. Mrs. Lincoln?

3 Senator Lincoln. No.

4 The Clerk. Mr. Chairman?

5 The Chairman. No.

6 The Clerk. Mr. Chairman, the tally is 6 ayes, 14
7 nays.

8 The Chairman. Accordingly, the amendment by the
9 Senator from Florida is defeated.

10 I now turn to Senator Bingaman.

11 Senator Bingaman. Mr. Chairman, I have two
12 amendments I wanted to just call up, discuss briefly,
13 then withdraw them, if I could. It is 129 and 130 in the
14 list of amendments that people have been given.

15 Mr. Chairman, these amendments are identical except
16 for the offset. One of them proposes that the offset
17 would be from a reduction in the marginal rate
18 provisions, the other that the offset would be from a
19 reduction in the estate and gift tax provisions.

20 I am not going to offer them now. What the
21 amendments contain, though, are proposals which will help
22 us to deal with the energy crisis that the country is
23 facing. I know Senator Murkowski has introduced a bill
24 that has been referred to this committee that contains
25 many of these same provisions trying to put in place some

1 tax incentives for behavior that will help reduce our
2 energy crisis. I have introduced a bill, along with many
3 co-sponsors, that also does that same thing. It has been
4 referred to this committee. The President is going to
5 speak on Thursday in Minnesota, I am informed.

6 The Chairman. Boone, Iowa.

7 Senator Bingaman. In Iowa? Excuse me.

8 The Chairman. Boone, Iowa.

9 Senator Bingaman. In Boone, Iowa. All right.

10 I am sure that he is going to make recommendations
11 along this same line as to what changes he recommends in
12 our tax laws in order to help us deal with our energy
13 crisis.

14 Mr. Chairman, my concern here, of course, is that in
15 order for us to effectively respond to the energy crisis,
16 and respond to what the President proposes, and respond
17 to Senator Murkowski's bill and the one that I have
18 introduced, I would assume that this committee will be
19 considering a tax bill that contains many of these types
20 of provisions some time in the very near future.

21 I think it is appropriate that the committee focus on
22 what the cost of some of these would be. I guess I would
23 ask the professional staff to indicate that.

24 Also, just begin to think how we are going to
25 accommodate that in light of the fact that all of the

1 budget authority that the committee has been given for a
2 tax reduction is contained in the Chairman's mark, as I
3 understand it.

4 Could I just ask if professional staff could tell us
5 whatever they can about the provisions in these two
6 amendments? Now, let me just point out to members that
7 we have just picked and chosen some of the various tax
8 proposals that have been introduced to include in these
9 amendments. It is not a complete list, by any means.

10 Mr. Prater?

11 Mr. Prater. Senator Bingaman, in terms of the
12 budget question, there is, of course, a reestimate that
13 will come, and we are hopeful that it will come higher.
14 If it comes higher, there will be more revenue to do more
15 that is available, provided that the Budget Committee
16 chairman provides us with the revenue from the
17 reestimate.

18 Senator Bingaman. That will be in July?

19 Mr. Prater. Yes. That will be a July
20 determination.

21 In terms of the energy tax issues, the staff have had
22 discussions. We have not scheduled a hearing yet, but I
23 know at the subcommittee level there have been
24 discussions about setting a hearing to go through these
25 proposals and consider them in the regular order for the

1 committee.

2 Senator Bingaman. Mr. Chairman, can I just ask, for
3 my own information, what if the budget estimate that
4 comes in in July shows less projected revenue than has
5 been assumed?

6 Mr. Prater. That would not be available. There
7 would be no upward adjustment that would be available for
8 us.

9 Senator Bingaman. But there is no requirement on
10 the committee to go back and reduce anything.

11 Mr. Prater. Right.

12 The Chairman. Which means that you would do one of
13 two things. You would have offsets or you would have to
14 have a 60-vote to override a point of order that you
15 assume might rise against it.

16 Senator Bingaman. Well, Mr. Chairman, I do not need
17 to belabor the point. I just think what we are talking
18 about, at the same time that we are passing this so-
19 called comprehensive package, there is a coincidence of
20 timing here because the President is getting ready to
21 recommend additional tax cuts to us.

22 Many of us support additional tax cuts to deal with
23 the energy problem facing the country. There is no
24 provision made in what we are deliberating today to take
25 account of those additional tax cuts. But I will

1 withdraw the two amendments.

2 The Chairman. All right.

3 Senator Murkowski did want to comment on your
4 amendment, even though you are withdrawing it. So, I
5 would call on Senator Murkowski.

6 Senator Murkowski. Thank you, Mr. Chairman.

7 Senator Bingaman is correct, there are several
8 similarities in both of our bills. Mine is S. 389. I
9 wonder, Lindy, if you have any estimate on a score for
10 the two bills that are pending before the Energy
11 Committee. It is S. 389. I do not recall the number of
12 Senator Bingaman's bill, but it is pretty much the same,
13 with a couple of exceptions.

14 Ms. Paull. Senator Murkowski, I know that we are in
15 the process of analyzing that bill. I know that you have
16 made a request of our staff, and I do not think we have
17 finished our analysis yet. We did a quick analysis of
18 this amendment today.

19 Senator Murkowski. This amendment. Well, my
20 concern is twofold. With the anticipated announcement
21 Thursday of the Energy Task Force report, we are going to
22 focus in on this. It would be important.

23 Ms. Paull. Sure.

24 Senator Murkowski. I know you have had a lot of
25 things to do, and we have been urging you to do this.

1 So, keep it on your list and keep it dusted off.

2 Let me just comment, briefly. I join with most of
3 the members of the Energy Committee in supporting tax
4 credits for energy efficiency, and certainly improvements
5 to existing home tax credits for residential, solar, or
6 wind fuel cell incentives for distributed energy, tax
7 credits for electricity from renewables, accelerated
8 depreciation for electric and natural gas transmission.

9 As a matter of fact, today Senator Bingaman and I
10 held a joint hearing and we heard about the
11 infrastructure inadequacies--that means the distribution
12 system--for not only natural gas, but electricity as well
13 as the situation with regard to the inadequacies of our
14 refining capacity.

15 But I think we both agree that it is important that
16 the committee first see what the administration's task
17 force recommends before we start writing an energy
18 policy, in view of the fact that it will be out this
19 week.

20 We know, Mr. Chairman, that the Finance Committee
21 will be holding hearings on many of these issues that
22 affect tax revenue and are included in both of our bills.

23 I am a little uncomfortable also with the proposed
24 offset. On the other hand, since it is being withdrawn,
25 I just wanted to express my opinion in asking individual

1 taxpayers to accept a smaller tax cut in order to pay for
2 business tax changes as one of the proposals on the
3 alternative for the access.

4 The other, is asking that punitive estate tax rates
5 on family farms and small businesses be maintained in
6 order to justify these subsidies, I think it is fair to
7 say, would certainly be harmful to small business.

8 But in view of the fact that it is withdrawn, I look
9 forward to working with all members to try and address
10 the appropriate role of the Finance Committee in
11 addressing some relief with regard to the energy crisis
12 in this country.

13 Senator Graham. Mr. Chairman?

14 The Chairman. Yes.

15 Senator Graham. Can I ask Senator Murkowski a
16 question?

17 The Chairman. Yes, you may.

18 Senator Murkowski. Sure.

19 Senator Graham. Do you have an idea of what you
20 think might be the range of tax cost of these proposals?

21 Senator Murkowski. No. As you know, I have asked
22 Ms. Paull relative to scoring, and they do not have it
23 yet. We have had a request in for probably two months.

24 Senator Graham. You indicated that you did not
25 like, or were not drawn to, the offsets that Senator

1 Bingaman had suggested.

2 Senator Murkowski. Right.

3 Senator Graham. Could you indicate where you would
4 likely want us to go in terms of offsets?

5 Senator Murkowski. Well, I could if I had given it
6 some thought. But I have not given it some thought
7 because I think it is premature to address it at this
8 time before we have heard from the administration just
9 what their proposals are that we are going to be
10 considering.

11 While Senator Bingaman and I have given a lot of
12 thought to certain things, clearly, I do not have a
13 scoring for my bill, he does not have a scoring for his
14 bill, and I do not have pieces of the scoring. If I did,
15 I would add them up for you and give you a figure.

16 Senator Graham. Mr. Chairman, that colloquy further
17 underscores my concern. What is about to happen, is we
18 are going to pass one tax bill that----

19 Senator Murkowski. Well, just a minute, now. I
20 think, Mr. Chairman, we can talk if we want to talk. But
21 the point is, the Senator has proposed the amendment,
22 then he is withdrawing it. If we want to talk some more
23 about----

24 Senator Graham. But I am talking about a principle
25 of fiscal responsibility.

1 Senator Murkowski. Well, we could talk about a
2 principle, but we have got 147 amendments. I would like
3 to move on.

4 Senator Graham. My concern, Mr. Chairman----

5 The Chairman. We can hear from both of you.

6 Senator Graham. My concern, Mr. Chairman, is that
7 we are about to make a decision to use the full authority
8 for tax cuts in this one bill, yet we are now seeing yet
9 another major proposal that is hanging over the horizon.

10 If we do not have some offsets identified as to how
11 we are going to pay for it, then what we are going to be
12 doing is either chewing into the Part A Medicare trust
13 fund, then into the Social Security trust fund, reducing
14 the level of our debt reduction, or saying that some of
15 the things that we have all given such priority to, such
16 as a prescription drug benefit or enhanced education, are
17 going to have to fall off the wagon.

18 I think that this is not a fiscally responsible way
19 to go about setting an 11-year fiscal policy for the
20 government of the United States of America.

21 The Chairman. All right.

22 Senator Murkowski. I have certainly gotten that
23 opinion from the Senator from Florida in his previous
24 statements, and I understand and appreciate them. But I
25 think the responsibility of this committee is

1 prioritization as things change. The reality is that we
2 have over-charged the taxpayers and we are talking about
3 giving a refund, and I personally do not have any problem
4 with that.

5 The Chairman. The amendment has been withdrawn. I
6 think, now the distinguished Democratic Leader is ready
7 for offering an amendment. Is that right?

8 Senator Daschle. I would be happy to, Mr. Chairman.

9 The Chairman. Thank you. Proceed, please.

10 Senator Daschle. Mr. Chairman, I would ask my staff
11 to pass out a chart that really makes my case for the
12 amendment that I am offering. I think it is number 53 on
13 the list.

14 There is only one bracket that does not get a rate
15 cut under the proposal before us. That is the bracket,
16 the 15 percent rate cut. That rate represents the vast
17 majority of American taxpayers. Seventy-two million
18 middle class taxpayers fall in that 15 percent rate.

19 Under the President's proposal as well as the mark,
20 all income taxpayers will have a rate cut on the final
21 dollar of income except this group. Now, the President
22 has proposed, and the mark includes, a very good
23 provision, which is simply to create a new 10 percent
24 bracket for taxable income up to \$12,000 for couples.
25 All income taxpayers benefit, whether they make \$50,000

1 or \$500,000.

2 So this is the only piece of the tax cut affecting
3 all rates. That is, that new classification of rate,
4 that 10 percent rate cut affecting those in the income
5 classes of zero to \$12,000.

6 If you fall in that category from \$12,000 to \$45,000
7 net, or \$65,000 gross, you get no rate cut whatsoever.
8 Zero. In spite of the fact that you get rate cuts at
9 every other rate, you get zero if you are in that 15
10 percent rate cut.

11 So my amendment simply reduces the rate from 15 to 14
12 percent and provides, through the offset, reducing the
13 rate in each one of the categories by one percent. That
14 still means that if you are in the top rate, that is the
15 39 percent, you would get a rate cut to 38 percent, which
16 would mean a tax savings of \$9,000.

17 So, this is fair. It reflects, I think, the view of
18 most Americans, that if we are going to have a tax cut,
19 they ought to be part of it. This gives them an
20 opportunity to be part of it. It is that simple, and I
21 urge its adoption.

22 Senator Conrad. Mr. Chairman?

23 The Chairman. I will call on the Senator from North
24 Dakota, then I will speak a little bit on it. Anybody
25 else want to speak?

1 [No response]

2 The Chairman. Go ahead, Senator Conrad.

3 Senator Conrad. Mr. Chairman, I really think, in
4 many ways, this is the most important amendment we will
5 consider. The Senator from South Dakota is exactly
6 right. We have had a lot of talk here today about the
7 need for marginal rate reductions and the power of rate
8 reductions in stimulating economic activity: innovation,
9 investment, and job creation.

10 But, interestingly enough, we have left out the vast
11 majority of the American taxpayers from rate reduction.
12 Every other rate bracket gets reduction, but the 15
13 percent bracket is where 72 percent of all income tax
14 payers are left out. They do not get a rate reduction.

15 When we look at small business, the story is the
16 same. Most small businesses will get no marginal rate
17 reduction under the Chairman's proposal, because nearly
18 70 percent of small businesses either pay no income tax
19 or are in the 15 percent bracket. Only about one percent
20 of small businesses are in the top bracket.

21 It seems to me that the priorities in the mark are
22 just backwards. The top bracket, which contains the
23 fewest taxpayers, 1/100th of the number that are in the
24 15 percent bracket, has the biggest point reduction.
25 They get a 3.6 percentage point reduction.

1 The next three brackets, which combined contain less
2 than half the number of taxpayers in the 15 percent
3 bracket, get a 3 percentage point reduction, yet the 15
4 percent bracket gets zero.

5 What is wrong here? What is wrong with this picture?
6 Every other bracket gets rate reduction, but the bracket
7 with the largest number of Americans, 70 percent of
8 taxpayers, gets no marginal rate reduction. That is not
9 fair, that is not right, and it can be fixed.

10 We can do an across-the-board tax cut that is the
11 same for everyone, not a big tax cut for the very
12 wealthiest, a slightly smaller tax cut for the slightly
13 less wealthy, and no marginal tax cut for the vast
14 majority of working American families who are making
15 \$20,000, \$30,000, \$40,000, \$50,000 or \$60,000 a year.

16 That is what the amendment from the Senator from
17 South Dakota does. It says we ought not to leave out the
18 tax bracket that has the vast majority of the American
19 taxpayers from rate reduction.

20 Some people say, well, the people in the 15 percent
21 bracket will get the benefit of the new 10 percent
22 bracket. That is true. But that is also true of those
23 in the 28 percent bracket, those in the 31 percent
24 bracket, the 36 percent bracket, and the 39.6 percent
25 bracket.

1 There they are. They are calling for it now. [Fire
2 alarm ringing]. This has got support at the grass roots.
3 The firemen are for this. I guess that firemen should be
4 for it, because most firemen would be in the 15 percent
5 bracket. [Laughter]. They deserve rate reduction, and
6 they are calling for it now. Let us give it to them.

7 The Chairman. Senator Nickles?

8 Senator Nickles. Mr. Chairman, I do not know if I
9 want to debate that or not. But most firemen do not pay
10 15 percent, they pay 28 percent. I was just going to
11 say, Mr. Chairman, the 10 percent bracket, which
12 obviously some people are insinuating does not do much,
13 does \$438 billion.

14 It is over half of the tax cut. Maybe we should take
15 that and spread that out to not just part of the 15
16 percent bracket, but spread it out for the full 15
17 percent bracket. That can be done. In other words, I
18 think you follow me, Mr. Chairman.

19 We took a part of the 15 percent bracket and said
20 that immediately it is going to be made 10 percent. You
21 do not have to do that just for the bottom part of the 15
22 percent bracket. You could do a more gradual reduction,
23 move the whole 15 percent bracket to 14 percent, and you
24 might come up with something similar to this.

25 So, I would say, working within those confines, you

1 might be able to do something. But to say, oh, we want
2 to do the 10 percent and do the 15 percent and not have
3 other rate reductions, I think, is a serious mistake.

4 I also think it somewhat ignores the fact that we are
5 also doing an additional child credit, we are doing an
6 EIC expansion, we are doing marriage penalty relief, that
7 are heavily targeted on the low-income side of this bill.
8 So, I would urge our colleagues not to support the
9 amendment.

10 Senator Baucus. Mr. Chairman, I assume somebody is
11 checking with the superintendent, or the sergeant-at-arms
12 or someone to see if we, in fact, should leave. Could we
13 instruct staff to call somebody and see what is going on
14 here?

15 The Chairman. I hope we do not have to instruct
16 anybody. I hope it is common sense. [Laughter]. I
17 would not want to say it is under control, but somebody
18 is looking into it. The only thing I can think of is a
19 conspiracy so this committee does not get its work done.
20 This could only happen in the first year of a
21 chairmanship.

22 Senator Gramm. Mr. Chairman?

23 The Chairman. Senator Gramm.

24 Senator Gramm. Mr. Chairman, I want to wait until
25 the alarm goes off for you to speak. But let me say

1 this. If this is a signal that the world is coming to an
2 end, let it find us here at work on this tax cut on
3 behalf of the American people. [Laughter].

4 Second, let me say that the whole logic of this
5 amendment is based on a hope that we do not understand
6 the arithmetic we learned in the fourth grade, which is
7 that reducing things by a fixed amount does not produce a
8 proportional reduction. Adding the same number to the
9 numerator and the denominator of a fraction changes the
10 fraction.

11 When you are giving a one percent reduction to people
12 paying 36.9 percent, that is a far different percentage
13 reduction than giving a one percent reduction to people
14 making 15 percent. The reduction for people making 15
15 percent is much bigger.

16 Look, I would have been perfectly happy to give every
17 taxpayer an equal percentage reduction in taxes. That is
18 what President Kennedy did, and defended it by simply
19 saying, "A rising tide lifts all boats." I agree with
20 that. But the plain truth is, this tax cut is already
21 heavily weighted toward people in the 15 percent bracket.

22 They are the people that are going to get the double
23 child care tax credit, they are the people that are going
24 to benefit most from IRA and 401(k) reform because it
25 phases out at the point that other people would get it.

1 Stretching the 15 percent bracket as part of the
2 marriage penalty relief is going to benefit exactly these
3 people. So, in the end, this amendment is basically an
4 effort to undo the bipartisan compromise that has been
5 structured here. I am hopeful that we will have the same
6 14 to 6 vote that we have had on other amendments, and
7 that I assume we are going to have on final passage.

8 Senator Graham. Mr. Chairman?

9 The Chairman. Senator Graham of Florida?

10 Senator Graham. I would just like to point out a
11 couple of things. One, the Senator from Oklahoma said
12 that more than half of the rate benefit went to the
13 people in the 15 percent bracket. That is only true
14 because we start the 10 percent bracket earlier than we
15 do the other reductions, and we do that out of an
16 economic strategy.

17 We recognize that by putting the money in the hands
18 of those 71 percent of the taxpayers who are in the 15
19 percent bracket, as well as everybody else, that that is
20 the most efficient way to try to stimulate the economy.

21 The problem is, the amount of resources put into that
22 bracket in the first two years is so small that it is not
23 going to carry out the theory. The theory is all right,
24 but the practical implementation is not. If you would
25 look in year 2001, the 10 percent bracket has a total

1 cost of \$43 billion. Everything else has a cost of \$59.5
2 billion.

3 So, clearly, when all of the rate changes are
4 implemented, the amount of benefit that the 71 percent of
5 the people in the 15 percent bracket get is substantially
6 less than those who are in the higher brackets when fully
7 implemented.

8 Second, the only bracket that has a restraint on how
9 much of its income is covered by the reduction is the 15
10 percent bracket, where only the first \$6,000 gets the
11 benefit of the 10 percent, only the first \$12,000 for a
12 married couple.

13 If you are in the highest bracket, up to infinity
14 gets the benefit of the reduction. The actual reduction
15 in the lowest rate is 8.3 percent when you apply the
16 restraint on the amount of taxable income to which that
17 lower bracket applies.

18 So, I strongly support this amendment as being both
19 equitable and an intelligent step towards the policy that
20 we are supposed to be trying to implement as part of this
21 legislation, which is economic stimulation.

22 Senator Daschle. Mr. Chairman, I will be very
23 brief.

24 The Chairman. Senator Daschle. By the way, the
25 police have reported that this should be shut off pretty

1 soon and there is no reason to evacuate the building.
2 This is what I have been told. You know how that goes
3 sometimes.

4 Senator Conrad. Mr. Chairman, could we suspend
5 until that is shut off so that the Senator's amendment
6 can receive the consideration it deserves?

7 Senator Nickles. Or Mr. Chairman, just a different
8 suggestion. I was going to suggest we go to the Monocle
9 and finish this bill. [Laughter].

10 The Chairman. I would prefer to have Senator
11 Daschle go ahead.

12 Senator Daschle. I know that we might as well keep
13 moving along.

14 I would just respond to a few things that have been
15 said. First of all, I do not know what it is in other
16 States, but I know most--in fact, every fireman in South
17 Dakota--make an income of less than \$65,000 gross. There
18 may be a fire chief in Sioux Falls does a little bit
19 better than that. But this really affects the vast
20 majority of people in our country, 72 million Americans
21 who look at Congress, who are looking at us for some tax
22 relief.

23 What we are saying with the current mark is that they
24 get none, that we will reduce the top rate from 39
25 percent to 36 percent, a 3 percent reduction, we will

1 pass an estate tax repeal for those at the very top, but
2 if you fall in that category from \$12,000 to \$65,000, you
3 get zip. I do not think we want to say that. I do not
4 think we should say that.

5 Now, I have heard my colleagues say, certainly
6 everybody benefits, especially those at the lower income
7 levels, from this new 10 percent rate cut. That is true.
8 But everybody benefits at every rate from that 10 percent
9 cut.

10 So, I hope everybody understands. There is only one
11 category of people that will not get a rate cut under the
12 current mark, and that is that category of people falling
13 in that income range from \$12,000 to \$45,000 net. We
14 should not allow that to happen. We ought to pass this
15 amendment. We ought to reduce the rate at least by one
16 percent. That is all this amendment does. I hope our
17 colleagues will support it.

18 The Chairman. Senator Gramm wanted to ask a
19 question of staff.

20 Senator Gramm. Yes. I want to ask Ms. Paull a
21 question. It is hard to speak with the alarm ringing,
22 but I think asking a question and answering. Is it not
23 true, in terms of the distribution of the bill and the
24 tax cut, that people in the 15 percent bracket, under
25 current law, get at least a 25 percent tax cut under this

1 bill, and some get as much as a 33 percent reduction in
2 their taxes when you look at the whole bill? Am I not
3 right about that?

4 Ms. Paull. Well, there are a lot of things going on
5 in this bill. But if you are only looking at the rates,
6 if you are at the very top of the 15 percent bracket,
7 what you are getting is the tax cut as a result of the 10
8 percent bracket.

9 In essence, at the very top of the 15 percent
10 bracket, it is roughly a 9 percent tax cut, just looking
11 at the rates. Forget the child credit, if you are
12 eligible for child credits, and things like that. If you
13 are at the bottom of the 15 percent bracket you are
14 getting a 33 percent cut.

15 So, there is a range for the people who are in the 15
16 percent bracket. At the lowest end it is about a 33
17 percent cut, at the upper end it is about a 9 percent
18 cut. That is how it fares under the brackets, only.
19 Then other things will add onto the cuts in the bill.

20 Senator Daschle. Can I clarify that?

21 The Chairman. Senator Daschle, then Senator
22 Bingaman.

23 Senator Daschle. If I could just clarify. Is that
24 of all federal taxes or is that just income tax?

25 Ms. Paull. I was just looking at those people who

1 are only in the 15 percent bracket, and I am only looking
2 at income taxes, the effect of the cut to 10 percent for
3 the lower part of the 15 percent bracket.

4 So, depending on where your income falls in the 15
5 percent bracket, just looking at the new 10 percent
6 bracket, you would either get a 9 percent cut on the one
7 side if you are at the upper end of that bracket, or you
8 could get a 33 percent cut in the lower end of that
9 bracket. That is the range of cuts for the 15 percent
10 bracket people only. Everybody who is a taxpayer, under
11 this bill, gets a tax cut. Everyone.

12 Senator Daschle. Do you have distributional tables
13 for all of what this implies for all of the income
14 brackets so that we can assess just how each one of the
15 income brackets come out? All federal taxes?

16 Ms. Paull. We have provided our distribution tables
17 on the basis of that. We normally provide them, which is
18 on a year-by-year basis, and in certain increments of
19 income that we have, over time, thought were relevant.
20 They are available. They have been made public at the
21 same time the mark was.

22 Senator Nickles. Mr. Chairman?

23 The Chairman. Well, wait a minute. Senator
24 Bingaman, then Senator Nickles.

25 Senator Bingaman. Mr. Chairman, I was just going to

1 ask Ms. Paull, the distributional tables that we have
2 gotten take us through the year 2006.

3 Ms. Paull. That is correct.

4 Senator Bingaman. Is it possible to get
5 distributional tables for the full period of the tax cut?

6 Ms. Paull. No. This has been something I think
7 that members of this committee have been asking for in
8 recent years for us to provide throughout the 10-year
9 period. We are looking into getting into that
10 capability, but we do not have that capability today. We
11 can only do through 2006 today, but we are looking into
12 trying to become capable. I understand the committee is
13 interested in that.

14 Senator Bingaman. So there is nothing that you have
15 been able to calculate here that would either confirm or
16 contradict the concerns that Senator Conrad had about the
17 backloading of benefits, particularly for well-to-do
18 taxpayers.

19 Ms. Paull. Well, there is one more step in the rate
20 cuts which occur in 2007 that will not be reflected in
21 our tables.

22 Senator Conrad. Well, the estate tax is not
23 reflected either, is it?

24 Ms. Paull. We have never, to my knowledge,
25 distributed the estate and gift tax changes.

1 Senator Conrad. It is not included.

2 Ms. Paull. Right. It is not included in our
3 tables. It would not be, either way.

4 Senator Conrad. How about Peps and Pease?

5 Ms. Paull. The Pep and Pease provisions are
6 effective in 2009, so again, they do not show up in the
7 earlier years.

8

9

1 The Chairman. Senator Nickles.

2 Senator Nickles. Mr. Chairman, just looking at the
3 difference between the way the House scored and the way
4 the House set up the adjustments, income adjustments on
5 lower income versus what the Senate did, there is a
6 significant difference in scoring, about \$50 some
7 billion.

8 I still think it might be better tax policy than
9 creating immediately the 10-percent rate retroactive to
10 January 1 to move the entire 15-percent rate to 14
11 percent. And my guess is it might score somewhat
12 similar. I do not know.

13 It seems like we are trying to do so much for the
14 lowest income, to say we are giving everybody \$300. I
15 think it would make more sense to give the rate
16 reduction throughout the 15 percent, not weight it so
17 much so early just for people who make \$12,000 or less.

18 So anyway, that is a suggestion. I do not know if
19 that was considered, but it would be much more
20 consistent with the flow of the entire bill. I
21 suggested that a couple of times today at different
22 points.

23 Ms. Paul. Senator Nickles, we did take a quick
24 look at trading the 10-percent bracket for a 15-percent
25 bracket overall, you know, reducing that rate to 13

1 percent which would be roughly a 13 percent reduction
2 also. When you go down 2 percent of 15 percent, it is a
3 13-percent reduction.

4 That would have added to the cost of the bill of
5 about \$90 billion. So it is not quite. Going from 15
6 to 13 percent would be a \$544 billion item. And the 10-
7 percent bracket in the bill is \$439 billion. So it is
8 not quite. But we are giving at the upper end of the
9 15-percent bracket a little bit more relief.

10 Senator Nickles. I understand. So that is one
11 possible way of doing it. But another possible way of
12 doing it would be to go to 14 immediately and then going
13 to 13 the next year.

14 Ms. Paul. Right.

15 Senator Nickles. I mean, there is different ways
16 of doing it. And certainly, again, it might be more
17 consistent with the flow of the rest of the bill. We
18 are talking about giving one or two points on the 15-
19 percent bracket immediately or pretty soon, as compared
20 to taking 6 years for the rest of the brackets.

21 Ms. Paul. But it would not be quite as generous
22 for the very low income worker.

23 The Chairman. Do you have your question answered?

24 Senator Nickles. Yes, Mr. Chairman.

25 The Chairman. All right.

1 Senator Conrad. Mr. Chairman.

2 The Chairman. Senator Conrad.

3 Senator Conrad. It might just bring us back to
4 what I think is the main point of this amendment and why
5 I think this is perhaps the most important amendment we
6 will consider. I thank the Senator from South Dakota
7 for offering it.

8 We have talked for days here about the value of
9 marginal rate reduction. Every tax bracket gets
10 marginal rate reduction under the Chairman's mark,
11 except for one.

12 The one that does not is the 15 percent bracket.
13 That just happens to be where the vast majority of
14 American taxpayers are. Those are the folks that earn
15 up to \$40,000 a year of taxable income. That means
16 those are people earning gross incomes of probably
17 \$60,000 or even \$65,000.

18 And we are saying to those people, you do not get
19 rate reduction. We are going to give not even 1 point
20 of rate reduction to you. We are going to give 3.6
21 percentage points of reduction to those in the 39.6
22 category. We are going to give 3 percentage points to
23 those in all the other categories.

24 We are going to give to those of you in the 15-
25 percent bracket, where the vast majority of American

1 taxpayers are, we are going to give you nothing in terms
2 of rate reduction. I do not think it is possible to
3 justify that position.

4 The Chairman. Those that are in favor of the
5 Senator from South Dakota's amendment would vote aye.
6 Those opposed vote no.

7 The Clerk will call the roll.

8 The Clerk. Mr. Hatch.

9 The Chairman. No, by proxy.

10 The Clerk.

11 Mr. Murkowski.

12 Senator Murkowski. No.

13 The Clerk.

14 Mr. Nickles.

15 Senator Nickles. No.

16 The Clerk.

17 Mr. Gramm of Texas.

18 Senator Gramm. No.

19 The Clerk.

20 Mr. Lott.

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Jeffords.

23 The Chairman. No, by proxy.

24 The Clerk.

25 Mr. Thompson.

1 Senator Thompson. No.
2 The Clerk.
3 Ms. Snowe.
4 Senator Snowe. No.
5 The Clerk.
6 Mr. Kyl.
7 The Chairman. No, by proxy.
8 The Clerk.
9 Mr. Baucus.
10 Senator Baucus. Aye.
11 The Clerk.
12 Mr. Rockefeller.
13 Senator Rockefeller. Aye.
14 The Clerk.
15 Mr. Daschle.
16 Senator Daschle. Aye.
17 The Clerk.
18 Mr. Breaux.
19 Senator Breaux. Aye.
20
21 The Clerk.
22 Mr. Conrad.
23 Senator Conrad. Aye.
24 The Clerk.
25 Mr. Graham of Florida.

1 Senator Graham. Aye.
2 The Clerk.
3 Mr. Bingaman.
4 Senator Bingaman. Aye.
5 The Clerk.
6 Mr. Kerry.
7 Senator Kerry. Aye.
8 The Clerk.
9 Mr. Torricelli.
10 Senator Torricelli. Aye.
11 The Clerk.
12 Mrs. Lincoln.
13 Senator Lincoln. Aye.
14 The Clerk.
15 Mr. Chairman.
16 The Chairman. No.
17 The Clerk. The Chairman votes no.
18 Mr. Chairman, the tally is 10 ayes, 10 nays.
19 The Chairman. The amendment loses accordingly.
20 Senator Kerry.
21 Senator Kerry. Mr. Chairman, I ask for amendment
22 number 143 to be --
23 The Chairman. All right.
24 Senator Conrad. Mr. Chairman, is there a vote on?
25 The Chairman. Could we take care of Senator

1 Kerry's amendment first?

2 Can you do that in 10 minutes?

3 Senator Kerry. I will do it in less if you would
4 like. Mr. Chairman, this is really a very
5 straightforward amendment. There is no curve ball in it
6 at all.

7 What I would like to do is try to ensure that we
8 will have an opportunity to consider and analyze the
9 budgetary and fiscal implications of provisions that do
10 not take place for at least three years in amendment
11 number 143. No, it is number four for me.

12 Mr. Chairman, as Senator Conrad pointed out earlier,
13 a lot of the provisions in this bill, such as the IRA
14 rollovers to charity, the marriage penalty relief does
15 not take place until the second five years, the
16 rollovers until 2010, the estate tax repeal of 2011,
17 child credit does not \$1,000 until 2011.

18 There is a long list that Senator Conrad went
19 through about sort of the back-ended nature. And
20 history demonstrates very clearly that changing economic
21 circumstances can cause very significant changes in our
22 outlook for both federal spending and revenue.

23 I mentioned in my opening the fact that only 3 years
24 ago, the CBO was projecting a 10-year surplus of \$660
25 billion. Now, we are at \$5.6 trillion. And that is in

1 three years. That has a profound implication on our
2 sort of thinking ahead about what the fiscal
3 implications will be as well as tax policy implications.

4 Now, surpluses estimates are obviously the most
5 unreliable in the out years. And many of the provisions
6 in this bill take effect in the greatest moment of
7 unreliability.

8 So what I am simply trying to do is ensure that
9 Congress has the benefit of the best information
10 available regarding future losses of revenue. And so we
11 ask that the Congressional Budget Office and the Joint
12 Committee on Taxation report to us on a regular basis on
13 specific tax provisions that are yet to take effect and
14 on their impact on the federal budget.

15 And it requires an annual report to us on both of
16 those and an analysis of how those provisions would
17 affect the Social Security and Medicare surpluses. And
18 that would start at a 3-year-out basis. So we get the
19 benefit in sort of the next three years, but then we
20 have a sense of what the implications may be for us.

21 It is a reporting requirement. It has no effect on
22 the expenditures in the bill whatsoever. But it will
23 allow us to make important judgments in a thoughtful way
24 as we go down the road.

25 The Chairman. Senator Kerry, let me ask the staff

1 for some sort of explanation because I think this has
2 some impact on the Byrd Rule. Is that right?

3 Mr. Prater. Mr. Chairman, if it does not score,
4 and it looks like it would not, then it would be Byrd
5 Rule vulnerable.

6 The Chairman. Would you say that again, please?

7 Mr. Prater. If the amendment, Senator Kerry's
8 amendment does not score, and it looks like it would not
9 and he can answer that, then it would be subject to the
10 Byrd Rule.

11 Senator Gramm. Would it make the whole bill
12 subject to Byrd Rule?

13 Ms. Paul. The provision itself would be subject to
14 the Byrd Rule.

15 Senator Kerry. Right.

16 Ms. Paul. And it does not score.

17 Senator Kerry. I agree. That is indeed the
18 assessment that we have all made about it. But this is
19 something that ought to be accepted 100 to nothing I
20 would hope. And therefore, the Byrd Rule is irrelevant
21 because that is a 60-vote margin. And if we cannot get
22 75 votes to say that we ought to have joint tax and CBO
23 report to us on the implications of what we are doing,
24 we are in trouble.

25 Mr. Prater. Senator Kerry, we have compiled a list

1 of items that we have taken from the bill that were in
2 the Chairman's mark that we will reconsider on the floor
3 at that stage.

4 The Chairman. Let me as Chairman say that because
5 of these questions that have come up, let us take it to
6 the floor. And we will look into all these questions
7 that have been raised.

8 Senator Kerry. I clearly understand. I mean, we
9 cannot vote on this now. It does not have any
10 implications of money. I am not ceding not having a
11 vote on the tax, on the Bundy tax credit. That had an
12 impact. And so we ceded. And we are not having that
13 vote. But it seems to me that this is one that simply
14 says the Finance Committee is going to require a report.

15 Senator Nickles. Mr. Chairman.

16 Senator Kerry. I do not understand the
17 complications.

18 The Chairman. Senator Nickles.

19 Senator Nickles. Did we not clean out any
20 violation of the Byrd Rule?

21 Mr. Prater. Yes, sir.

22 Senator Nickles. I think that was a wise move if
23 we are trying to navigate this bill through the course
24 of the Senate.

25 Senator Kerry. Well, the only thing that would

1 fall would be this fairly innocuous amendment.

2 Senator Nickles. Well, I think as a member of the
3 Budget Committee, I do not know that it is necessary. I
4 mean, we all have access. And we can ask for
5 projections. And we do every year.

6 Senator Kerry. We ought to formalize the process.
7 I mean, what we are looking at here is you can have a \$5
8 trillion conceivably in a surplus.

9 With Social Security and Medicare confronted by a
10 long-term financial risk, it seems to me important that
11 this committee, which has jurisdiction over both of
12 those items, ought to be asking for some kind of report
13 from these two entities which are most important in
14 helping to guide the Congress in this effort. Now, I am
15 just having trouble understanding what the resistance
16 is.

17 Senator Gramm. Mr. Chairman.

18 The Chairman. Go ahead, Senator Gramm.

19 Senator Gramm. Mr. Chairman, I think this is a
20 solution. I think this is a fine amendment. I would be
21 happy to vote for it on the floor. I think the only
22 concern is that we do not want to get to a point where
23 the parliamentarian rules that because of Byrd Rule
24 items that we do not get covered by reconciliation.

25 I do not think there is any real opposition to the

1 Senator's amendment. I think it is simply a
2 technicality that you could reach a point, if we did a
3 couple of these, where the parliamentarian might rule
4 that because you got so much in the amendment, you have
5 reached the threshold in the bill that is subject to the
6 Byrd Rule, that this is not a reconciliation bill.

7 I would be happy to vote for the Senator's amendment
8 on the floor. And I am confident it would get, if not
9 100 votes, 95 votes. But that is the concern.

10 And it was the same problem that I had with the mid-
11 course correction. You could say that it could pared
12 out, but we are also in a gray area as to how much you
13 could do before losing our reconciliation protection.
14 And that is the problem. So if the Senator would hold
15 the floor, I think we would vote for it.

16 The Chairman. I think we have a responsibility
17 here to the Senate who voted for the budget, calling for
18 the reconciliation to make sure that this committee puts
19 out a reconciliation that is not going to be overruled.

20 And so I would ask the Senator to withhold and work
21 with him on the floor.

22 Senator Kerry. Well, Mr. Chairman, I want to
23 cooperate with you. And I will do that. But I am a
24 little confounded.

25 I mean, it seems like the only amendments we can

1 vote on are the ones that will be defeated, amendments
2 that might change the number that we are putting off.
3 And amendments that do not change the number that might
4 win, we are putting off. So I am not sure what we are
5 really doing here, but I will go along with you.

6 The Chairman. Thank you very much.

7 We will now go, vote, and return immediately after
8 the vote and finish.

9 [Whereupon, at 5:43 p.m., the meeting was recessed,
10 and at 6:10 p.m. was resumed.]

11 The Chairman. I assume there is at least 7
12 Senators in the room some place because there were 6 on
13 the elevator with me when I came. So I would like to
14 have the Senators assemble and start our work.

15 Senator, you were going to be speak about an
16 amendment. Or who was it that said that they would?

17 Senator Rockefeller. I have one.

18 The Chairman. Well, we want to wait a minute.

19 Senator Rockefeller. All right.

20 The Chairman. We want to make sure we have 7 here
21 if we are actually going to take some action. Somebody
22 spoke to me about an amendment that they wanted to speak
23 about, but not push for a vote.

24 Senator Thompson. All right. Thank you very much.

25 Senator Rockefeller, could we go to your amendment

1 now?

2 Senator Rockefeller.

3 Mr. Chairman, I appreciate that. A number of years
4 ago, Senator Baucus, remember, we had something called
5 the Pepper Commission. And the amendment that I am
6 going to offer now, it emanates from that. And that
7 aspect of the Pepper Commission passed I think by a vote
8 of 11 to 4. It was relatively noncontroversial.

9 Mr. Chairman, this comes out of my sort of
10 fundamental philosophy that of the many things that we
11 are doing in health care in this country, other than the
12 lack of universal coverage, not national, but universal,
13 everybody, the thing that strikes me, I think there are
14 two tremendous gaps that we are not dealing with at all.

15 And one is long-term care, except if you are very
16 poor and you qualify for Medicaid or if you are very
17 rich.

18 Senator Conrad. Mr. Chairman, could we have order?
19 We have so many conversations going on over here, I
20 cannot hear the Senator. And I am right on the
21 microphone.

22 The Chairman. I think your comments are
23 appropriate. And so I would ask staff and everybody
24 else to be quiet as we listen to Senator Rockefeller.

25 Senator Rockefeller. And the other is what I would

1 call mental health. We consider mental health to be a
2 personal deficiency, abhorrent behavior, whatever. And
3 that, of course, is wrong for the most part. And we do
4 not have any real policy towards it.

5 In this mark, we are doing estate tax elimination.
6 And that is going to cover 3,000 or 4,000, 30,000 or
7 40,000, whatever it is. But one thing that we are not
8 doing that would cover millions is another kind of
9 estate tax relief.

10 And it is that estate tax relief that I propose. It
11 would be for those in need of nursing home care and who
12 are not qualified for Medicaid and therefore see a need
13 to impoverish themselves. Impoverishing yourself,
14 getting rid of your assets in America strikes me as sort
15 of a 13th century thing to have to do, but that is kind
16 of our policy.

17 If you have a lot of money, you are fine. If you
18 are on Medicaid, you are fine. If you are anywhere in
19 between, then you have to afford anything from \$40,000
20 to \$50,000 in nursing home costs, let us say in West
21 Virginia, to what I assume in California or New Jersey
22 must be \$70,000 or \$80,000 a year. I do not know that
23 for sure, but my guess is it would be in that area.

24 So the families who this amendment affects and this
25 policy affects are typically much less healthy than

1 those who pay estate taxes. What we are speaking about
2 here is means tested coverage of getting people into
3 nursing home care through the Medicaid program.

4 I want to refine this. And I want to refine it by a
5 series of things which I would be glad to describe to
6 people if they are interested. They are fairly
7 technical.

8 But it does affect tens of millions of people who
9 are forced to need long-term care. And for those who
10 have ever dealt with Alzheimer's or dementias or
11 Parkinson's, and everybody does at some stage, you
12 understand that long-term care is an absolute.

13 You are going to have to get it. You either supply
14 it in the home inadequately, thereby bringing in your
15 children and their children, etcetera, wiping out
16 college funds and all kinds of other things.

17 And you can impoverish one person with a case of
18 Alzheimer's or Parkinson's or some other problem can
19 wipe out three generations financially and
20 psychologically and emotionally. This has been a fact
21 forever. And it is a fact now.

22 So we need to protect Americans who are in need of
23 long-term care. And we need to give them help. My
24 amendment would provide expanded Medicaid eligibility to
25 allow people with nursing homes needs to stay for a

1 period of at least 4 months.

2 As I recall, Senator Baucus, back in the Pepper
3 Commission, we did 3 months. And now, we are doing 4
4 months. I can go through the elements of this if my
5 colleagues wish. They are fairly technical.

6 But we are facing the baby boomers we have all been
7 talking about. People are living longer. The chances
8 of getting Alzheimer's, Parkinson's, or whatever it
9 might be, some form of dementia are almost approaching
10 100 percent when you pass the age of 85, certainly 90.
11 And more and more people are doing that.

12 And we ignore it. We give them no assistance,
13 unless they are very rich or very poor. So they depend
14 on their families. And so we have not only impoverished
15 the individual, we have impoverished their families.

16 So private insurance has never really risen to the
17 challenge on this very much. It represents a rather
18 small proportion of long-term care, single digit. And I
19 do not see much prospect of that changing.

20 So we are now in a position to do something
21 meaningful on long-term care. I do not think we should
22 waste this opportunity. It is the opportunity. It is
23 the great unspoken taboo, along with mental health of
24 American health care.

25 And what I am proposing costs about \$30 billion.

1 And it is interesting that 3,000 estate tax elimination
2 people, if you picked the right ones, would come up to
3 about \$30 billion.

4 I am proposing that we make that tradeoff and that
5 we say to in effect tens of millions of Americans, you
6 are going to get long-term care because there is nothing
7 you can do otherwise. And there is nobody to protect
8 you. Private insurance will not protect you. The
9 private sector will not protect you. And the government
10 has chosen not to. And I think that is wrong.

11 I think we have a chance to correct that in this
12 mark without the depleting estate tax repeal. I do not
13 agree with estate tax repeal. I agree with repealing a
14 certain amount of it.

15 But I think we ought to exchange the 30 for the 30
16 and help folks take care of problems which are
17 absolutely devastating. And if you have not been
18 through it, you have no idea how devastating it is. If
19 you have been through it, you just do not know.

20 And how we can avoid this in public policy has been
21 a mystery to me, at the time of the Pepper Commission,
22 before the Pepper Commission, and ever since.

23 So I would propose what I identify as my second
24 amendment and the Senate Finance Committee member number
25 27 and would ask that we vote, Mr. Chairman.

1 The Chairman. First of all, I have a great deal of
2 compliment for you to be very consistent in what you say
3 publicly and what you say privately because you visited
4 with me privately about a lot of these health care
5 issues that you are bringing up when I had my one-on-one
6 meeting with you after I became Chairman. So I want the
7 public to know that you are very consistent in what you
8 say. And you need to be complimented for that.

9 Now, I am going to have oppose your amendment, but I
10 want to make some comments before I rule on it. The
11 long-term care designs have evolved greatly over the
12 past 10 years. We now know that the demand for long-
13 term care is primarily for non-nursing home care rather
14 than elderly citizens and adults with disabilities who
15 prefer home and community care.

16 This amendment, while worthy, should be considered
17 in the larger context of long-term care retirement
18 planning. And I think we have to have the proper
19 sympathy towards the elderly and the families of those
20 who did not plan. And obviously, this takes that into
21 consideration.

22 We do not know what the future cost of this
23 amendment will be to the Federal Government. It appears
24 that this amendment could also have an effect on State
25 government's Medicaid spending for nursing home care.

1 Therefore, this is not something that we should do
2 without consulting with the States.

3 It should be mentioned that some States are
4 grappling with long-term care system change in order to
5 respond to consumer demand for less nursing home care
6 and more home and community-based care. With this in
7 mind, any significant long-term care modification should
8 be debated in that broader context.

9 Worthy as this amendment may be, the tax bill is not
10 a place for it. This is a matter that deserves to be
11 dealt with more deliberately with hearings and an
12 opportunity for extended debate and analysis.

13 A number of filed amendments, such as those dealing
14 with trade, Medicare, and Medicaid, including this
15 amendment by Senator Rockefeller that is before us, are
16 beyond the scope of the tax relief package.

17 When these amendments are offered, I think it is
18 appropriate following precedent to invoke the
19 committee's germaneness rule. And that means that this
20 amendment, I must rule out of order. And hopefully,
21 Senator Rockefeller will not appeal the ruling of the
22 Chair.

23 Senator Rockefeller. No, I will not, Mr. Chairman,
24 because I respect your fairness in this whole process.
25 I would clarify by saying that you are quite correct.

1 We do not deal here with home health care. We are
2 dealing with institutional health care. This only talks
3 about how large a problem it is. Home health care has
4 to be dealt with also.

5 You are also correct when you say that we do not
6 know exactly what the cost is. I am placing it between
7 20 and 40. And I saying I think it is about 30. And
8 that is because we have not had it scored yet.

9 But I am placing before the conscious of the
10 committee a gigantic hole in our public responsibility
11 in that we carry responsibility for health care. There
12 is a small portion that belongs to another committee,
13 but we basically do it. And we have simply
14 systematically avoided this totally.

15 I will not appeal your ruling. I am not concerned
16 about the States having their own assets tests and that
17 part. But I am not willing to challenge the Chairman's
18 ruling because I do not think I would get very far if I
19 did. And it is not my inclination.

20 But it is my inclination to say maybe we have had a
21 hearing on this. I am not sure. But it surely has not
22 been with the idea of ending up with legislation.
23 Everything is always too expensive. Everything always
24 is too difficult to take up now. And it always can be
25 taken up later.

1 And tens of millions of people, on the one hand, and
2 3,000 of our very wealthy citizens and their estate
3 taxes, on the other hand, both involving what estates
4 you have left over, what assets you can have, strikes me
5 as problematic.

6 I thank the Chairman.

7 The Chairman. And I thank you for your respect for
8 my ruling.

9 I would now like to call on Senator Torricelli who
10 asked to discuss a couple of amendments that he was
11 going to bring up, but not push I believe.

12 Is that correct, Senator Torricelli?

13 Senator Torricelli. Mr. Chairman, by nature, I
14 push everything, but I am not going to on votes.

15 [Laughter].

16 The Chairman. All right. Proceed.

17 Senator Torricelli. Mr. Chairman, I would like if
18 I could first to address several questions to Lindy Paul
19 regarding the education provisions bill.

20 Mr. Chairman, as you know, if it were possible, I
21 would have liked to have created a deduction for tuition
22 expenses for every student in the Nation. Because of
23 fiscal concerns, the amendment has been limited to
24 deductions of tuition on a per family basis. I also
25 understand that the lifetime learning tax credit is on a

1 family basis.

2 My concern is to clarify and to have the record
3 reflect that if a family has multiple children in
4 college, they can take the deduction for one student
5 under the tuition deductibility that I have offered, but
6 also use the lifetime learning credit for another
7 student. So one family could take advantage of a
8 different provision of the tax code for different
9 children.

10 Ms. Paul. That is correct, Senator Torricelli.

11 Senator Torricelli. And that is clear as the
12 language stands. It would require no further amendment
13 or clarification.

14 Ms. Paul. That is the way we estimated the
15 provision. We will check the language to make sure that
16 it is clear.

17 Senator Torricelli. Very good. Second, Mr.
18 Chairman, I have requested regarding the exclusion from
19 gross income of the education savings account
20 contributions from employers. I understand that an
21 agreement was worked out to clarify the education
22 savings account amendment that I have offered to exclude
23 from gross income employer contributions to employees up
24 to \$500 per child.

25 I have been told that due to Senate procedural

1 rules, we cannot exclude these contributions from FICA
2 taxes. While that is regrettable, I am told that I have
3 no choice.

4 However, I would like to clarify why the \$500
5 contribution cannot be excluded from income for purposes
6 of income tax under Senate rules. If indeed perhaps, is
7 that possible?

8 Mr. Prater. Senator Torricelli, we, Russ and I,
9 need to talk with the parliamentarian to confirm whether
10 there is a problem there. It struck us initially that
11 there might be FICA tax hit. But we may be able to find
12 a way to get around that.

13 Senator Torricelli. Let us separate them. So you
14 are going to determine with the parliamentarian whether
15 we can exclude it for FICA purposes. But how about
16 income tax purposes?

17 Mr. Sullivan. But we are clear that on the FICA,
18 if we exclude it from FICA, that would cause us a
19 problem in this particular bill. We are not clear
20 whether if you just excluded the amounts from income
21 taxes, whether we could proceed with that portion.

22 Senator Torricelli. That remains an open question.

23 Mr. Sullivan. It remains open.

24 Senator Torricelli. Mr. Chairman, this is
25 obviously for all of us who have fought for education

1 savings accounts through the years a very important
2 issue because our hope is not simply to allow parents to
3 contribute to the savings accounts of their children,
4 but to do exactly this, is to allow employers to also
5 help their employees with these education savings
6 accounts for their children.

7 So I hope that we will pursue and do so vigorously.
8 This could dramatically change the amount of funding
9 that is available for students under these education
10 savings accounts. But I look forward to working with
11 the staff on it.

12 Mr. Chairman, finally, I had 2 amendments which I
13 was making a strategic retreat upon. I am not insisting
14 upon a vote, but I did want the committee to be aware of
15 them because I think they are important.

16 The first goes to controversy in the closing days of
17 the last Congress regarding Amtrak. Last year, the
18 Senate passed language that would give Amtrak the
19 authority to sell bonds over a 10-year period and allow
20 the Federal Government to provide tax credits to bond
21 holders in lieu of interest payments.

22 Unfortunately, the Senate-passed language was not
23 included in last year's omnibus bill. But Senators Lott
24 and Daschle gave their commitment to address the issue
25 in the next major bill of the 107th Congress.

1 The amendment today that I have prepared, I co-
2 sponsored with Senator Kerry, is the same language
3 passed last year. It also includes language to address
4 concerns expressed by members of this committee. The
5 cost is \$3 billion over 10 years and completely protects
6 the Highway Trust Fund by restoring language agreed to
7 by Senators Roth and Baucus last year.

8 Furthermore, it eliminates the federal preemption
9 that would have prohibited local governments levying on
10 freight railroad property that have been improved by the
11 proceeds of Amtrak bonds.

12 While the tax reconciliation bill may not be the
13 proper vehicle to address this issue, I urge the
14 Chairman and ranking member to give their commitment
15 that this committee will address this issue as soon as
16 possible.

17 I am content that although we had agreed in the last
18 Congress to put this in the first tax bill before this
19 Congress, we are not doing so today simply because it is
20 my belief that we will still do so in this Congress. We
21 will live to fight another day. And the commitment that
22 was made by Senators Lott and Daschle in the last
23 Congress will survive to another tax bill.

24 As I am certain you are aware, to many of us,
25 particularly those in the northeast, the survival of

1 Amtrak is at issue. And it is enormously important.
2 With the airline congestion growing by the day, massive
3 delays, the survival of Amtrak for quality of life and
4 economic reasons is essential.

5 So, Mr. Chairman, I will leave this issue with you
6 with the hope that the commitment that many of us have
7 had from different States, particularly in the
8 northeast, will survive to another day and we can still
9 deal with this in another tax provision, but in this
10 Congress.

11 Finally, amendment number 164 dealing with housing
12 construction in urban areas. Mr. Chairman, national
13 home ownership is at record levels in the country.
14 However, home ownership in urban and other low-income
15 areas is a very different situation.

16 Home ownership in many of our urban areas is 25
17 percent less, sometimes half of the national rate.
18 Indeed, in my State where the average home ownership is
19 67 percent, in my largest cities, it is 21 percent, 25
20 or 29 percent.

21 But there is a chance to change all this. The
22 amendment that I would have offered today, if I had the
23 confidence that there were enough votes available, would
24 have been modeled after the low-income housing tax
25 credit program which has built 800,000 units of

1 affordable rental housing.

2 My provision was quite simple. It would have
3 allowed in our urban targeted areas, that is areas that
4 have 70 percent of the families at 80 percent or less of
5 the statewide family income, homebuilders to exclude the
6 first \$10,000 of profit, as defined by the Internal
7 Revenue code, from their gross income.

8 This would have been an enormously important
9 incentive for homebuilders to go into these targeted
10 urban areas with the lowest rates of home ownership with
11 an extra incentive for private developers to build
12 housing in these select targeted areas. And that
13 \$10,000 of excluded income could make all the difference
14 to a developer who looks to go into suburbia on virgin
15 lands or to concentrate on building in these urban
16 areas.

17 I am not insisting on offering the amendment today.
18 But it is an amendment that at some point, on some day,
19 I will bring before the committee.

20 In any case, Mr. Chairman, I ask to try to get some
21 clarification from the staff on the education savings
22 accounts. I believe that it is now clear the intent of
23 the committee on the tuition deductibility issues. And
24 at some point, I will bring these other two matters
25 before the committee.

1 The Chairman. I thank the Senator from New Jersey.

2 And I now call on the Senator from Tennessee who
3 wanted to visit about an amendment.

4 Senator Thompson. Thank you, Mr. Chairman. Mr.
5 Chairman, I had filed an amendment, I think amendment
6 number 16.

7 The current law allows deductions from federal
8 income tax for State and local income and property
9 taxes, but not for State and local sales tax. And I
10 think that is an inequity. Congress repealed the
11 deduction for State and local sales tax in the Tax
12 Reform Act of 1986.

13 We are kind of up against it because there are more
14 States that have income taxes than have their primary
15 tax sources being sales tax. There are 7 States that
16 are affected that way. Of course, my State is one of
17 them.

18 I really hope that during this process that this
19 will get some attention from people from a standpoint of
20 fairness. I do not see any reason to have a federal
21 policy that encourages States to get their primary
22 revenue from an income tax, as opposed to a sales tax.
23 And it is skewed. It is unfair. It really is not
24 logical.

25 But as I say, only 7 States are really affected in

1 that way. And I have done a little vote count. And I
2 do not have the votes. So my Democratic colleagues may
3 feel a little bit better, knowing that one of us also
4 has a losing hand in terms of our amendments.

5 And therefore, I am going to follow the example of
6 some of them and not offer my amendment and hope that we
7 can do better a little bit later as we proceed. And
8 perhaps, the consciousness of the collective body will
9 be pricked somewhere along the line and we will be able
10 to make a little progress.

11 Senator Gramm. Mr. Chairman.

12 The Chairman. Senator Gramm.

13 Senator Gramm. On this issue, let me just say that
14 I strongly agree with the Senator from Tennessee. It
15 seems to me that ultimately tax policies got to be
16 changed in one or two ways.

17 And the first way is to allow people to deduct their
18 State however the State collects them. Why should the
19 Federal Government be trying to tell my State we ought
20 to have a State income tax?

21 I would not support a Republican running for office
22 who was for State income tax in my State nor could be
23 anybody be elected in any State because we do not want a
24 State income tax. But why should we be penalized
25 because we prefer sales taxes when other States are

1 rewarded for having income taxes?

2 The second way to fix it, which I think is equally
3 logical, is to simply not allow estate taxes to be
4 deductible and to take that money and cut tax rates.
5 But you have to do one or the other, it seems to me.

6 We have a totally inequitable system now which is
7 really bringing pressures in States like Tennessee to
8 adopt an income tax to get the federal tax credit even
9 though people do not want it.

10 Senator Thompson. The debate is going on right now
11 about that.

12 Senator Gramm. And I would not take it even with
13 the tax credit.

14 Senator Thompson. I do not think we are.

15 Senator Gramm. Good. But in any case, I think the
16 Senator's point is well taken. And I am for it.

17 The Chairman. Could I inquire of all the members,
18 how many more amendments would you like to offer?

19 The reason I want to make this inquiry, everybody
20 has had a break around this table, except Senator Baucus
21 and me. We have been here all morning and all
22 afternoon. And we might be here all evening. And if we
23 could wind this down, I would appreciate it very much.

24 Senator Conrad. Mr. Chairman.

25 The Chairman. One amendment for Senator

1 Rockefeller.

2 Senator Conrad.

3 Senator Conrad. I have 30.

4 The Chairman. Thirty, do you really want to offer
5 all those?

6 Senator Conrad. I have been doing so well. I just
7 think I should keep up the experience until maybe I win
8 on one.

9 The Chairman. All right. Rockefeller has two.

10 Senator Conrad. If there was some assurance --

11 The Chairman. And Daschle has two.

12 Senator Conrad. Mr. Chairman, if I could get
13 assurance of victory on one, it would shorten the
14 process.

15 The Chairman. All right.

16 Senator Kerry. Mr. Chairman, I have no amendments,
17 but I do have one more inquiry of the staff.

18 The Chairman. All right. Just a minute. Conrad
19 has 30. [Laughter].

20 And Senator Bingaman.

21 Senator Bingaman. Mr. Chairman, I have one that I
22 think should not take long and I hope will be
23 acceptable.

24 The Chairman. All right. Bingaman, one.

25 Senator Conrad. Senator Gramm has 20, he tells me.

1 The Chairman. Where is he?

2 Senator Conrad. He will be back soon. He is at
3 the Intelligence Committee.

4 The Chairman. All right. Well, then, I guess we
5 are going to have to proceed.

6 Senator Torricelli. Mr. Chairman, did you put my
7 inquiry on your list?

8 The Chairman. No, I did not. Make your inquiry
9 right now.

10 Senator Torricelli. All right.

11 The Chairman. Proceed.

12 Senator Torricelli. Mr. Chairman, I wanted to ask
13 the staff whether it is their understanding under the
14 deductibility of college tuition that this would be
15 available with the prepaid tuition plans.

16 Senator Graham in Florida particularly expressed
17 concern about this. If a parent begins to pay the
18 tuition at the birth of a child and sends the University
19 of Florida \$1,000, they are paying tuition. Is that
20 subjected to the deductibility provisions that I have
21 now put in the bill for college tuition? The child may
22 be 6 months old, but they are paying tuition.

23 Mr. Sullivan. Senator, the answer is no on that.

24 Senator Torricelli. This is going to make very
25 unhappy news for Senator Graham.

1 Mr. Sullivan. The tuition deductibility provision
2 that was included in the modification would only be for
3 tuition actually paid to the institution at the time of
4 entry.

5 Senator Torricelli. But we have to on the floor or
6 otherwise address in this committee.

7 Mr. Sullivan. But there is an issue of
8 coordination from the State prepaid college tuition or
9 savings accounts plans that you could get the benefit of
10 the tax free build-up and distribution.

11 Senator Torricelli. On education savings accounts?

12 Mr. Sullivan. On either the education savings
13 accounts or the State prepaid college tuition plans and
14 then still get a deduction for tuition paid, provided
15 they were for separate expenses.

16 Senator Torricelli. Well, this is going to have to
17 be addressed with Senator Graham. I know this is very
18 important to him. I am assuming there are other States
19 represented on this committee who have prepaid tuitions
20 where it might also matter. And I will suggest when
21 Senator Graham returns, this needs to be addressed.

22 Thank you, sir.

23 The Chairman. Senator Bingaman.

24 Senator Bingaman. Thank you very much, Mr.

25 Chairman. I wanted to offer amendment number 136 in the

1 stack of amendments. It is number 8 of the ones that I
2 had, but I think it is 136 in the overall package.

3 Mr. Chairman, what this is, as you will recall, a
4 little over a year ago, we had the worse fire in the
5 history of our State. It was called the Serra Grande
6 fire right near Los Alamos.

7 And a lot of the problems that people encountered in
8 trying to rebuild homes and get businesses going again,
9 we thought all that problem was behind this. And then,
10 we got into this tax year and found that there were
11 numerous tax-related problems that people were
12 encountering.

13 Fortunately, Mr. Weinberger, who is here with us
14 today with the Treasury Department, was very helpful in
15 resolving the issue for taxpayers in our State. But
16 what we discovered through that process was that there
17 really has not been in place a mechanism within the
18 Internal Revenue Service for dealing with disastrous
19 situations.

20 So what my amendment would do is to establish an
21 office at the IRS to handle taxpayer concerns in
22 presidentially-declared disaster areas. The office
23 would manage a disaster team that would have a
24 representative from the Taxpayer Advocate's Office and
25 other IRS personnel.

1 This amendment does not contemplate IR⁷ hiring new
2 people. It just is a direction to them to organize
3 themselves so that they are ready to respond in a way
4 that does not cause additional confusion to people who
5 have suffered the consequences of these presidentially-
6 declared disasters.

7 I do not believe the revenue effect would be
8 significant. And I would be anxious to get the
9 committee to adopt the amendment.

10 The Chairman. Senator Bingaman, are you willing to
11 work with us so that we know that this is not subject to
12 the Byrd Rule?

13 Senator Bingaman. Yes. I certainly would not want
14 to pass it if it were subject to the Byrd Rule.

15 The Chairman. Well, we want to accommodate you,
16 but I want to know that you we have your word that we
17 will be able to do whatever it takes to be not subject
18 to Byrd Rule. And then, we will accept that.

19 And I would also like to say that Senator Domenici
20 has also talked to me about this as well. And he is
21 very interested in this issue for your State of New
22 Mexico.

23 So the amendment is accepted.

24 Would Senator Conrad like to go with one of his 30
25 amendments? Would you like to offer those in block and

1 let us vote on it? [Laughter].

2 Senator Bingaman. Perhaps, you would like to
3 explain them in block. [Laughter].

4 Senator Conrad. I would be happy to go with the
5 next amendment, Mr. Chairman.

6 The Chairman. All right.

7 Senator Conrad. I prefer that we not vote them in
8 block because I would probably get the same result that
9 I am going to get individually.

10 The Chairman. All right. I know that those people
11 in North Dakota have an awful lot of common sense. And
12 that would be the common sense way to do this.

13 [Laughter].

14 Senator Conrad. They like these amendments
15 individually, Mr. Chairman.

16 The Chairman. All right.

17 Senator Conrad. This would be, being that in the
18 amendments that everybody has, my amendment number 87.

19 The Chairman. Yes. That is what I have in front
20 of me.

21 Senator Conrad. All right.

22 The Chairman. Yes.

23 Senator Conrad. Is all right for me to proceed
24 then?

25 The Chairman. I want you to, please.

1 Senator Conrad. All right.

2 The Chairman. Could we do this in a couple of
3 minutes?

4 Senator Conrad. Yes, I think we could do it.

5 The Chairman. All right. And could we do it by
6 voice vote?

7 Senator Conrad. No.

8 The Chairman. All right. Go ahead.

9 Senator Conrad. Mr. Chairman, this amendment
10 provides that the third percentage point reduction or
11 the 39.6 percent bracket will be a 1.6 percentage point
12 cut. All the other scheduled rate reductions are just 1
13 percentage point.

14 My amendment would limit the rate reduction for the
15 top bracket in 2007 to 1 percentage point, the same as
16 the reduction in 2007 for the lower brackets. In other
17 words, instead of giving the very top rate more
18 reductions than we are giving every other bracket, we
19 would limit the top rate reduction to the same reduction
20 that other brackets are getting.

21 And we would then use the savings resulting from
22 foregoing the special rate reduction for the wealthiest
23 taxpayers to be directed towards increasing the standard
24 deduction which would benefit 70 percent of American
25 taxpayers.

1 Increasing the standard deduction would result in
2 taxpayers at the threshold of income tax liability being
3 dropped from the income tax rolls altogether. It would
4 benefit the vast majority of taxpayers, those some 70
5 percent who use the standard deduction.

6 And increasing the standard deduction would also
7 increase the amount of marriage penalty relief provided
8 in the Chairman's mark and would substantially simplify
9 filing for many other taxpayers who no longer have to
10 itemize.

11 Mr. Chairman and members of the committee, I think
12 this would improve the fairness of the Chairman's mark.
13 And I hope my colleagues will give it consideration.

14 The Chairman. Those in favor of the Conrad
15 amendment will vote aye. Those opposed will vote no.

16 The Clerk will call the roll.

17 The Clerk. Mr. Hatch.

18 The Chairman. No, by proxy.

19 The Clerk. Mr. Murkowski.

20 Senator Murkowski. No.

21 The Clerk. Mr. Nickles.

22 The Chairman. No, by proxy.

23 The Clerk. Mr. Gramm of Texas.

24 The Chairman. No, by proxy.

25 The Clerk. Mr. Lott.

1 The Chairman. No, by proxy.
2 The Clerk. Mr. Jeffords.
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Thompson.
5 Senator Thompson. No.
6 The Clerk. Ms. Snowe.
7 Senator Snowe. No.
8 The Clerk. Mr. Kyl.
9 Senator Kyl. No.
10 The Clerk. Mr. Baucus.
11 Senator Baucus. No.
12 The Clerk. Mr. Rockefeller.
13 Senator Rockefeller. Aye.
14 The Clerk. Mr. Daschle.
15 Senator Rockefeller. Aye, by proxy.
16 The Clerk. Mr. Breaux.
17 Senator Breaux. No.
18 The Clerk. Mr. Conrad.
19 Senator Conrad. Aye.
20 The Clerk. Mr. Graham of Florida.
21 Senator Baucus. Aye, by proxy.
22 The Clerk. Mr. Bingaman.
23 Senator Baucus. Aye, by proxy.
24 The Clerk. Mr. Kerry.
25 Senator Kerry. Aye.

1 The Clerk. Mr. Torricelli.

2 [No response.]

3 The Clerk. Mrs. Lincoln.

4 [No response.]

5 The Clerk. Mr. Chairman.

6 The Chairman. Mr. Chairman, no.

7 But do we have all?

8 Senator Breaux. Not at this point.

9 The Chairman. All right. The other people will be
10 absent then.

11 Senator Rockefeller. We really have them here.

12 The Chairman. All right.

13 The Clerk. Mrs. Lincoln.

14 Senator Lincoln. No.

15 The Clerk. Mr. Torricelli.

16 Senator Torricelli. No.

17 The Clerk. Mr. Chairman, the tally is 6 ayes, 14
18 nays.

19 The Chairman. Accordingly, the Conrad amendment is
20 defeated.

21 We now go to Senator Rockefeller.

22 Senator Rockefeller. Thank you, Mr. Chairman.

23 Over the midst of time, this amendment was sent to me
24 directly by my great grandfather. [Laughter]. It is
25 called a windfall profits tax. He was a very clever

1 fellow, thank heavens. And therefore, in the drafting
2 of this amendment, he made a mistake which I wish to
3 amend.

4 And that is this is the Rockefeller amendment number
5 12. It says businesses that are involved with the
6 production of electricity, that electricity, he being a
7 clever fellow, he should have known that it should have
8 been changed to energy. And I ask permission to do
9 that. And I guess I have that right.

10 The Chairman. You do have that right. I should
11 announce it accordingly. The amendment is modified.

12 Senator Rockefeller. The FTC took a look at this
13 problem of price gouging. And there has been an
14 enormous increase in the cost of gasoline.

15 People in my State and in most of the rural States
16 of our committee have to drive a long way to work. We
17 have a plant in West Virginia, a Toyota plant. We have
18 55 counties. People come from 27 counties to work in
19 that Toyota plant because it is a good paying job which
20 means in a number of cases, they drive four hours each
21 way.

22 So the cost of gasoline, apart from my opening,
23 humorous comments, is not at all humorous in West
24 Virginia. It is said that we cannot do anything about
25 it, except long term. One could look at that in a

1 variety of ways, but I choose not to be long term about
2 it.

3 One of my people who works with me in West Virginia
4 was driving on a case work mission in the northern half
5 of West Virginia. And while he was filling up his van,
6 the price of gas went up \$.18 as he was doing it. I do
7 not know how that works, but it worked.

8 We have not done much for the elderly in this mark.
9 And the elderly need this desperately, as do I think
10 people everywhere. And the FTC has had things to say on
11 this also.

12 They did not come up with the words "price gouging",
13 but they had very some very suspicious words. They said
14 that they have found no conclusive evidence of petroleum
15 industry collusion to raise prices and to keep them
16 artificially high. But they did find a "conscious and
17 then inscrutably, but independent choices by industry
18 participants to engage in profit maximizing strategies".

19 Senator Gramm. That is what they are supposed to
20 do. [Laughter].

21 Senator Rockefeller. The Senator from Texas can
22 speak to my amendment after I am finished.

23 The Chairman. Let us show the appropriate courtesy
24 to Senator Rockefeller.

25 Senator Gramm. I am sorry.

1 Senator Rockefeller. I recognize that it is a
2 complex problem. I recognize that we have a shortage of
3 infrastructure in the rest of it. And, of course, that
4 is all our fault.

5 Nevertheless, I am inclined to believe that there is
6 a good of conscious profit maximizing that is going on.
7 It is an industry which has in the past tended to show
8 that instinct. And I am prepared to say that that is
9 true now.

10 So my amendment would simply do this. It would say
11 that any energy industry can make a rate of return of 20
12 percent which is pretty hefty, but that if the return
13 goes above that on whatever sources of energy that they
14 have 100 percent of tax that they will have to pay on
15 that. And therefore, none of these businesses can make
16 windfall profits above the 20-percent profit due to
17 price gouging of consumers which I believe happens.

18 I cannot tell you where this money would go. And I
19 am not worried right now about where that money would
20 go. We did this back in the 1980s. And it was repealed
21 in 1988. We did it. It affected crude oil companies.
22 It taxed large producers, etcetera, but it was repealed
23 in 1988. So the problem is back with us now.

24 And I know that my people need this. And I think
25 people around the country need this. And I propose it

1 as an amendment. And I would ask for a vote.

2 The Chairman. The Senator from Alaska.

3 Senator Murkowski. Well, I guess my general
4 comment would be the vision of your grandfather clearly
5 is not hereditary. Nevertheless, that begs the issue in
6 all deference to my good friend from West Virginia.

7 I think if any member of this committee wants to
8 guarantee that this country will have electric
9 blackouts, natural gas shortages, and lines at the gas
10 pumps, then they should vote for the amendment by the
11 Senator from West Virginia.

12 As I read the amendment, if you are in the business
13 of providing energy, and I think we have included that a
14 little broader than just petroleum products, and your
15 company's rate of return is 20 percent, the government
16 then gets 100 percent of the amount above that rate of
17 return. But in reading the rationale for the amendment,
18 it appears it is not only directed at electric
19 providers, but all providers of energy supplies.

20 So in any case, under this agreement, the government
21 is not going to get a single extra dime from electric
22 generators, natural gas suppliers, or oil companies.
23 Instead, the amendment ensures that the profitable
24 utilities could go ahead and simply close down their
25 plants as soon as they project that the average rate of

1 return is going to be 20 percent.

2 Profitable refineries will do the same if they face
3 a similar rate of return. Companies have the capability
4 with their computer models that provide projections of
5 operating revenue and profit with a great degree of
6 accuracy.

7 And I can assure that once the company's chief
8 financial officer sees the profitability exceeding 20
9 percent, the chief financial officer is simply going to
10 walk down to the CEO's office and tell him to shut the
11 plant down. Give everybody a paid vacation.

12 Now, that may sound extreme. But when the company
13 goes off line, the electric prices and profits, well,
14 what are they going to do? They are going to go higher
15 with the result that more profitable utilities will find
16 it necessary to close their plants to avoid the 20-
17 percent threshold. The same will happen with the
18 refiners and the oil importers.

19 Is that what we want? Do we want electric suppliers
20 shutting down their power plants in the middle of the
21 summer or winter because of a tax policy? I do not
22 think so, oil companies stopping imports, refineries
23 shutting down this summer.

24 We have already seen what happens in California when
25 electric providers do not get paid. Do you know what

1 they do? They do not sell their electricity. It is a
2 pretty basic business premise.

3 In California, there are over 2,000 mega watts of
4 electricity that are in idle plants. We have addressed
5 this in the Energy Committee. The operators of these
6 plants chose to close operations in February. Why?
7 Because they were not getting paid.

8 The same behavior is likely if this amendment
9 passes. No operator is going to run his plant if all of
10 his profits are going to the government. You have 700
11 mega watts identified in California that could come on
12 line if they were going to get paid right now.

13 So, Mr. Chairman, this is not only I think bad
14 policy, but it is dangerous economic policy because what
15 it does is it establishes a penalty and setting a
16 precedent that if your company is successful, if it is
17 very profitable, then the government has the right to
18 come in and confiscate your earnings.

19 In this case, the amendment is targeted at energy
20 producers. The energy industry may be the whipping boys
21 today, but tomorrow will be the company that develops a
22 new and more efficient software or a drug company that
23 finds a new cure for cancer and is not making an
24 unreasonable rate of return in the eyes of a few
25 members, whether it be AIDS or cancer.

1 I think if the Senator is concerned about the so-
2 called price gouging by electric producers or energy
3 producers, why we petition the FERC? In fact, the FERC
4 is currently engaged in many investigations to determine
5 if there has been an overcharge in the electric
6 industry. If they find an overcharge, they can order
7 producers to make rebates to their customers. And they
8 have.

9 The FTC has already examined the charges that oil
10 companies were conspiring to fix prices. And they found
11 nothing in those charges.

12 Now, the Senator has indicated that he is not
13 satisfied with the investigation. Well, they have been
14 doing it for 20 years. And I would ask for the record
15 that the investigation that is highlighted here be put
16 in the record.

17 He said the FTC just completed a three-year study of
18 gasoline issues in the west coast markets. The result,
19 and he used the word "conclusive", but there is clearly
20 no evidence conclusive or otherwise of price fixing or
21 collusion.

22 Instead, they determined that California used
23 special blends of gasoline and that there are enough
24 refineries. A simple study was done last summer in the
25 mid-west as prices skyrocketed. And the study found

1 infrastructure in refineries and pipelines.

2 Inadequacies were the blame.

3 So I think, Mr. President, you know, if you look at
4 the merits of this, where were the proponents when the
5 energy companies were on the ropes two years ago? It is
6 easy to pick at high profits for fuel industries in the
7 last year or so when they are simply based on miserable
8 years before that.

9 But do you remember \$10 a barrel in 1997 and 1998?
10 The impact was staggering. The Vice President told us
11 today that he personally let off 10,000 workers in the
12 energy field. And he felt very badly about it.

13 There were 41,000 oil and gas jobs lost; 136,000 oil
14 wells and 57,000 natural gas wells were shut and never
15 to be opened again. Would natural gas prices be so high
16 today if we had not lost all this domestic production a
17 few years ago?

18 I think it is easy to kick big oil, the scapegoat,
19 using the fact that the company is making a profit is
20 proof positive that they are evil or in some kind of
21 conspiracy. That is not the American way.

22 This is the usual shell game to avoid taking
23 responsibility for lack of an energy policy for the past
24 eight years. Mr. Chairman, energy prices are high
25 because we have not had an energy policy. We have not

1 built new refineries in more than 25 years. We have
2 increased our dependence of foreign oil imports to 56
3 percent.

4 And the so-called environmentalists have prevented
5 the construction of new power plants in many parts of
6 the country, whether it be nuclear ---- we have not
7 built a new coal-fired plant in this country since 1995.
8 Natural gas prices are up. It goes on and on and on.

9 I would just ask Mr. Weinberger to comment very
10 briefly on the impact of such an amendment if it were
11 passed.

12 Mr. Weinberger. Well, Senator, I am not sure of
13 the impact. I think we share your concern. We share
14 Senator Rockefeller's concern for obviously increasing
15 the long-term supply of energy and for initiatives that
16 would help with conservation.

17 The President, as you alluded to earlier, is going
18 to make an announcement on Thursday in Iowa about a
19 long-term plan. And we hope that things like this would
20 be put off until we have a chance to see what the
21 President puts on the table.

22 I also would agree though that if anything like
23 going back to rate of return regulations is even to be
24 considered that the FERC would be the place that really
25 it should be concentrated on and not run through the tax

1 code.

2 Senator Murkowski. With all due respect, if there
3 is not an incentive for investment, the American way,
4 there is not going to be an investment. If you want
5 government to step and do the job, good luck.

6 The Chairman. Before I call on a couple of my
7 colleagues, I believe we have the number of amendments
8 now down to five more amendments. So this is very
9 doable. So I hope that we can get to a vote on this.

10 So I will call Senator Nickles and then Senator
11 Gramm. And hopefully, we can vote.

12 Senator Rockefeller. I would like to speak.

13 The Chairman. Sure. And I will call on Senator
14 Rockefeller.

15 Senator Nickles. Mr. Chairman, thank you. And I
16 will be very brief. I know we are all ready to vote on
17 the rest of the amendments.

18 This amendment is probably one of the worse ideas I
19 have heard proposed. And I first thought it was a joke.
20 And I guess it is serious.

21 Congress passed a similar measure in the 1980s. It
22 is one of the worse pieces of legislation ever passed by
23 Congress, one of the most anti-free enterprise pieces of
24 legislation passed by Congress. It probably had more to
25 do with my election to the U.S. Senate than any other

1 piece of legislation.

2 Senator Gramm. It was not all bad.

3 Senator Nickles. Mr. Chairman, that bill placed a
4 tax on domestic production. It had no tax on imports.
5 It greatly increased our dependency on imports. This
6 bill would say let us export all production overseas.
7 Let us basically export all investment overseas to other
8 companies that are dealing in other countries.

9 It would increase our dependency. It is a very
10 short sighted, maybe populous notion, and certainly
11 should be soundly defeated and I hope not to come back
12 before this body again.

13 The Chairman. Senator Gramm of Texas.

14 Senator Gramm. Well, Mr. Chairman, let me just
15 make the following points. When you have a shortage of
16 anything, profits are a good thing and not a bad thing.
17 Under our system, profits and losses are like a green
18 light and a red light. And they direct the flow of
19 capital.

20 So if we are going to build the thousands of
21 electric generators plant we have to build to deal with
22 the problem, if we are going to build a new grid that we
23 need in the western part of the country at least, if we
24 are going to produce more energy here at home at a price
25 we can afford to pay, people are not going to do that

1 for nothing.

2 They are going to do it because they can make money
3 doing it. And quite frankly, the fact that anybody
4 could be shocked that there is evidence of profit
5 maximizing behavior, (a) that is how our systems works;
6 (b) if you were running a corporation in America and
7 anybody could prove that you were not maximizing profits
8 you could be used.

9 In fact, many of our major energy companies are
10 owned by retirement programs. And what a person running
11 such a company would be doing if they were not trying to
12 maximize profits is they would be putting their
13 objectives in front of the people who invested the money
14 through all of these retirement programs. And America
15 would be the great losers.

16 So the point I am trying to make is profits are good
17 things. If America is going to be saved in terms of
18 dealing with the energy problem, it is going to be saved
19 at a profit. If it is not saved at a profit, it will
20 not be saved.

21 Senator Rockefeller. Mr. Chairman.

22 The Chairman. Senator Rockefeller, one closing
23 remark.

24 Oh, Senator Baucus.

25 Senator Baucus. Thank you, Mr. Chairman. The

1 Senator from West Virginia clearly is concerned and
2 correctly concerned about energy prices in his State and
3 in the country.

4 I might say, in Montana, we are going through some
5 of the same problems that California is facing. And
6 that is essentially because California is such a large
7 State that the California energy problems is having a
8 ripple effect in my State of Montana.

9 An example is the Bonneville Power Administration.
10 Usually, Bonneville Power would receive the power from
11 California in the winter months. And Bonneville would
12 then ship power to California in the summer months, in
13 the summer for air conditioning in California and so
14 forth.

15 But now, the Federal Energy Regulation Commission
16 has ordered Bonneville to ship power in the winter
17 months to California as well which means there is a real
18 shortage of power in the Bonneville system which
19 supplies a lot of power over in Montana.

20 And we are caught in the grips of this just like a
21 lot of other States are, maybe not as much as
22 California, but certainly more than some eastern States.

23 The solution to this is clearly complicated. I
24 mean, it is going to involve a lot of different
25 initiatives, some in helping the production, some in

1 conservation. Some are going to be tax credits and
2 deductions. It is going to get very complicated.

3 I know that the Senator both from Alaska and New
4 Mexico on the Energy Committee are doing their level
5 best to come up with ways to help us solve the energy
6 crisis.

7 But having said all of that, it is severe, the
8 problem in my State of Montana. I do not know that this
9 is the time to address the problem. And I am not quite
10 so certain that this is a good solution to the problem.
11 In fact, I am quite certain that it is not.

12 So I very reluctantly feel that this is not an
13 amendment that we should adopt. But I do think that
14 while we are talking about it, that we should keep in
15 mind how serious the problem is and how we can work
16 together in various ways to try to help address it in a
17 solid way.

18 We cannot make light of this. I mean, this is not
19 something just like the windfall profits tax which I
20 know it this not the intent of the Senator from West
21 Virginia, just to send a message that we are going to
22 attack big oil.

23 But in the same vein, it is not something to be
24 taken lightly. This is extremely serious. And I just
25 urge us to kind of cool the rhetoric on both sides and

1 recognize that this is a very difficult problem because
2 that is what the American people really want us to do,
3 solve it.

4 The Chairman. Senator Torricelli next.

5 Senator Torricelli. Mr. Chairman, I will take only
6 a moment. But on an energy issue, lest this be seen as
7 original, the Senators from Alaska, Oklahoma, and Texas
8 should not have the final word on an energy issue. I
9 want to recognize this as across the country.

10 I know that Senator Rockefeller's motivation is
11 sound. And I think it is a service of the Congress to
12 bring the issue before us that we understand the
13 problems and the suffering of people.

14 I simply add the perspective, there are many answers
15 to our energy problems, but the principal one on
16 electricity is this. Build power plants, get
17 investments and attract capital.

18 And anything that discourages the attraction of
19 capital to building more power plants does not solve the
20 supply problem, but mostly it does not solve the pricing
21 problem because as certainly we are only going to get
22 out of the shortage by building power plants, we are
23 only going to reduce this enormous cost of energy by
24 also increasing the supply.

25 I know that the motivation is very well intended as

1 really anything that I have ever seen Senator
2 Rockefeller do in this Congress. But I really believe
3 at this time anything that discourages that construction
4 and planning by American industry to increase supply not
5 only does not help, but indeed would be harmful.

6 And with that reluctantly I would have to oppose the
7 amendment, but wanted to offer a commentary for a
8 moment.

9 Thank you, Mr. Chairman.

10 The Chairman. Senator Rockefeller.

11 Senator Rockefeller. It is very interesting to
12 hear all of these comments. There is not any industry
13 in the country which is more active at this point in
14 building infrastructure, attracting capital, going to
15 Wall Street, going to any place they can to raise money
16 than the telecommunications industry.

17 The telecommunications industry has is a dominant
18 player in the economy of America. And their average
19 annual rate of return is 14 percent. So I would be very
20 interested in why it is that 20 percent is concerned to
21 be so difficult when the energy people are not doing
22 nearly what the telecommunications people are.

23 So I would be very interested if the Senator from
24 Alaska could tell me what is the average rate of return
25 of energy companies. I know what it is in

1 telecommunications which is going to the market like no
2 other industry has in a century. That is 14 percent.

3 What did you have in mind, Senator?

4 Senator Murkowski. Well, I think CISCO would be
5 happy to get a 14 percent return or Intel or any number
6 of the telecommunications industry groups today. It is
7 a matter of one place at any given time.

8 And the reality associated with that fact that it is
9 supply and demand that I think Senator Torricelli
10 basically put his finger on when he said you build more
11 power plants, you have more power. The theory is under
12 the American structure that you develop surplus.
13 Surplus develops competition.

14 Senator Rockefeller. If the Senator would answer
15 my question.

16 Senator Murkowski. I do not think there is any if
17 you go back 10 years ago. What was the return in the
18 energy, particularly since we are talking about oil
19 companies? What was it three years ago when oil was
20 selling for \$10 barrel?

21 The Chairman. I hope that we can be --

22 Senator Murkowski. We are talking apples and
23 oranges here. Let us vote on it.

24 The Chairman. Those in favor --

25 Senator Murkowski. Let us make a decision. That

1 is the best I can say.

2 The Chairman. Those in favor of the Rockefeller
3 amendment will vote aye. Those opposed vote no.

4 The Clerk will call the roll.

5 The Clerk. Mr. Hatch.

6 The Chairman. No, by proxy.

7 The Clerk. Mr. Murkowski.

8 Senator Murkowski. No.

9 The Clerk. Mr. Nickles.

10 Senator Nickles. No.

11 The Clerk. Mr. Gramm of Texas.

12 Senator Gramm. No.

13 The Clerk. Mr. Lott.

14 The Chairman. No, by proxy.

15 The Clerk. Mr. Jeffords.

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Thompson.

18 The Chairman. No, by proxy.

19 The Clerk. Ms. Snowe.

20 Senator Snowe. No.

21 The Clerk. Mr. Kyl.

22 Senator Kyl. No.

23 The Clerk. Mr. Baucus.

24 Senator Baucus. No.

25 The Clerk. Mr. Rockefeller.

1 Senator Rockefeller. Aye.

2 The Clerk. Mr. Daschle.

3 Senator Daschle. Aye, by proxy. Potentially aye,

4 by proxy. [Laughter].

5 The Clerk. Mr. Breaux.

6 Senator Breaux. No.

7 The Clerk. Mr. Conrad.

8 Senator Conrad. No.

9 The Clerk. Mr. Graham of Florida.

10 Senator Graham. No.

11 The Clerk. Mr. Bingaman.

12 Senator Bingaman. No.

13 The Clerk. Mr. Kerry.

14 Senator Baucus. I have no, by proxy.

15 The Clerk. Mr. Torricelli.

16 Senator Torricelli. No.

17 The Clerk. Mrs. Lincoln.

18 Senator Lincoln. No.

19 The Clerk. Mr. Chairman.

20 The Chairman. No.

21 The Clerk. Mr. Chairman, the tally 2 ayes, 18

22 nays.

23 The Chairman. Well, it is obviously defeated.

24 I think the distinguished Democratic leader has two

25 amendments. Would he like to offer one of them?

1 Senator Daschle. Thank you, Mr. Chairman. Mr.
2 Chairman, I was not here for the earlier discussion.
3 But the first amendment, I am not sure I know which
4 number it is. It would make permanent the R&D tax
5 credit.

6 I offer it because, as I say, unfortunately here
7 during the earlier discussion. But basically, we know
8 that there can be no better illustration of sending this
9 clear message of the importance of research and
10 development to companies all over all this country who
11 rely on some degree of consistency, some continuity.

12 Without that continuity, it is very hard for them to
13 budget. It is very hard for them to come to any kind of
14 a conclusion as to what tax treatment they will see in
15 the out years.

16 They have a pretty good sense that these credits are
17 going to be extended, but they are left really with an
18 open question, time in time out, year in and year out.
19 We all know what we have to do. We have to make this
20 permanent. I cannot think of a better time to make it
21 permanent than right now with this bill.

22 And the reason it is important to do it in committee
23 and not on the floor is that, as we know, it is subject
24 to a 60-vote point of order on the floor. This would
25 not be viewed as a germane amendment on the floor.

1 Now, who knows? Maybe, it would generate 60 votes.
2 I do not think we ought to take that chance. I think we
3 ought to vote for it in the committee. Put it in the
4 mark here.

5 On a bipartisan basis, let us do it. Let us make it
6 part of the mark here so we do not have the problem of
7 germaneness, so we do not have the problem of points of
8 order on the Senate floor.

9 And so I would hope that my colleagues would support
10 the amendment and do what we know has to be done with
11 regard to this credit.

12 Senator Nickles. Mr. Chairman.

13 The Chairman. Senator Nickles.

14 Senator Nickles. I do not have a copy of the
15 amendment.

16 The Chairman. All it said is delete the repeal of
17 the estate tax and modify the phase-in of the estate tax
18 rates.

19 Do we have a copy?

20 Senator Daschle. Mr. Chairman, this does not touch
21 the repeal of the estate tax.

22 The Chairman. That is 63 is. I have 63 here.

23 Senator Nickles. What amendment is it?

24 The Chairman. Well, we found out there is two 63s.
25 Scale back the estate tax cuts.

1 Senator Nickles. How is that? I just want to know
2 what it is. So the R&D tax rate, and correct me if I am
3 wrong, staff, that is about \$50 billion. And the estate
4 tax cuts that we have in the bill are 150.

5 Mr. Sullivan. 150.

6 Senator Nickles. But is that scaled back estate
7 tax?

8 Senator Daschle. Mr. Chairman, I would just allow
9 the staff and others to make whatever modifications to
10 the estate tax however so slight they would be to
11 accommodate this amendment. So we leave it open, but we
12 would just reduce the rising of the estate tax.

13 Senator Nickles. Mr. Chairman.

14 The Chairman. Senator Nickles.

15 Senator Nickles. Mr. Chairman, I would urge our
16 colleagues not to do this. One, we do not know what we
17 are doing because, oh, the staff, they will fix the
18 estate tax and take \$50 billion, now take over a third
19 of it out which basically most of the money that we have
20 in estate tax is by increasing the unified credit
21 gradually up to \$1 million, \$2 million, \$3 million, \$4
22 million, and then final repeal. I do not know if this
23 means that we are eliminating repeal. I do not know if
24 this means that we are not going to go up to \$3 million
25 or we are not going to go up to \$4 million and stretch

1 it out.

2 But I will tell you one thing free the enterprise
3 perspective, this, the estate tax repeal is one of the
4 most positive things we can do. To say that we want to
5 reduce it and whack it back significantly in order to
6 put in the R&D credit, one, R&D credit does not even
7 expire until I believe, correct me if I am wrong, June
8 of 2004.

9 Mr. Prater. Correct, yes.

10 Senator Nickles. I mean, this still has another 3
11 years to run. And it will be extended at some point,
12 possibly on the floor that Senator Hatch was talking
13 about in trying to find a suitable offset.

14 And the offset proposed by Senator Daschle, in my
15 opinion, is certainly not suitable. And I would just
16 urge my colleagues to vote no on this amendment. And we
17 will see if we can find a vehicle or a way of making the
18 R&D tax credit permanent at a later time, maybe on the
19 floor of the Senate on this bill, maybe on another bill.

20 Senator Gramm. Mr. Chairman, just one comment.

21 The Chairman. I will call on Senator Rockefeller
22 and then Senator Gramm.

23 Senator Gramm. All right.

24 Senator Rockefeller. The reason why I think this
25 is important to do is because I think this has a great

1 The \$150 billion that we are carrying in our bill
2 goes in an overwhelmingly preponderance to raising the
3 deduction from 675 to \$1 million, to \$2 million, to \$3
4 million, to \$4 million.

5 The only way that you can do this amendment is if
6 you are willing to lower that deductible level, it seems
7 to me, down, reducing it by about a third. Now, you
8 come down to a decision it seems to me. And that is, we
9 have a tax provision in the R&D tax credit that does not
10 expire for 3 years.

11 Is it worth it, forcing small businesses and forcing
12 family farmers to be in a position where when they die
13 after having worked a lifetime to build up their farm,
14 to build up their business, that their children are
15 going to have to sell it to pay death taxes that we did
16 not give them relief from, even if the business is worth
17 \$4 million?

18 I think that this is a bad amendment and that we
19 ought to defeat it. I also think it attacks the very
20 heart of what the compromise is on this bill. I know it
21 is very hard for our colleagues to vote against the
22 Democratic leader, just as it is hard for us to vote
23 against the Republican leader.

24 But I think with this amendment, we are getting down
25 to the point where we either have a deal or we do not

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25 to the point where we either have a deal or we do not

1 have a deal.

2 The Chairman. Senator Kerry.

3 And then, I would like a vote after you get done
4 speaking.

5 Senator Kerry. Well, I will be very brief, Mr.
6 Chairman.

7 The Chairman. All right.

8 Senator Kerry. Now, obviously, I disagree with the
9 judgment that the Senator from Texas has made about what
10 happens here as a result of this. I mean, if you
11 sufficiently, which the minority leader has done, take
12 an adequate component of the rate each year and then
13 ultimately to repeal, you are covering the full amount.
14 And you do not have to change the level of the deduction
15 at all.

16 I do not understand why you are suggesting you
17 would. It does not change the amount of the credit.

18 Senator Gramm. If he does not know what he did,
19 how could you know what he did?

20 Senator Kerry. Well, I have just looked at it.
21 And I do not know how you can assert that he does not
22 know. I mean, is there a secret that I have not been
23 let in on here, Mr. Leader?

24 Senator Daschle. Well, Mr. Chairman, let me just
25 reply very briefly.

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22 Democratic leader, just as it is hard for us to vote
23 against the Republican leader.

24 But I think with this amendment, we are getting down
25 to the point where we either have a deal or we do not

1 The Chairman. Senator Daschle.

2 Senator Kerry. Well, let me just finish the one
3 point I have. And then, I wanted to give you the answer
4 to that part of it.

5 I just wanted to say, I always hear a lot of friends
6 across the aisle saying how important it is for us to
7 perhaps run the government more like a business. Well,
8 businesses like to plan. And there is not a business in
9 the country that is comfortable with the notion that
10 every year when they are trying to lay the long-term R&D
11 program, they do not know if they are going to have
12 credit there for it or not.

13 I mean, the worse thing that we do is keep coming
14 back and changing these kinds of things all the time.
15 But if you say to our tech community, which is really
16 our future, that the capacity for long-term planning is
17 there and they are going to be able to count on this out
18 into the future, they are going to attract a lot more
19 certainty to the marketplace which produces a lot more
20 investment.

21 And that is precisely what we need to do at this
22 time, a lot more than we need to repeal the upper end of
23 the estate tax. We would like to see the rates lower.
24 We have all agreed with that.

25 But we do not get rid of that. We can still lower

1 it well below the confiscatory level that a lot of us
2 feel that it is at today and not do injury to the
3 capacity to encourage R&D which is the backbone of our
4 future.

5 The Chairman. Senator Daschle.

6 Senator Daschle. Mr. Chairman, I will be very
7 brief. Let me just say that there is no issue of
8 greater importance to the technology community, to the
9 industry itself than this amendment and this issue.

10 They have said over and over again, make the R&D
11 credit permanent. We do not like the uncertainty. It
12 is a disaster for us.

13 And I do not know how speeches my colleagues have
14 given, but I have given quite a few, saying that if
15 there is one thing we could do to help you would be to
16 make it permanent. It is almost an applause line
17 guaranteed in every speech.

18 Well, here is our opportunity. How could we
19 possibly say no, given the comprehensive nature of this
20 tax cut, say no to the technology industry when we know
21 it is as important as it is?

22 And how do we do it? We simply shave off largely a
23 little bit of the estate tax phase-in of the repeal as
24 we phase it in over the next 10 years. This is a 10-
25 year bill. And we know 3 years from now, the R&D tax

1 credit is going be phased out, eliminated.

2 So with that knowledge, why would we not make it
3 permanent now when we have the chance? That is all this
4 amendment does now. I hope my colleagues will support
5 it.

6 The Chairman. As we have worked to put this mark
7 together, there is no provision of this bill that has
8 had more bipartisan cooperation and good faith
9 negotiation than the estate tax provisions of it.

10 Senator Lincoln on one hand, Senator Kyl on the
11 other, and probably a lot of other people have been
12 involved, and just no more commitment on any part of
13 this bill to making something work and getting together
14 and getting bipartisan together in this provision. And
15 I hope that we will not destroy that part of it by
16 adopting this amendment.

17 Senator Hatch and then Senator Kyl. Then, I want to
18 vote.

19 Senator Hatch. Mr. Chairman, since Senator
20 Danforth left, I have been the prime sponsor of the R&D
21 tax credit bill. And I was carrying it every time.
22 There were times when I had take it on my side to get it
23 passed on this committee. And I embarrassed a couple of
24 my chairmen.

25 And now, that we have it, it is going to pass no

1 matter what happens. I do not want to have it pass it
2 in this context without further study of which offsets
3 to take. And I certainly do not want to take an offset
4 out of the death taxes.

5 Now, I personally prefer to have this bill brought
6 up on the floor. And I know it is going to pass there.
7 I am going to do everything in my power to see that it
8 is passed there. And hopefully, we can find the proper
9 offset to be able to justify the passage. But whatever
10 it takes, it is going to pass.

11 I do not want to vote for this tonight nor do I want
12 to have it leveraged up against the estate tax bill. We
13 have worked very hard at trying to do what is right
14 here. I believe we can win on the floor, especially
15 with the distinguished minority leader support. I do
16 not think you need to do it here.

17 I think basically it is disruptive to do it here. I
18 think we have to find a better offset than the estate
19 tax offset. And since it is basically my bill, I would
20 prefer to bring it up on the floor.

21 Now, I cannot stop the minority leader from doing
22 this. He is too good of a friend for me to even try.
23 But I am going to have to vote against it tonight,
24 against my own bill when I am saying we are going to
25 pass it on the floor. And I do not want to do that, but

1 I will.

2 And I really feel badly about it because nobody
3 believes in a permanent extension of the R&D tax credit
4 more than I do. And I do not want to see politics
5 played with it. And I think we have the votes on the
6 floor to pass it. I think that is the appropriate place
7 to do it. And I think it gives us some time to maybe do
8 it in an appropriate and proper way.

9 But I hope if the distinguished Senator from the
10 Dakotas wants to have us vote ---- I was going to say
11 South Dakota, but he looks like the two from the North
12 Dakota. No, I am just kidding.

13 But if he wants to do that, I am going to vote
14 against it. And that is the reason I have to vote
15 against it. And I hope we will have a final vote on
16 this on the floor. I am counting on everybody on my
17 side voting for it when the time comes on the floor.

18 Senator Daschle. The Senator will retract, I hope,
19 his statement he just made about this being a matter of
20 playing politics.

21 Senator Hatch. Did I say that?

22 Senator Daschle. Yes, you did.

23 The Chairman. He withdraws. He retracts that
24 statement. [Laughter].

25 Senator Kyl.

1 Senator Hatch. My Chairman can always retract my
2 statements for me, but I did not mean it quite that way.

3 Senator Kyl. Thank you, Mr. Chairman. Just three
4 quick points, the first of which has already been made
5 that no part of this bill has been more delicately
6 balanced than the estate tax provisions. And I really
7 do not think we want to be monkeying with them, at least
8 to the tune of \$48 billion.

9 The second point is that the distinguished minority
10 leader talks about the pause line. And I know he is
11 right about this, but the pause meter goes about twice
12 as far with twice as many folks when you talk about
13 relief on the death tax, particularly the small
14 businessmen and farms.

15 And finally, and this is a bet that I would be happy
16 to take with the distinguished minority leader who says
17 that this is going to expire in three years, I do not
18 think so. But I agree with those who say that this is
19 going to be permanent.

20 I am not sure whether it is legal for us to make a
21 bet on something like this. But let us check it out.
22 And if it is, I would be more --

23 The Chairman. I think it is immoral anyway.

24 Senator Kyl. All right. Well, in that case, I
25 retract it. [Laughter].

1 Thank you very much, Mr. Chairman.

2 The Chairman. Those in favor of the Daschle
3 amendment will vote aye. Those opposed, vote no.

4 The Clerk will call the roll.

5 The Clerk. Mr. Hatch.

6 Senator Hatch. No.

7 The Clerk. Mr. Murkowski.

8 The Chairman. No, by proxy.

9 The Clerk. Mr. Nickles.

10 Senator Nickles. No.

11 The Clerk. Mr. Gramm of Texas.

12 Senator Gramm. No.

13 The Clerk. Mr. Lott.

14 The Chairman. No, by proxy.

15 The Clerk. Mr. Jeffords.

16 The Chairman. No, by proxy.

17 The Clerk. Mr. Thompson.

18 The Chairman. No, by proxy.

19 The Clerk. Ms. Snowe.

20 Senator Snowe. No.

21 The Clerk. Mr. Kyl.

22 Senator Kyl. No.

23 The Clerk. Mr. Baucus.

24 Senator Baucus. No.

25 The Clerk. Mr. Rockefeller.

1 Senator Rockefeller. Aye.

2 The Clerk. Mr. Daschle.

3 Senator Daschle. Aye.

4 The Clerk. Mr. Breaux.

5 Senator Breaux. Aye.

6 The Clerk. Mr. Conrad.

7 Senator Conrad. Aye.

8 The Clerk. Mr. Graham of Florida.

9 Senator Graham. Aye.

10 The Clerk. Mr. Bingaman.

11 Senator Bingaman. Aye.

12 The Clerk. Mr. Kerry.

13 Senator Kerry. Aye.

14 The Clerk. Mr. Torricelli.

15 Senator Torricelli. No.

16 The Clerk. Mrs. Lincoln.

17 Senator Lincoln. No.

18 The Clerk. Mr. Chairman.

19 The Chairman. No.

20 The Clerk. Mr. Chairman, the tally is 7 ayes, 13

21 nays.

22 The Chairman. The amendment is defeated.

23 Would Senator Daschle like to take up his last

24 amendment?

25 Senator Daschle. Mr. Chairman, I think I am going

1 to wait for the floor for the other amendment.

2 The Chairman. All right. Then, I will go to
3 Senator Conrad.

4 Senator Conrad. Mr. Chairman, first of all, I want
5 to thank you for the fairness with which you have
6 conducted this mark-up.

7 The Chairman. Thank you.

8 Senator Conrad. I think you have just done an
9 exceptional job of being fair in this mark-up, but I
10 want to indicate that this will be the last amendment
11 that I offer.

12 Now, that means, Senator Nickles, you have to vote
13 for it. [Laughter].

14 Senator Gramm. We will actually be more fair more
15 often.

16 Senator Conrad. No. Mr. Chairman, I think you
17 have conducted this mark-up in a very professional and a
18 very fair way.

19 The Chairman. Thank you very much.

20 Senator Conrad. Obviously, I do not agree with the
21 outcome here, but I do not think that any of us could
22 have asked for a better Chairman in terms of conducting
23 this in a way that is even handed.

24 Mr. Chairman, my next amendment and my last
25 amendment here deals with the alternative minimum tax.

1 Most people listening might not know what the
2 alternative minimum tax is, but it is a special tax that
3 was designed to make certain that the super rich do not
4 avoid tax liability altogether with excess credits
5 deductions and other tax breaks.

6 It requires certain pairs to file a very
7 complicated, second calculation of their tax liability.

8 Senator Nickles. Senator, what amendment number is
9 this? You have so many.

10 Senator Conrad. It is number 24.

11 Senator Nickles. Thank you.

12 Senator Conrad. It is 99 in the longer list, my
13 amendment number 24, number 99 in the longer list.

14 Because we have not provided for adjustments to the
15 alternative minimum tax to reflect inflation, more and
16 more middle class taxpayers are being subject to the
17 alternative minimum tax. I think it is very important
18 to understand that as we sit here today, only 1.5
19 million taxpayers are caught up in the alternative
20 minimum tax.

21 But if the Chairman's mark passes as is, nearly 40
22 million taxpayers will be caught up in the alternative
23 minimum tax. To his credit, the Chairman includes a
24 provision to adjust the alternative minimum tax, but
25 oddly this provision sunsets just as the alternative

1 minimum tax problems explodes, as the upper bracket rate
2 cuts kick in.

3 As a result, the number of taxpayers subject to the
4 alternative minimum tax will nearly double from 9.2
5 million in 2006 to 15.5 million in 2007 and then jump by
6 another 12 million to 27 million in 2008. And by 2011,
7 when the cuts are fully phased in, nearly 40 million
8 taxpayers will be subject to this tax designed for the
9 super rich, even though most of them are not wealthy.

10 This shows, Mr. Chairman and members of the
11 committee, that we are headed to having almost 40
12 million people covered by the alternative minimum tax.
13 The sunset in the mark purely and simply hides the true
14 cost of providing alternative minimum tax relief.

15 Here is what it looks like. It is really the cliff
16 effect enlarged. Here we are. We are going up, up, up
17 in terms of number of people affected. And then, it is
18 sunsetted. So we hide the true cost of adjusting the
19 alternative minimum tax.

20 I am simply saying, let us not do that. Let us not
21 put in place the upper rate reductions that go into
22 effect in 2007. Use that money to make certain that
23 millions, 40 million taxpayers do not get caught up in
24 the alternative minimum tax.

25 That is what my amendment does, Mr. Chairman. It

1 simply strikes the sunset to ensure that we account
2 properly for the cost of reforming the alternative
3 minimum tax and pays for this change by reducing the top
4 rate cuts scheduled for 2007.

5 The Chairman. We have already addressed why the
6 AMT relief continues for five years. Obviously, it is
7 to provide time to fix the AMT the right way.

8 And I do not think the Senator's amendment is the
9 right way to fix it. You obviously are concerned about
10 a very bad aspect of the tax code that probably at least
11 should have been indexed in the first place.

12 But it is very important that we look at who pays
13 this rate. What I think is forgotten is that most of
14 those who pay the top marginal rates are small business
15 owners or farmers who operate their businesses as sole
16 proprietorships, partnerships, S corporations. The
17 income of these types of entities are reported directly
18 on the individual tax returns.

19 The Treasury Department recently released a study
20 showing that under the President's proposal, 77 percent
21 of the money going to cut the top 39.6 percent rate
22 would go to small business owners and entrepreneurs.

23 These small business owners make up 63 percent of
24 the tax returns that would benefit from reducing the top
25 rate. Small business owners and entrepreneurs are the

1 engines that we know grow our economy. These are the
2 people that will plow their tax relief back into their
3 business, increasing wages, and hiring more people.

4 Senator Conrad. Mr. Chairman.

5 The Chairman. Yes.

6 Senator Conrad. You are about to retract my
7 previous comments. [Laughter].

8 The Chairman. I think that one of the things that
9 I want to remind the Senator from North Dakota, and this
10 is obviously going to change his mind towards the bill,
11 this rate structure that we ended up with in this
12 compromise plus the compromise on the estate tax is
13 really the backbone of what we are trying to accomplish.
14 And that is why we have a bipartisan effort. And I
15 think this will hurt that bipartisan effort. So I ask
16 people to vote no.

17 Can we vote then?

18 Those in favor of the Conrad amendment, vote aye.

19 Those opposed, vote no.

20 The Clerk will call the roll.

21 The Clerk. Mr. Hatch.

22 Senator Hatch. No.

23 The Clerk. Mr. Murkowski.

24 The Chairman. No, by proxy.

25 The Clerk. Mr. Nickles.

1 Senator Nickles. No.
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15 Senator Baucus. No.
16 The Clerk. Mr. Rockefeller.
17 Senator Rockefeller. Aye.
18 The Clerk. Mr. Daschle.
19 Senator Daschle. Aye.
20 The Clerk. Mr. Breaux.
21 Senator Breaux. No.
22 The Clerk. Mr. Conrad.
23 Senator Conrad. Aye.
24 The Clerk. Mr. Graham of Florida.
25 Senator Graham. Aye.

1 The Clerk. Mr. Bingaman.

2 Senator Bingaman. Aye.

3 The Clerk. Mr. Kerry.

4 Senator Kerry. Aye.

5 The Clerk. Mr. Torricelli.

6 Senator Baucus. No, by proxy.

7 The Clerk. Mrs. Lincoln.

8 Senator Lincoln. Aye.

9 The Clerk. Mr. Chairman.

10 The Chairman. No.

11 The Clerk. Mr. Chairman, the tally is 7 ayes, 13
12 nays.

13 The Chairman. Accordingly, the amendment is
14 defeated.

15 I would now go to Senator Graham of Florida.

16 Senator Graham. Mr. Chairman, I would like to call
17 up my amendment number 5. This is an amendment which
18 might end up in the stack of Byrd potential items
19 because it does not have a scoring.

20 It would provide a point of order in Senate against
21 consideration of any bill, resolution, amendment,
22 motion, or conference report which uses funds in the
23 Medicare hospital insurance trust fund for any purpose
24 other than Medicare Part A benefits. It would take 60
25 votes to overcome point of order.

1 I thought this was a good amendment when this
2 meeting started. I think it is a better amendment now
3 at the end of several hours. We have just sidetracked
4 research and development which has an estimated cost of
5 \$46 billion, all energy bills.

6 And we were unable to get an estimate of what their
7 10-year cost might be, the AMT fix which we know we are
8 going to have to have after the 2006.

9 What I see coming is a series of proposals outside
10 the bill that we are now considering which will
11 substantially exceed the \$1.35 trillion that we agreed
12 to allocate for the purpose of tax reductions. And one
13 of the targets, as we bust the \$1.35 trillion, is going
14 to be the Part A Medicare trust fund, a trust fund which
15 is already in shaky condition.

16 The estimate is that it is going to begin to go
17 negative in the year 2016. It has a shorter half life
18 of solvency than the Social Security trust fund.

19 Now, the budget resolution that we passed in a
20 number of areas has moratory language that says we are
21 going to do good things by protecting just Part A trust
22 fund, but we do not have any enforcement mechanism.

23 If the Senate were serious about putting that
24 Medicare Part A trust fund off limits, we ought to give
25 a big howitzer as a means of enforcing that commitment.

1 And I am suggesting that this point of order and the
2 requirement of 60 votes to overcome it would be that big
3 howitzer.

4 I have letters of support from organizations, such
5 as the American Health Care Association, the American
6 Hospital Association, the National Committee to Preserve
7 Social Security and Medicare, the Federation of American
8 Hospitals, Family USA, and the National Hospice Care
9 Association.

10 Mr. Chairman, I urge the adoption of this protective
11 amendment.

12 Senator Gramm. Mr. Chairman.

13 The Chairman. Senator Gramm.

14 Senator Graham. Mr. Chairman, let me say that this
15 amendment is subject not to a Byrd point of order, but
16 to a budget point of order. It would have been germane
17 if offered in the Budget Committee. It might have been
18 germane on the budget, since the budget did have
19 language related to this.

20 But if this amendment is adopted on this bill, and
21 we bring this bill to the floor of the Senate, it is
22 subject to a budget point of order. It would have to
23 get 60 votes to break that point of order.

24 So I think the amendment ought to be rejected.

25 Senator Hatch. Mr. Chairman.

1 The Chairman. The Senator from Utah.

2 Senator Hatch. There is no need to establish this
3 point of order to protect the Part A trust fund because
4 our budget resolution already does so. As the
5 distinguished Senator from Texas has said, we went the
6 extra mile.

7 We configured this tax cut so that it will not
8 require us to use Medicare Part A funds for other
9 Medicare purposes, such as drug coverage. So we have
10 protected Part A.

11 Over the next 10 years, our budget resolution
12 provides for over \$3.5 trillion to be spent on Medicare.
13 That is more than 2.5 times the size of the tax cut.
14 Included in that total is up to \$300 billion to
15 strengthen and improve Medicare, including coverage of
16 prescription drugs, all of it from bond budget surplus.

17 So there is no need for us to tell working people
18 that Medicare is keeping them from getting tax relief.
19 There is room for both. I think our budget proves it.
20 And I hope we can vote down this amendment.

21 Senator Graham. Mr. Chairman.

22 The Chairman. Senator Graham.

23 Senator Graham. Just to close, I think this is a
24 lion in the sand amendment. If you really, really deep
25 in your heart believe that we are committed to

1 protecting the Part A trust fund which is the trust
2 fund, of course, that pays for basic hospital benefits,
3 it is not a trust fund which is supported by general
4 revenue or by beneficiary's premiums.

5 This is what you pay every time you get a paycheck
6 and have 1.45 percent taken out to assure that when you
7 reach the age of eligibility, you will have a partner to
8 help you pay part of your hospital bills.

9 I think that partnership is placed very much at
10 risk, at risk by the actions that we are taking tonight
11 by deferring what are clearly popular, likely to be
12 adopted, and extremely expensive additional tax cuts
13 beyond the parameters that we have agreed to.

14 I believe that we ought to send a strong signal to
15 our colleagues and to those who are looking towards this
16 as an important part of their medical security that we
17 are going to be faithful to our commitment or at least
18 it will take 60 members of the U.S. Senate to break that
19 trust.

20 The Chairman. I ask that we vote against this.
21 And I would say to vote no for the Graham amendment if
22 you are against, yes if you are for it.

23 The Clerk will call the roll.

24 The Clerk. Mr. Hatch.

25 Senator Hatch. No.

1 The Clerk. Mr. Murkowski.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Nickles.
4 Senator Nickles. No.
5 The Clerk. Mr. Gramm of Texas.
6 Senator Gramm. No.
7 The Clerk. Mr. Lott.
8 The Chairman. No, by proxy.
9 The Clerk. Mr. Jeffords.
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Thompson.
12 The Chairman. No, by proxy.
13 The Clerk. Ms. Snowe.
14 Senator Snowe. No.
15 The Clerk. Mr. Kyl.
16 Senator Kyl. No.
17 The Clerk. Mr. Baucus.
18 Senator Baucus. No.
19 The Clerk. Mr. Rockefeller.
20 Senator Rockefeller. Aye.
21 The Clerk. Mr. Daschle.
22 Senator Daschle. Aye.
23 The Clerk. Mr. Breaux.
24 Senator Breaux. No.
25 The Clerk. Mr. Conrad.

1 Senator Daschle. Senator Conrad's proxy votes aye.

2 The Clerk. Mr. Graham of Florida.

3 Senator Graham. Aye.

4 The Clerk. Mr. Bingaman.

5 Senator Bingaman. Aye.

6 The Clerk. Mr. Kerry.

7 Senator Kerry. Aye.

8 The Clerk. Mr. Torricelli.

9 Senator Torricelli. No.

10 The Clerk. Mrs. Lincoln.

11 Senator Lincoln. No.

12 The Clerk. Mr. Chairman.

13 The Chairman. No.

14 The Clerk. Mr. Chairman, the tally is 6 ayes, 14
15 nays.

16 The Chairman. The amendment is clearly defeated.

17 Senator Graham, do you have one more amendment?

18 Senator Graham. Well, I have at least one more,
19 number 19.

20 The Chairman. Am I right that when Senator Graham
21 is done, then we are ready for a final vote?

22 Senator Kerry. No, Mr. Chairman.

23 The Chairman. Senator Kerry has an amendment.

24 Senator Kerry. I have, but I do not believe that
25 it will take too long. You go ahead and finish up.

1 The Chairman. Senator Graham, please proceed.

2 Senator Graham. Mr. Chairman, since 1924, there
3 has been a shared arrangement between the Federal
4 Government and States as it relates to the estate tax
5 collection.

6 The numbers are approximately this, the average
7 annual estate tax paid in the United States is \$50
8 billion. Of that amount, 80 percent stays at the
9 federal level, 20 percent or \$10 billion goes to the
10 States as a credit.

11 This Chairman's mark provides that there is a
12 significant difference in the phase-out rate of the
13 State's share and the Federal Government's share of the
14 estate tax.

15 The State's share is as follows. The State share is
16 cut 50 percent in the year 2002. That is next year. It
17 is cut by 55 percent in 2003, 56 percent in 2004, and
18 fully repealed in 2005. The federal share, on the other
19 hand, is not fully repealed until the year 2011.

20 So what we are essentially saying is this
21 partnership of over 75 years between the States and the
22 Federal Government in the estate tax, we are now
23 unilaterally about to abdicate and say that we are going
24 to cut the State share in the year 2005. Yet, we will
25 continue now to get 100 percent of the estate tax until

1 the year 2011.

2 My amendment would cause both the State and the
3 federal share to repeal on the same schedule so that we
4 would continue an equal share of the pain of repeal in
5 terms of loss revenue, as we have the equal share of the
6 funds during the 75 years that it has been existence.

7 To me, there is a real irony in the fact that the
8 bill that is on the floor of the Senate today is the
9 Elementary and Secondary Education Act. We are now
10 into, what, our second week of debating this bill.

11 We provide the Federal Government 7.7 percent of the
12 funding for education. On average, the States provide
13 52 percent, with local governments providing the
14 remaining 40.3 percent.

15 We are cutting the revenue source of the primary
16 level of government in our federal system which funds
17 education, that is State governments. I think we are
18 doing this in a disrespectful and needless way.

19 I do not happen to favor repeal of the estate tax,
20 but this amendment maintains the repeal by the same date
21 as in the Chairman's mark. But it provides that the
22 States and the Federal Government will both share
23 exactly the same in terms of the pace of that repeal.

24 I wish somebody would give me a policy rationale as
25 to why we should zero out the State's share in the year

1 2005 while we continue to benefit from the estate tax
2 until the year 2011.

3 Senator Gramm. Mr. Chairman.

4 Senator Baucus. Senator Gramm.

5 Senator Gramm. Mr. Chairman, let me make it clear,
6 States have the right to impose any death tax they want
7 to impose. So if they want to raise the estate tax as
8 our bill is put into place, they have a right to do
9 that.

10 Any State in the union can pass any law it chooses
11 with regard to estate taxes, as long as the objective is
12 raising revenues. I think they can run into other
13 problems if they had other objectives.

14 So I would just reiterate the obvious that at this
15 very late hour, we spent all this time putting together
16 a death tax provision that we could all support. And in
17 trying to get the numbers to work out, as you invariably
18 do in writing these bills, you do things at little bit
19 different rates. And obviously, when one is 80 percent
20 and one is 20 percent, I think that that obviously
21 affects the rate of phase-out.

22 But the point is, if a State wants the money, they
23 can impose a tax to collect it. Second, we put together
24 a delicate balance on the death tax. And I do not think
25 we ought to change it on the last or the next to the

1 last amendment of the day.

2 Senator Baucus. Anything further?

3 Senator Rockefeller. Mr. Chairman.

4 Senator Baucus. Senator Rockefeller.

5 Senator Rockefeller. I am just interested by the
6 phrase, we put together a delicate balance on the repeal
7 of the estate tax. It strikes me that you are going to
8 repeal it all the way. The delicacies escape me. The
9 gentleman has a right to his opinion, but I --

10 Senator Gramm. I thought it was delicate.

11 Senator Rockefeller. I thought the entire phrase
12 was interesting.

13 I strongly support the Senator's amendment. West
14 Virginia is not a particularly wealthy State. We get
15 \$21 million. That would be taken away from the estate
16 tax credit. And that would be taken away from us. That
17 is a lot of money in West Virginia. That is a big
18 problem for our Governor and our State legislature. And
19 I think the Senator's amendment is right on target.

20 Senator Daschle. Mr. Chairman, if I could comment?

21 Senator Baucus. Senator Daschle.

22 Senator Daschle. I want to go to the same points
23 that Senator Rockefeller with regard to the so-called
24 delicate balance. I think if there is one piece in this
25 package that probably generates greater controversy than

1 anything else is the estate tax.

2 There is nothing delicate about this. There is no
3 balance here. This is an outright repeal. And I would
4 think that most of my colleagues, at least on this side
5 of the aisle, oppose an outright repeal.

6 So for our colleagues on the other side that
7 continue to come back and say, well, this was some sort
8 of negotiated way with which to accommodate both sides
9 on the estate tax, it is not true.

10 There is no delicate balance. This is totally
11 imbalanced. This is a repeal that I think people on
12 both of sides of the aisle question.

13 So I also would challenge the language. We can
14 argue that it ought to be repealed. We can argue that
15 there is some advantages to doing whatever it is that
16 this bill does.

17 But to argue that it is some sort of a compromise, a
18 delicate balance is just inaccurate and I think not in
19 keeping with our understanding of what actually happened
20 in putting this bill together.

21 Senator Gramm. Mr. Chairman, could I just ask the
22 staff a question?

23 Senator Baucus. Senator Gramm.

24 Senator Gramm. Mr. Prater, how much did the estate
25 tax repeal provision proposed by the President cost over

1 10 years?

2 Mr. Prater. Around 270.

3 Senator Gramm. \$260 some billion, was it not?

4 Mr. Prater. Around 280, Senator Gramm.

5 Senator Gramm. 280, keep that number in your mind.

6 \$280 billion is what the President proposed in terms of
7 phase out of elimination of the death tax.

8 In trying to put together a bill to fund all these
9 other provisions, we went through, and I will use the
10 term again, a delicate negotiation process where we now
11 have the cost of repealing the estate tax down to what?

12 Mr. Prater. I believe, Senator, it is in the --

13 Senator Gramm. It is 150.

14 Mr. Prater. Right around 150.

15 Senator Kyl. 144.

16 Senator Gramm. All right. About \$144 billion. So
17 we have reduced the cost in half to accommodate all
18 these other things in the bill.

19 Senator Kerry. Would you yield for a question?

20 Senator Gramm. Yes.

21 Senator Kerry. When you say that you have reduced
22 the cost, you are talking about over the 10-year period.

23 Senator Gramm. I am talking about all the
24 revenues.

25 Senator Kerry. Well, lost revenues over 10 years.

1 Senator Gramm. For other things in the bill.

2 Senator Kerry. Over 10 years.

3 Senator Gramm. Well, I understand.

4 Senator Kerry. But in the eleventh year, it is
5 entirely repealed.

6 Senator Gramm. It is what?

7 Senator Kerry. Is it not entirely repealed?

8 Senator Gramm. Well, look, it is repealed. How
9 much cost is involved in the repeal? If we are just
10 going to have ---- if we are just going to get down to
11 figures, the cost of repeal is how much?

12 Senator Kerry. Go ahead.

13 Ms. Paul. Senator Gramm, the expected base line on
14 the estate gift tax for this 10-year period is roughly
15 \$410 billion. In addition to that, there would be some
16 interaction with the income tax.

17 Senator Gramm. No, no. Wait a minute. Stop now.
18 I am not asking that question.

19 Senator Kerry. You do not want that one, do you?

20 [Laughter].

21 Senator Gramm. You know at one time I did.

22 How much is our repeal provision in the bill cost?

23 We do it the last year. So how much does it cost?

24 Ms. Paul. Well, very little of it shows up in --

25 Senator Gramm. So virtually nothing. Is that

1 right?

2 Ms. Paul. \$2 billion.

3 Senator Gramm. \$.5 billion?

4 Ms. Paul. \$2 billion.

5 Senator Gramm. \$2 billion.

6 Ms. Paul. Right.

7 Senator Gramm. So the point is the cost here, if
8 you want to be totally honest, is raising the deductible
9 \$4 billion. That is where the cost is. That is \$4
10 billion. That is where the great bulk of the cost is
11 here.

12 And so this is a compromise. Obviously, we have
13 come down from 280 to 144. There has been a lot of
14 compromise.

15 Senator Graham. Can I ask a question of the staff?

16 Senator Baucus. The Senator from South Dakota is
17 the --

18 Senator Daschle. I will be brief. But let me just
19 say that this is a shell game. We do not know what the
20 cost of the estate tax repeal is. It is what our staff
21 has just said. It is over \$400 billion.

22 So for us to pretend somehow that we are cutting
23 back on the cost by moving the implementation of this
24 provision to the eleventh hour is ridiculous. We know
25 what it costs. So no one should be misled.

1 There is no balance here with regard to what we are
2 doing on the estate tax itself. The balance is just
3 that we have moved it back into the second 10 years
4 where we know that the cost is going to explode at the
5 very time we are going into the baby-boomer generation.
6 And they retire. And we are going to have less revenue.

7 So it is a remarkable thing that your colleagues are
8 trying to do here. They are simply hiding these costs.
9 And this is just one of the many examples of hidden
10 costs. The overall cost is estimated to be over \$4
11 trillion of this bill in the second 10 years.

12 So that is what is happening here. And it is why
13 our colleague and friend did not want the answer he got
14 from the staff. He knows what the real answer is. The
15 real answer is \$400 billion plus.

16 Senator Graham. Mr. Chairman, can I ask the staff?

17 Senator Baucus. The Senator from Florida.

18 Senator Graham. In the proposal that was sent to
19 us by President Bush, how did he phase out the estate
20 credit?

21 Ms. Paul. He phased it out on a proportional
22 basis. As the federal rates were coming down, he
23 proportionally would reduce the State death tax credits.

24 Senator Graham. So this great, delicate compromise
25 that we struck, about \$80 billion of the difference

1 between what is in this bill and what was in the
2 President's bill is the fact that we have essentially
3 stolen it early from the States.

4 So we ought to be very proud of how good we are. We
5 should have an abused spouse statute here to protect the
6 States, our spouse in this federal system from the kind
7 of abuse that has just been inflicted upon them.

8 Senator Kyl. Mr. Chairman.

9 Senator Baucus. Senator Kyl.

10 Senator Kyl. A quick point back to the amendment
11 in question rather than comments about what this tax
12 relief package is going to save the taxpayers 20 years
13 from now.

14 The State death tax credit was introduced largely in
15 response to complaints by people in the States that
16 there was an imposed federal estate tax. That is why
17 the States got a credit because the Federal Government
18 was imposing this new estate tax several decades ago.

19 So it only stands to reason that as we eliminate the
20 federal tax that the State credit should be eliminated
21 as well. I mean, that is the rationale for it.

22 Residents of every State would pay less in federal
23 taxes. And the States, as Senator Gramm pointed out,
24 would be free to continue or modify their own death
25 taxes as they choose.

1 Senator Graham. Well, let me say, Senator, that is
2 exactly what this amendment does. It is the President
3 Bush proposal that we will phase out the State credit
4 proportionally as we phase out the federal estate tax.

5 Now, there are 35 States which depend totally on the
6 State credit of the federal estate tax. We are going to
7 cut this tax by 50 percent in the year 2002.

8 Senator Kyl. No. The rate is going to come down.
9 We are not going to cut the tax by 50 percent. I wish
10 we were going to cut the tax by 50 percent.

11 Senator Graham. According to the summary that I
12 have, the Chairman's mark reduces the State tax credit
13 by 50 percent from present amounts in the year 2002.

14 Senator Kyl. I am sorry. I thought the Senator
15 from Florida was speaking of the federal tax.

16 Senator Graham. No.

17 Senator Kyl. I apologize for interrupting.

18 Senator Graham. Now, some of us have had
19 responsibility at the State level. The idea that
20 between May of 2001 and the fiscal year which begins on
21 October 1 of 2001, that the States are supposed to set
22 up their own estate tax mechanism, call a special
23 session legislature, and impose a State tax to replace
24 the very significant revenue hit that they are going to
25 take.

1 For instance, the State of Texas in the last year
2 for which I have numbers, the credit of the State of
3 Texas was \$249 million is what the State of Texas got in
4 fiscal year 2000. So half of that would be \$125
5 million. Even in a big and affluent State like Texas, I
6 would think \$125 million is not an insignificant number
7 to try to replace with just a matter of a few months'
8 notice this is not to happen to.

9 All I am saying is whatever you feel about the
10 repeal of the estate tax, there is no acceptable policy
11 rationale for us doing this to the States. We are
12 raping the States in the way we are treating their
13 credit. And I do not believe has or can make a
14 defensible policy argument for this treatment.

15 The Chairman. Those in favor of the Graham
16 amendment will vote aye. Those opposed, vote no.

17 The Clerk will call the roll.

18 The Clerk. Mr. Hatch.

19 Senator Hatch. No.

20 The Clerk. Mr. Murkowski.

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Nickles.

23 Senator Nickles. No.

24 The Clerk. Mr. Gramm of Texas.

25 Senator Gramm. No.

1 The Clerk. Mr. Lott.
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Jeffords.
4 Senator Jeffords. No.
5 The Clerk. Mr. Thompson.
6 The Chairman. No, by proxy.
7 The Clerk. Ms. Snowe.
8 Senator Snowe. No.
9 The Clerk. Mr. Kyl.
10 Senator Kyl. No.
11 The Clerk. Mr. Baucus.
12 Senator Baucus. No.
13 The Clerk. Mr. Rockefeller.
14 Senator Rockefeller. Aye.
15 The Clerk. Mr. Daschle.
16 Senator Daschle. Aye.
17 The Clerk. Mr. Breaux.
18 Senator Breaux. No.
19 The Clerk. Mr. Conrad.
20 Senator Daschle. Senator Conrad votes aye, by
21 proxy.
22 The Clerk. Mr. Graham of Florida.
23 Senator Graham. Aye.
24 The Clerk. Mr. Bingaman.
25 Senator Bingaman. Aye.

1 The Clerk. Mr. Kerry.

2 Senator Kerry. Aye.

3 The Clerk. Mr. Torricelli.

4 Senator Torricelli. No.

5 The Clerk. Mrs. Lincoln.

6 Senator Lincoln. No.

7 The Clerk. Mr. Chairman.

8 The Chairman. The Chairman votes no.

9 The Clerk. Mr. Chairman, the tally is 6 ayes, 14
10 nays.

11 The Chairman. Accordingly, the amendment is
12 defeated.

13 I now go to the Senator from Massachusetts.

14 Senator Kerry. Thank you, Mr. Chairman. Mr.
15 Chairman, I know the hour is late and people want to
16 have a final vote. And I also obviously recognize sort
17 of where we are headed here in terms of outcome. So I
18 do not want to belabor either the issues or delay my
19 colleagues.

20 But I think we may be able to avoid votes on these
21 if I could get the cooperation of the chair and the
22 ranking member on each of these. There are actually
23 three amendments. I will try to go through them very,
24 very quickly.

25 But I am confident that these are amendments which

1 will interest everybody on the committee. And I hope we
2 can find a way to work through them in the course of the
3 next days before we go to the floor.

4 The Chairman. These are amendments that you will
5 not take to a vote then at this meeting.

6 Senator Kerry. I beg your pardon.

7 The Chairman. These are amendments that you will
8 not take to a vote.

9 Senator Kerry. No. I want to see how you respond
10 to them.

11 The Chairman. All right.

12 Senator Kerry. If I do not need to take them to a
13 vote, I will not.

14 The Chairman. All right.

15 Senator Kerry. If the Chair will cooperate, I
16 think we may be able to avoid that.

17 One is amendment number 156. Last year, Senator
18 Furst and I introduced major legislation which we passed
19 in the Senate on AIDS. In fact, it was the first
20 significant effort that the Senate and the Congress has
21 made with respect to the AIDS issue.

22 One component of our legislation, which awaited a
23 vehicle where we were not able to find one, was that
24 component which sought to provide a tax credit for the
25 research and development on vaccine research. It is

1 different from the R&D research on the 20 percent normal
2 one.

3 But I would like to ask, Mr. Chairman, since we have
4 put that R&D issue off for the floor and Senator Hatch
5 is confident that we can pass that, I would like to ask
6 your cooperation and Senator Baucus' cooperation to see
7 if we ---- this is a cost of \$2.6 billion total.

8 And if we could try to include the higher tax credit
9 for qualified research expenses to develop the micro
10 message for HIV and vaccines for TB for malaria TB and
11 HIV, that will help complete the task that we set out to
12 do in the Kerry-Furst bill last year. And I would like
13 to ask your help in tying that if we could to the R&D
14 credit when we get to the floor.

15 The Chairman. Just a minute.

16 Senator Kerry. The problem in developing the
17 vaccine, Mr. Chairman, has been that there is no --

18 The Chairman. Well, I will put it in this context.
19 First of all, my staff was telling me that some of your
20 amendments had some verbiage problems. And I did not
21 see that on this one.

22 Senator Kerry. No, those are the two.

23 The Chairman. I wanted to check on that.

24 Senator Kerry. Those are the two amendments.

25 The Chairman. Could I answer your question in this

1 context? I told Senator Hatch that we were going to
2 work with him. I did not want to give an answer. But
3 if this is satisfactory to you, if we move forward with
4 R&D on the floor, and I think I should always say if
5 because I do not know what the offsets are going to be
6 and I in good faith pledged to work with Senator Hatch,
7 we will include you in there.

8 Senator Murkowski. Mr. Chairman.

9 The Chairman. Well, first of all, let me see if
10 that answer is satisfactory.

11 Senator Kerry. Well, no. I think I am a disturbed
12 a little by the "if". I thought we were told earlier by
13 Senator Hatch that --

14 The Chairman. You were told that by Senator Hatch.
15 And I think as Chairman of the committee when Senator
16 Hatch asks me if I am going to help him get something in
17 the bill on the floor, I ought to know that I can do
18 that. And I do not know. And I had an "if" in that
19 answer to his question, to be perfectly candid with him.

20 Senator Kerry. Well, I would like to work with you
21 to see we can do this.

22 The Chairman. I am saying, if we move ahead on
23 that, I feel comfortable in telling you we can move
24 ahead to help you.

25 Senator Kerry. Well, I thank you, Mr. Chairman.

1 And I accept that.

2 Senator Nickles. Mr. Chairman.

3 Senator Kerry. I am not finished yet.

4 Senator Nickles. I would like to speak on the
5 amendment.

6 Senator Kerry. Oh, please.

7 Senator Nickles. I mean, I do not want you
8 committing to it. I mean, I just happened to glance at
9 it. And it says, all right, this will be a 30-percent
10 tax credit and for a couple of diseases. It may be very
11 well deserving diseases.

12 Senator Kerry. For a couple of diseases?

13 Senator Nickles. Well, my point is it is not heart
14 disease. It is not cancer. And so some diseases are
15 going to get 30 percent. And other diseases will get
16 zero.

17 Senator Kerry. Well, let me then take a little
18 longer to explain my amendment.

19 Senator Nickles. No. My suggestion is, you have a
20 right to amend the bill on the floor. And you have a
21 right to offer it, but I do not want ---- I want us to
22 have good tax policy. And I do not think it makes good
23 sense to have different rates of tax credits for
24 different, significant diseases.

25 And so my point is that there is probably a lot of

1 us that might have an interest in it, but you certainly
2 have a right to do the amendment.

3 The Chairman. Well, let me make clear. What I
4 have said here is not based on the exact language of
5 these amendments. I said we were going to work with him
6 towards a goal that he wanted to accomplish if we
7 brought up the R&D.

8 And Senator Nickles can be part of that discussion
9 obviously. There is no way you will leave any Senator
10 out of anything around here. That is quite obvious. It
11 is too obvious. [Laughter].

12 Senator Daschle. It is not so obvious actually.

13 The Chairman. Would you proceed to your next
14 amendment, please?

15 Senator Kerry. Well, I would like to finish one
16 point with respect to that because I want the record to
17 reflect it if I can, Mr. Chairman.

18 The Chairman. You can, yes.

19 Senator Kerry. I am very prepared and willing to
20 put this to a vote on the floor of the Senate. I would
21 look forward to doing that. I hope it is with the
22 cooperation of the Chair and the ranking member.

23 This is just not any disease. This disease is going
24 to kill 5 to 6 million people this year, 5 to 6 million
25 people.

1 And there is a reason that companies do not do the
2 research. It is because nobody can afford to pay for
3 the vaccine. That is why, because it is poor countries
4 and poor people by and large.

5 And so we are trying to create a capacity for
6 companies do not otherwise have an economic incentive to
7 do the research to have a research incentive above and
8 beyond what exists for all the other technology research
9 that gives them ample return on investment in the
10 marketplace.

11 There is no return on investment on the marketplace
12 on a vaccine. And thank God Senator Furst has put a lot
13 of energy into going to Africa and helping to deal this
14 and understands it better than anybody in the Senate.
15 He is a co-sponsor of this and prepared to fight for it
16 on the floor of the Senate.

17 So I will wait for that vote. And I thank the Chair
18 for his response. And I regret that other colleagues
19 see this as sort of just some disease or somehow not
20 worthy of an adequate added incentive. And I hope that
21 we will pass it on the floor of the Senate.

22 Now, the other two amendments, Mr. Chairman, do have
23 Byrd impact. They have no anticipated revenue effect at
24 all. And I think that both of them represent bills that
25 I would again hope all my colleagues would be interested

1 in.

2 It is number 146 and 147. The first is to promote
3 tax simplification by permitting employers to file a
4 single return for both State and federal employment
5 taxes. On a number of States are working with the IRS
6 to implement combined State and federal reporting of
7 employment taxes.

8 Senator Grassley and Senator Baucus, you are both
9 co-sponsors of this legislation. It is S. 1328. It is
10 the Single Point Tax Filing Act. And it allows federal
11 forms to be filed with State tax forms by individual
12 States.

13 It simplifies for businesses the capacity to be able
14 to file. It gets rid of the excessive regulatory over
15 burden and duplication. And many businesses would leap
16 at this opportunity. It has no anticipated revenue
17 effect.

18 So I would hope that we could put this in the pile
19 with the Byrd Rule amendments. And this ought to be
20 something that we should be able to accept in the
21 context of this bill.

22 And then, I have one more. Do you want to respond
23 with respect to that one?

24 The Chairman. I would ask the staff to respond to
25 the Byrd Rule point because that is what I am told.

1 Senator Kerry. I know there is a Byrd Rule point.
2 I am trying to find out whether the Chairman ---- there
3 is a Byrd Rule on both of these. We do not the staff to
4 tell us that. It is there.

5 The question is, do you think that this is
6 meritorious enough to be in the Byrd Rule pile, that we
7 might be able to pass it and promote tax simplification
8 by permitting employers to file a single return for
9 State and federal employment taxes instead of having to
10 spend a lot more money filing dual reports? It is very
11 simple.

12 The Chairman. I do not want to make a snap
13 judgment. So I will --

14 Senator Kerry. You are a co-sponsor of the bill,
15 Senator.

16 The Chairman. I am still willing to tell you in
17 the context of this bill, I am not going to make a snap
18 judgment. So I will leave it up to the Senator from
19 Massachusetts to decide what he wants to do at this
20 point. I can pledge to work with you on the floor, but
21 I cannot go any further than that right now.

22 Senator Kerry. The next amendment number 147 is to
23 encourage greater retirement savings among younger
24 employees. Let me explain the problem. Under current
25 law, employees have to wait 5 years before gaining the

1 legal right to contributions made by employers to a
2 defined contribution retirement plan, such as a 401-K.

3 In the Chairman's mark, we have reduced the 5 years
4 to 3 years. And I think that is a good move. But only
5 reducing the vesting period on matching contributions,
6 employees will continue to lose retirement savings when
7 non-elective employer contributions are forfeited.

8 What happens in the modern work force, a lot of
9 women employees, minorities, people who move from job to
10 job wind up losing retirement. We do not have a
11 capacity for them to vest and therefore build up the
12 kind of personal retirement capacity that many have
13 talked about in the context of Social Security reform.

14 Rather than limiting the reduction in vesting
15 periods to just employer matching contributions, I
16 believe we ought to try to reduce the vesting period for
17 all employer contributions. There is no impact at all
18 economically. There is no revenue effect whatsoever in
19 this.

20 But it will encourage retirement plan participation
21 by young and highly skilled employees who would not
22 otherwise participate because they would lose their
23 accumulated retirement savings when they change jobs.
24 And I would hope that we would be able to again put this
25 in the Byrd pile and hopefully work it out on the floor.

1 I will bring it as an amendment to this bill on the
2 floor.

3 The Chairman. All right. I want to respond to the
4 substance of that because of the work, for instance,
5 Senator Gramm and I and now Senator Baucus and I have
6 put them on this employer incentives to have more
7 retirement plan and pension plans and things of that
8 nature.

9 One of the problems that we are trying deal with is
10 that we find too many employers, and this would be
11 particularly small businesses more than large
12 businesses, abandoning their plans if they are required
13 to give short-term workers full benefits without any
14 waiting period.

15 Shorter vesting schedules would greatly increase the
16 cost of maintaining an employer-sponsored plan. And one
17 of the issues we have been trying to work with in this
18 pension plan over the last 2 or 3 years that we have
19 been developing it and now hopefully become law is to
20 take away the disincentives for business to maintain
21 these plans. And I see that that distracts from it
22 because it increases the burden of small business quite
23 frankly.

24 Senator Kerry. Well, I think the way we have
25 framed it, I am not sure we are really seeing the

1 problem the same way. What I would like to do, Mr.
2 Chairman, is see if we can reach an agreement to try in
3 principle to put it in the Byrd pile.

4 I mean, if you are going to object to it on the
5 floor, it obviously is not going to fly through. But I
6 am going to raise it on the floor anyway. So if we
7 could agree to consider what you have just raised in the
8 context. I am simply trying to facilitate this process.

9 The Chairman. Well, what I will commit myself to
10 is to have my staff sit down with your staff and visit
11 about it.

12 Senator Kerry. I appreciate that. Thank you, Mr.
13 Chairman. I certainly appreciate that.

14 Does Senator Graham have some inputs?

15 Senator Graham. Yes, Mr. Chairman.

16 The Chairman. And I thank the Senator from
17 Massachusetts for being cooperative.

18 Senator Graham.

19 Senator Graham. Yes. Mr. Chairman, I would like
20 to offer amendment number 8 in my group which is number
21 116. This amendment is the essence of legislation that
22 has been introduced in the S. 627.

23 And it provides for assistance to encourage persons
24 to acquire long-term care insurance. And in those
25 circumstances where long-term is being provided within

1 the home, it provides for a credit to the care giver.

2 Mr. Chairman, one of the things that we have learned
3 from the recently completed census is that one of the
4 fastest growing groups within our society are Americans
5 over the age of 85. And it is exactly that age group
6 that is the most likely to require some form of long-
7 term care, either in the home or in an institutional
8 setting.

9 It is extremely important that we encourage
10 Americans today to begin to prepare for that. Failing
11 to do so, I would return to some of the analysis done by
12 our colleague, Senator Rockefeller. These people are
13 going to spend their assets down and become Medicaid
14 eligible and thus will become a responsibility of both
15 the federal and State government because they are
16 medically indigent for their long-term care needs.

17 We have a tremendous interest in encouraging people
18 to avoid that by purchasing long-term care insurance
19 while they can still afford to do so. This would
20 provide a deduction based on years of continuous
21 coverage.

22 As an example, a person at 40 would be able to
23 deduct \$400 a year for the purchase of long-term care
24 insurance. A person at 60 would be able to deduct
25 \$3,000. It also provides for a \$3,000 a year credit to

1 the care giver who is providing support to an elderly
2 person who is unable to function independently.

3 I believe this is a critical issue for millions of
4 Americans and will be an increasingly critical issue for
5 the fiscal capacity of States and the Federal Government
6 as our population ages.

7 I urge the adoption of the amendment.

8 Senator Gramm. Mr. Chairman.

9 Senator Baucus. Senator Gramm.

10 Senator Gramm. Mr. Chairman, I will be brief. I
11 think this amendment would have some credibility if it
12 just decided that we are going to reduce the tax cut
13 across the board and we are going to use the money for
14 this purpose.

15 But to continue offering amendments that basically
16 use the 28-percent bracket and the brackets above that
17 is sort of a cash register to pay for all manner of
18 proposals. I think simply it violates this disagreement
19 that we put together.

20 We started with a 33-percent proposal from the
21 President. We are at 36. The last percentage does not
22 even kick in until 2007.

23 And I would just urge my colleagues to reject this
24 amendment. We have been here almost 12 hours. Vote on
25 final passage and go home. If the Senator wants to

1 offer these amendments on the floor, he is going to have
2 that opportunity.

3 Senator Graham. Mr. Chairman, first I doubt that I
4 am going to have that opportunity on the floor because
5 of the restricted nature in which this bill is going to
6 be treated. There will be a limited number of
7 amendments. And I am not very sanguine that an
8 amendment dealing with such a targeted issue as long-
9 term care needs is going to be in that list which will
10 be considered.

11 I have no particular truck for the offset that is
12 proposed. If the Senator from Texas would like to
13 suggest an alternative offset, such as an across-the-
14 board cut of all the provisions in this act in order to
15 pay the cost of this long-term care and retirement
16 security provisions, I would be glad to except whatever
17 he thinks would be a more appropriate offset.

18 Senator Nickles. Could the Senator tell us what
19 the cost of --

20 Senator Graham. \$75 billion over 10 years.

21 Senator Nickles. 75. All right.

22 The Chairman. Everybody has heard the debate.
23 Those in favor of the Graham amendment, vote aye. Those
24 opposed, vote no.

25 The Clerk will call the roll.

1 The Clerk. Mr. Hatch.
2 Senator Hatch. No.
3 The Clerk. Mr. Murkowski.
4 Senator Murkowski. No.
5 The Clerk. Mr. Nickles.
6 Senator Nickles. No.
7 The Clerk. Mr. Gramm of Texas.
8 Senator Gramm. No.
9 The Clerk. Mr. Lott.
10 The Chairman. Senator Lott votes no, by proxy.
11 The Clerk. Mr. Jeffords.
12 The Chairman. No, by proxy.
13 The Clerk. Mr. Thompson.
14 Senator Thompson. No.
15 The Clerk. Ms. Snowe.
16 Senator Snowe. No.
17 The Clerk. Mr. Kyl.
18 Senator Kyl. No.
19 The Clerk. Mr. Baucus.
20 Senator Baucus. No.
21 The Clerk. Mr. Rockefeller.
22 Senator Rockefeller. Aye.
23 The Clerk. Mr. Daschle.
24 Senator Rockefeller. Aye, by proxy.
25 The Clerk. Mr. Breaux.

1 [No response.]

2 The Clerk. Mr. Conrad.

3 Senator Rockefeller. Aye, by proxy.

4 The Clerk. Mr. Graham of Florida.

5 Senator Graham. Aye.

6 The Clerk. Mr. Bingaman.

7 Senator Bingaman. Aye.

8 The Clerk. Mr. Kerry.

9 Senator Kerry. Aye.

10 The Clerk. Mr. Torricelli.

11 Senator Torricelli. No.

12 The Clerk. Mrs. Lincoln.

13 Senator Lincoln. Aye.

14 The Clerk. Mr. Chairman.

15 The Chairman. No.

16 The Clerk. Mr. Breaux.

17 Senator Breaux. Aye.

18 The Clerk. Mr. Chairman, the tally is 8 ayes, 12

19 nays.

20 The Chairman. All right. The amendment is

21 accordingly defeated.

22 I think we have reached the point for final passage.

23 [Pause.]

24 The Chairman. We are ready now for final passage.

25 So those that are in support of legislation, I ask that

1 you vote aye. Those opposed to the legislation, vote
2 no.

3 The Clerk will call the roll.

4 The Clerk. Mr. Hatch.

5 Senator Hatch. Aye.

6 The Clerk. Mr. Murkowski.

7 Senator Murkowski. Aye.

8 The Clerk. Mr. Nickles.

9 Senator Nickles. Aye.

10 The Clerk. Mr. Gramm of Texas.

11 Senator Gramm. Aye.

12 The Clerk. Mr. Lott.

13 The Chairman. Aye, by proxy.

14 The Clerk. Mr. Jeffords.

15 Senator Jeffords. Aye.

16 The Clerk. Mr. Thompson.

17 Senator Thompson. Aye.

18 The Clerk. Ms. Snowe.

19 Senator Snowe. Aye.

20 The Clerk. Mr. Kyl.

21 Senator Kyl. Aye.

22 The Clerk. Mr. Baucus.

23 Senator Baucus. Aye.

24 The Clerk. Mr. Rockefeller.

25 Senator Rockefeller. No.

1 The Clerk. Mr. Daschle.
2 Senator Daschle. No.
3 The Clerk. Mr. Breaux.
4 Senator Breaux. Aye.
5 The Clerk. Mr. Conrad.
6 Senator Rockefeller. No, by proxy.
7 The Clerk. Mr. Graham of Florida.
8 Senator Graham. No.
9 The Clerk. Mr. Bingaman.
10 Senator Bingaman. No.
11 The Clerk. Mr. Kerry.
12 Senator Kerry. No.
13 The Clerk. Mr. Torricelli.
14 Senator Torricelli. Aye.
15 The Clerk. Mrs. Lincoln.
16 Senator Lincoln. Aye.
17 The Clerk. Mr. Chairman.
18 The Chairman. Aye.
19 The Clerk. Mr. Chairman, the tally is 13 ayes, 5
20 nays.
21 The Chairman. The bill is reported from committee
22 by a vote of 13 to 5.
23 I would ask that the staff have authority to draft
24 the necessary technical and conforming changes to the
25 Chairman's mark. This drafting authority would include

1 changes to ensure compliance with the committee's
2 reconciliation and instructions in the Budget Act.

3 I want to thank all the members of the committee for
4 their kind attendance, their loyalty to the process for
5 the day, and hopefully to make this work of the Senate
6 Finance Committee a meaningful part of the legislative
7 process.

8 And I particularly thank Senator Baucus for his
9 cooperation.

10 Senator Baucus. Mr. Chairman, I want to thank you
11 very much for all that you have done. And I assume that
12 the Senators who have not yet recorded their votes will
13 be able to do so. The tally will be kept open for that
14 purpose.

15 The Chairman. Yes. We will keep the tally open,
16 well, I suppose like for another hour or something.

17 Senator Baucus. Yes.

18 The Chairman. We will keep the record open until
19 midnight.

20 Senator Baucus. An hour is fine.

21 The Chairman. The meeting is adjourned. Thank
22 you.

23

24 [Whereupon, at 8:30 p.m., the meeting was
25 concluded.]