Medicare, Medicaid, and Social Security will greatly exceed 18 percent of GDP, as I mentioned, by the year 2030.

We still do not know the full cost of the ongoing war on terror at home and particularly overseas. I predict we will be committed not just to Iraq and Afghanistan but to Kosovo and Bosnia for a long time, which will increase our national security costs dramatically.

I have spent time with our reservists who have returned home, and many of them say their equipment is in bad shape because of the war. There are so many uncertainties in dealing with our national security that we ought to be careful about reducing our revenues.

We will not know the strength of the duration of the current economic recovery for at least another year, but I will say this: We recently learned that last year we had GDP growth of 4.4 percent. That is the best we have had since 1999. There is no question that we are back on track. And the real issue is, do we need to continue to stimulate the economy with the tax reductions we passed in 2001 and 2003, particularly 2003 when we felt we needed to give the economy a front-end loaded stimulus that would make sure we would see an upturn.

We will not know until 2008 or 2009 how Federal revenues will be impacted by baby boomers becoming eligible for early retirement. Most experts expect slower economic growth and slower growth in Federal revenues. It is a real question, with the retirement of our baby boomers: Will we have the workforce we need to keep economic growth moving forward?

Finally, and perhaps more important, the President's Commission on fundamental tax reform will not complete its work until July. Once they send their report to Treasury Secretary Snow, he may very well recommend sweeping tax reform proposals for us to consider in 2006. It makes little sense to me to rush into making current tax policy permanent only to redo all our work in less than 18 months.

Under these circumstances, it seems more prudent to wait until next year before extending tax cuts enacted in the 2001 or 2003 tax reform bills. However, if my colleagues absolutely insist on extending these tax cuts, then we should at least offset their costs by reducing spending or increasing revenues elsewhere in the budget. In other words, the budget resolution is going to be calling for something like $70 billion or $80 billion of tax cuts that will be handled in reconciliation, which basically says they can be passed by the Senate with 51 votes.

My suggestion is, just eliminate them from the budget resolution. If extending the lower tax on dividends or extending the lower tax on capital gains is something in the best interest of the American people, then let's require 60 votes to get that done, just as we did last year when we did not have the continuation of three tax cuts for marriage penalty, lower marginal rates, and for the child tax credit. We did not have a budget. We did not have reconciliation language, but we extended those three because it was the feeling of this body and the House that they were needed to continue to respond to the needs of the American people.

My basic yardstick for Government spending, including tax cuts, has always been is it necessary and is it affordable? I believe the tax cuts in 2001, 2003, and 2004 were both. Nevertheless, we face a different situation today, and I will no longer support tax cuts until they are fully offset. The Nation's gross domestic product grew by over 4 percent in 2003 and 2004. Unemployment has dropped from 6.6 percent to 5.2 percent, and new jobs have been created every month for the last 21 months. Even Alan Greenspan at the Federal Reserve has noticed the turnaround and started to raise interest rates. The tax cut medicine worked, and it is time to stop before we overdose on too much of a good thing. I know some people want to make our recent tax cuts permanent, but I cannot support doing so at this time.

Any additional tinkering with the Tax Code should only be done as part of a comprehensive reform package designed to return Federal revenues to their 60-year average of 18 percent of the economy.

In closing, I tell my colleagues and constituents that I valued my status last year, while I was running for reelection, as a deficit hawk. I have always placed fiscal responsibility at the top of my agenda and never supported spending or tax cuts unless I thought they were necessary and affordable.

The legislation I have introduced will help us more effectively determine what fiscal policies really are necessary and affordable. I encourage Senators to support this legislation. I also encourage them to show patience regarding making the tax cuts permanent. With all the uncertainties facing us, it does not make sense to deal with the issue now.

I will finish with these words: One of the requirements I have used during my political career to decide whether we should do something is the issue of fairness. How in the world can we ask the American people to flat fund domestic discretionary spending, deal with the problem of Medicaid and many of these other issues, and at the same time say to them, and by the way, we are going to extend these tax cuts we have had? It does not make sense. It is not fair. It is not right. It is not acceptable.

I am hoping that my colleagues understand that to put ourselves in the position where we are going to have probably one of the most stingy budgets we have had since I have been in the Senate, at the same time we cannot continue these tax cuts and extend them or, for that matter, make them permanent.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. VOINOVICH. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate proceed to votes in relation to the next two amendments; provided further that all votes after the first be limited to 10 minutes each. The amendments are Leahy amendment No. 83 and Durbin amendment No. 112.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

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

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

Mr. LEAHY. Mr. President, I understand there will be a vote on the Leahy-Sarbanes amendment at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 83

Mr. LEAHY. Mr. President, this amendment Senator SARBANES and I have pending is going to moderately preserve the current conflict-of-interest standards for investment banks. They might safeguard the integrity of the bankruptcy process. Senators understand that well before I was born we have had in bankruptcy law provisions to cover conflicts of interest of investment bankers. For some reason this was taken out in the pending legislation. The pending legislation would eliminate the now 67-year-old conflict-of-interest standards that prohibit investment banks which served as underwriters of a company's securities from playing a major advisory role in the company's bankruptcy process.

In other words, it means if you had an investment bank that advised or underwrote securities for WorldCom or Enron at a time when, as we now know, they were cooking the books—they were the ones who advised them how to do this before bankruptcy—then they could be hired to represent the interests of the defrauded creditors during the bankruptcy proceeding.

It is kind of the fox guarding the chicken coop. You advise one of these

companies how to cook the books, make a lot of money—it is going to defraud a lot of people—but if the bubble breaks and you go into bankruptcy and the people who have been defrauded try to get a little bit of money back—try to get back some of the money they are owed, even though it is going to be cents on the dollar, people who had their pensions built into this, had their retirement built into this—you could have the very same investment banker saying, ''We will represent you. We are the guys who got you in the problem in the first place, where you lost all your pension and the money you are owed, but we will help you get it back.''

It is ironic that firms that had a part in the company's deception could stay on the payroll in bankruptcy and profit handsomely from their own fraud.

For 67 years we said, wisely: Enough. You can't do that. Nobody seemed to have a problem with it, but for some reason, that prohibition was dropped here. I have to ask what kind of message are we sending to investors and pensioners who are suffering from corporate misdeeds and ensuing bankruptcies if we allow this to happen. They deserve better.

What we have suggested, what a lot of people seem to support, is: All right, we won't put the total blanket prohibition in, but we will at least say that if you were involved within 5 years of this bankruptcy you cannot come back and handle the rights of the creditors. In other words, if you are the one who lost all the money of the creditors, you lost all the money of the pensioners, you lost all the money of the investors, you are not the one who is going to come back in and say now you can pay us to get back what little bit is left.

The National Bankruptcy Review Commission, agreeing with us, strongly recommended that Congress keep the current conflict-of-interest standards in place. They said:

> Strict disinterestedness standards are necessary because of the unique pressures inherent in the bankruptcy process.

Of course there are. Of course there are pressures. The larger the bankruptcy, the greater the pressures. Which assets do you sell? Which assets do you keep? Which assets should go to the creditors? What we want to do is monitor section 414. I would like to go back to the blanket prohibition, but we said at least make it 5 years. In fact, Fifth Circuit Court of Appeals Judge Edith Jones, well respected, very conservative member of the Fifth Circuit and member of the Bankruptcy Commission, urged Congress to remove section 414. She said:

> If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness, required by current law, eliminates such conflicts or potential conflicts. . . . Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation and should be eliminated.

Then the chairman of the Securities and Exchange Commission wrote to us. He said, speaking for the Commission:

> We believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

Think of what he said. A lot of investors, since Enron and WorldCom, have lost confidence. If we perpetuate the things that perpetuate that lack of confidence, loss of confidence, then shame on us. We can easily go in with a very commonsense exclusion of conflicts of interest.

How can any one of us go back and say to our constituents: We were in favor of keeping the people who advised and got the enormous bankruptcy in the first place. Now we are in favor of putting them in to guard what little bit of assets the creditors and the investors might have. Try to explain that to somebody who is trying to recover because they relied on what these same people had said and now they are trying to recover their life savings, or trying to recover their business which itself may go bankrupt because of money owed them. Try to convince them that we are trying to protect you by letting the same people who made this mess now be responsible for getting payment to you.

The amendment Senator SARBANES and I offer is a modest compromise. We limit it to 5 years before the bankruptcy. It only applies in the 5 years immediately preceding the bankruptcy. It doesn't say you are precluded forever, as current law does. But it says you are precluded if you were involved within 5 years of this collapse. Then you are not going to be involved in getting people back their money.

With Enron and WorldCom and others, this is the last time in the world that the Senate should weaken conflict-of-interest standards. Certainly the investors and the public are not going to like it. What we are trying to do, we are trying to get us back in line with the SEC and others, to restore public confidence in financial transactions with greater accountability and increased investor protection.

As I said earlier, I will yield to the distinguished senior Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I again commend my able colleague from Vermont for coming forward with this amendment. I am very pleased to join with him in cosponsoring it, and I urge its adoption upon our colleagues.

First, I want to underscore, the Senator from Vermont has tried very hard to work out a very reasonable proposal. The existing law prohibits the investment bankers from playing any part in the bankruptcy, if a company for which they were an investment banker goes into bankruptcy.

They can't come along and then become an adviser to the bankrupt company. The rationale for that is strong because often the investment bankers, because of their own activity, need to be examined and reviewed, and they may be held accountable.

The argument has been made: Well, suppose they were the investment banker 20 years ago and they have not had a connection with this company since. Why should they be precluded from possibly being taken on in the bankruptcy? Recognizing that argument, Senator LEAHY's proposal has a 5-year ban period. In other words, if you have been the investment banker in the last 5 years, you can't then be engaged when the company goes bankrupt. The investment bankers are intimately involved in the financial structure of the company. Often, they can be held liable in one way or another for what has taken place. Certainly there is the appearance of impropriety if the very people who were the investment bankers to this company in the recent period, and they then go bankrupt, and they are taken on subsequent to bankruptcy.

Only a while back, Gretchen Morgenson, writing in the New York Times—I ask unanimous consent that the statement be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1)

Mr. SARBANES. She said:

> Do you think Solomon Smith Barney, the brokerage firm that bankrolled WorldCom and advised it on a business and financial strategy that failed rather spectacularly, should be allowed to represent the interests of the company's employees, bondholders and other creditors while WorldCom is in bankruptcy?

She said:

> If you answered no, you win a gold star for common sense and for knowing right from wrong.

Elizabeth Warren, a very distinguished professor at Harvard Law School, commenting about this problem—I understand that financial firms are eager to earn money from bankruptcy advice. There is often very big money to be made. They have been lobbying this issue very hard. This doesn't preclude any investment banker, just the ones who have been providing advice to the company leading up to the company's failure, with the Leahy modified amendment, just in the 5-year period prior to the bankruptcy.

Elizabeth Warren says:

> There is reason why the professionals who have worked for a business that collapses into bankruptcy are not permitted to stay on. The company must go back after bankruptcy and reexamine its old transactions. Having the same professionals review their own work is not likely to yield the most searching inquiry.

Obviously, having the same professionals review their own work is not likely to yield the most searching inquiry.

Arthur Levitt, former Chairman of the SEC, said:

> I haven't read a single argument made by the investment banks that would persuade

me that the prohibition should be changed. What we are talking about is a significant potential conflict of interest, and I think it is outrageous that investment banks would even try to go down this road.

This prohibition has existed in law ever since 1938, which has been reaffirmed by the Bankruptcy Study Commission, by all the experts in the field, those who have no vested interest in the outcome, who come objective, people who are in favor of modifying the bankruptcy law, people not in favor of it, but they all come together and agree on this issue.

Professor Warren said:

It is not a provision to ensure investor confidence, or to enhance protection for employees, pensioners, or creditors of failing companies. This is a provision to enrich an already wealthy interest group, nothing more.

It needs to be understood that an investor bank that advised on the creation of a company's capital structure before a bankrupt filing may itself be exposed to potential liability. If it is brought in to work out the deal that permits the company to emerge from bankruptcy, you are opening the door that they may be tempted to prefer the creditors who have a potential claim against the investment bank. Don't open this stable door.

The Leahy proposal is an extraordinarily reasonable proposal. It actually is more accommodating than what the experts are telling us because the experts want to continue the complete ban which exists in current law. But what Senator LEAHY has done in this proposal—this is a 5-year ban. If you are earlier than the 5 years, you can be considered, but if you are within the 5-year period, it is not going to be permitted because we don't want to run the risk of the inherent conflict of interest which would exist in that situation. When a company goes bankrupt, you need a fresh look at what is going on, and you won't get that from the same investment bankers who represented the company before.

This is the point that has been made by the Securities and Exchange Commission. In fact, as Chairman Donaldson expressed his personal view at a hearing—Senator LEAHY and I wrote to him, and he conveyed to us the view of the Commission, saying how cautiously Congress should proceed before loosening any conflict of interest restrictions.

He noted that they were aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated even if it was years ago and the firms have no further involvement with the debtor. However, if the exclusion is eliminated entirely, we are concerned that the general protection in the statute would be insufficient. It may well be insufficient. That is the problem.

I plead with my colleagues, given what we have been through and given what investors have suffered across the country, given the effort now to eliminate these conflicts of interest, don't open this major door to a very severe potential conflict of interest, and the way that we are going to do that is to support the Leahy amendment.

I urge it upon my colleagues.

Mr. WARNER. Mr. President, I rise today in support of Leahy amendment No. 83 to the bankruptcy reform bill. This amendment offers a commonsense solution to a thorny issue in current bankruptcy law.

While I am a strong supporter of the underlying bankruptcy reform bill, and look forward to voting for its final passage, I am concerned about section 414, which amends the disinterested person definition in the conflict of interest standards of the Bankruptcy Code.

Under current law, a firm that serves as an underwriter for a company's securities may be barred absolutely from advising that company in a bankruptcy reorganization. The existing law is probably an over-broad response to the fear of potential abuse. For example, there is little potential for abuse in bankruptcy if an investment bank underwrote securities for a company 50 years ago, and had not done so since.

Section 414 in this bankruptcy reform bill essentially does away with the current ban, and gives bankruptcy judges the discretion to determine whether the investment bank has a material adverse interest. If the judge decides that no such adverse interest exists, then the bank would be able to advise the debtor company, even if some of the bank's advice helped contribute to the bankruptcy in the first place.

In my view, while the current law is over-broad, section 414 swings the pendulum too far the other way. I agree with the Chairman of the Securities and Exchange Commission, William Donaldson, who recently wrote to Members of the Senate on behalf of the SEC. Chairman Donaldson noted that the SEC believes that ''it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.''

Given the number of high-profile corporate bankruptcies over the past few years, it is paramount that we completely avoid the slightest appearance of impropriety in these bankruptcies. In my view, the Leahy amendment achieves that goal, and strikes a solid middle ground in this important debate.

On the one hand, the amendment does not attempt to reinstate the overly broad current law. On the other hand, the amendment recognizes that it is important for Congress to set out some uniform policy in this area rather than leaving it up to hundreds of individual bankruptcy judges.

Instead, the Leahy amendment imposes a reasonable 5-year waiting period under which an investment bank that underwrote securities for a company would be precluded from advising that same company in bankruptcy.

In my view, this amendment would protect against any possibility of abuse, would safeguard against the appearance of impropriety, and would not unduly harm investment banks from rightfully participating in the bankruptcy process.

Mr. LEAHY. Mr. President, am I correct that the yeas and nays have been ordered?

The PRESIDING OFFICER (Mr. CHAMBLISS). The yeas and nays have been ordered. There is 2 minutes equally divided prior to the vote.

Who seeks time?

Mr. CRAIG. Mr. President, I think this side is prepared to yield back the time.

Mr. LEAHY. Mr. President, I think both Senator SARBANES and I have made our case. We just want to eliminate this blatant conflict of interest.

We yield back our time.

The PRESIDING OFFICER. Time has been yielded.

The question is on agreeing to amendment No. 83.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—44

Akaka	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Collins	Kohl	Sarbanes
Conrad	Landrieu	Schumer
Corzine	Lautenberg	Snowe
Dayton	Leahy	Specter
Dodd	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Mikulski	Wyden
Feingold	Murray	

NAYS—55

Alexander	DeMint	Martinez
Allard	DeWine	McCain
Allen	Dole	McConnell
Baucus	Domenici	Murkowski
Bayh	Ensign	Pryor
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Stabenow
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Talent
Cochran	Isakson	Thomas
Coleman	Kyl	Thune
Cornyn	Lincoln	Vitter
Craig	Lott	
Crapo	Lugar	

NOT VOTING—1

Clinton

The amendment (No. 83) was rejected.

AMENDMENT NO. 112

The PRESIDING OFFICER. Under the previous order, the next vote will be on Durbin amendment No. 112.

There are 2 minutes equally divided. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, this amendment will exempt from the bankruptcy bill's means test those disabled veterans whose indebtedness occurred primarily during a period of military service. They have given us their arms, their legs, very important parts of their lives.

After 2 weeks of debate, after scores of amendments that have failed, I ask my colleagues, just once, in the consideration of this bill, whether they will take into their consideration those who, because of misfortunes they could not control, have had their lives seriously changed. We need to honor these veterans who have given so much to America.

If the Senate owes a great debt to the credit card industry, don't we owe a greater debt to these brave soldiers? I ask you to vote aye.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I agree with the Senator from Illinois. I think the Congress agrees with him, the House agrees with him. I ask the Senate to support the amendment.

I ask for the yeas and nays.

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

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced —- yeas 99, nays 0, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—99

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	Martinez
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Obama
Brownback	Grassley	Pryor
Bunning	Gregg	Reed
Burns	Hagel	Reid
Burr	Harkin	Roberts
Byrd	Hatch	Rockefeller
Cantwell	Hutchison	Salazar
Carper	Inhofe	Santorum
Chafee	Inouye	Sarbanes
Chambliss	Isakson	Schumer
Coburn	Jeffords	Sessions
Cochran	Johnson	Shelby
Coleman	Kennedy	Smith
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Cornyn	Kyl	Stabenow
Corzine	Landrieu	Stevens
Craig	Lautenberg	Sununu
Crapo	Leahy	Talent
Dayton	Levin	Thomas
DeMint	Lieberman	Thune
DeWine	Lincoln	Vitter
		Voinovich
		Warner
		Wyden

NOT VOTING—1

Clinton

The amendment (No. 112) was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 129

Mr. MCCONNELL. Mr. President, I ask unanimous consent that we now proceed to a vote in relation to the Schumer amendment No. 129 with all other provisions of the agreement still in place.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. We can expect two more votes right now, first on the Schumer amendment and then on the underlying Talent amendment. Then there will be a break before we have another series of votes.

I yield the floor.

The PRESIDING OFFICER. There are 2 minutes equally divided. Who seeks time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I will address both the Schumer second-degree amendment and the underlying Talent amendment. This all relates to the millionaire's loophole.

Mr. TALENT. Will the Senator yield for a second? Does the Senator want to ask unanimous consent to have 4 minutes at once here, which we talked about before?

Mr. SCHUMER. I think that is what the Chair called for. Am I right?

The PRESIDING OFFICER. That is correct.

Mr. TALENT. So it is 4 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. It is 4 minutes equally divided, 2 minutes on each side.

Mr. SCHUMER. Mr. President, we have debated this before when I offered an amendment to close the millionaire's loophole. My colleagues may recall the millionaire's loophole will allow a millionaire to shield his or her assets in a certain type of trust. It would not be susceptible to bankruptcy. The millionaire could then declare bankruptcy, shed his debts, and still have the assets in the trust. It is an egregious abuse.

Unfortunately, my amendment was voted down. My friend from Missouri has offered an amendment that frankly keeps the status quo. I understand many on the other side are sort of pained that they had to vote against this amendment, but let me tell colleagues what the Talent amendment does.

It requires a showing of intent to defraud in order to not shield the assets. Well, give me a break. Or as my kids would say: Hello.

Which millionaire is going to hire a lawyer and say, make sure you leave a paper trail so they can prove intent? Of course, one cannot prove intent, particularly if the actual intent is to hide the assets.

So in all due respect to my good friend from Missouri, this amendment is simply a subterfuge. Make no mistake about it, the Talent amendment will not rectify the millionaire's loophole, will not provide cover for people who seek cover. If we want to correct the Talent amendment, vote for the Schumer second-degree to Talent, which eliminates the intent requirement.

One more point. Aside from the intent issue——

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

Mr. SCHUMER. I guess there are no more points.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Utah.

Mr. HATCH. Mr. President, one can have self-settled trusts. What the amendment of the distinguished Senator from New York does is do away with essentially all self-settled trusts. Frankly, Senator SCHUMER's amendment is so broad that it covers all settled trusts, not just fraud.

The amendment of the distinguished Senator from Missouri covers fraud, and he does it in the appropriate way, a legal way, the way it should be done.

I yield the remainder of my time to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. I thank the Senator from Utah.

Very briefly, we should not allow criminals to hide their assets and avoid paying their bills. This amendment makes certain that dishonest people can't hide their assets, especially if they have caused others to lose their jobs, retirement pensions, health care benefits and, in some cases, their life savings.

One of the reasons the economy plunged into a recession a few years back was because of corporate fraud. And those crimes caused companies to fail, eliminating thousands of jobs. It is fundamentally unfair to allow these crooks to abuse the trust laws of certain States to hide their wealth.

My amendment is simple. It closes the asset protection trust loophole by empowering bankruptcy courts to go back 10 years to take away fraudulent transfers that criminals have sheltered away in an attempt to avoid paying back their debts.

Here is a little background on the problem. Asset protection trusts are trusts that a person forms to shield assets for his or her own benefit.

Although the law has historically allowed property owners to create trusts

for others, courts have historically refused to permit someone to tie up his or her own property in such a way that he or she can still enjoy it but prevent his or her creditors from ever reaching it.

My amendment states clearly that these trusts cannot be used in bankruptcy to allow a person to shelter their assets to avoid repaying their debts because of a judgment in criminal, civil, or bankruptcy court.

In addition, my amendment closes the loophole that the New York Times wrote a good article about. That article noted how difficult it is to determine how much money these crooks have sheltered into these asset protection trusts. Some estimate that criminals have stashed away billions of dollars in these types of trusts.

This amendment allows victims to go after any resource transferred into the trust by a corporate criminal over the previous 10 years. Current laws says that if a corporate executive is convicted of a crime, victims can only go after resources transferred into these trusts over the last year. The bankruptcy bill, without my amendment, would have made it only 2 years.

But, that is still not enough time to go after the criminals who set up these asset protection trusts.

There is a gap of several years where criminals could have put billions in assets into these trusts and the Federal and State bankruptcy courts might not be able to touch them. My amendment closes the loophole for criminals.

I urge my colleagues to support this amendment—it simply cracks down on criminals.

I yield back my time.

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

The PRESIDING OFFICER (Mr. COLEMAN). Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 129 to amendment No. 121.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—43

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Chafee	Kohl	Salazar
Conrad	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Dorgan	Lieberman	
Durbin	Lincoln	

NAYS—56

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Carper	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—1

Clinton

The amendment (No. 129) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following the next vote the Senate proceed to consideration of Calendar No. 39, S. 250, the Vocational and Technical Education Act; provided that the committee-reported substitute amendment be agreed to, there be 30 minutes for debate equally divided between the chairman and ranking member, no other amendments be in order, and that following the debate, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill first in the next series of votes with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE ON AMENDMENT 121

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the Talent amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 121. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—73

Alexander	Chambliss	Domenici
Allard	Coburn	Dorgan
Allen	Cochran	Ensign
Baucus	Coleman	Enzi
Bennett	Collins	Frist
Biden	Conrad	Graham
Bingaman	Cornyn	Grassley
Bond	Corzine	Gregg
Brownback	Craig	Hagel
Bunning	Crapo	Harkin
Burns	Dayton	Hatch
Burr	DeMint	Hutchison
Byrd	DeWine	Inhofe
Cantwell	Dodd	Isakson
Chafee	Dole	Johnson
Kohl	Nelson (NE)	Stevens
Kyl	Pryor	Sununu
Lincoln	Roberts	Talent
Lott	Salazar	Thomas
Lugar	Santorum	Thune
Martinez	Sessions	Vitter
McCain	Shelby	Voinovich
McConnell	Smith	Warner
Murkowski	Snowe	
Nelson (FL)	Specter	

NAYS—26

Akaka	Kennedy	Obama
Bayh	Kerry	Reed
Boxer	Landrieu	Reid
Carper	Lautenberg	Rockefeller
Durbin	Leahy	Sarbanes
Feingold	Levin	Schumer
Feinstein	Lieberman	Stabenow
Inouye	Mikulski	Wyden
Jeffords	Murray	

NOT VOTING—1

Clinton

The amendment (No. 121) was agreed to.

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the clerk will report the next bill by title.

The bill clerk read as follows:

A bill (S. 250) to amend the Carl D. Perkins Education and Technical Education Act of 1998 to improve the Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike part shown in black brackets and insert part shown in italic.)

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Carl D. Perkins Career and Technical Education Improvement Act of 2005''.

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: