With all of this litigation pending, there is little doubt that the Constitution will be amended. The only question is whether it will be amended by Congress working the will of the people or by judicial fiat. Will activist judges override the clear intention of the American people or will the people amend the Constitution to preserve marriage as it has always been understood?

In Massachusetts, the people have never had a say. The State's supreme judicial court demanded the State sanction same-sex marriage. A majority of the court substituted their personal policy preferences for that of the people, and the consequences of that activism spread far beyond same-sex marriage itself.

I wish to read from a letter from Governor Romney sent to me as we opened the debate on this issue. In it he warns us that Massachusetts is only just beginning to experience the full implication of their court's decision. He writes:

> Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just 2 years before our State's social experiment.

In the letter, Governor Romney relates the following account:

> In our schools, children are being taught that there is no difference between the same-sex marriage and traditional marriage.
>
> Recently, parents of a second grader in one public school complained when they were not notified that their son's teacher would read a fairy tale about same-sex marriage to the class.
>
> The parents asked for the opportunity to opt their child out of hearing such stories. In response, the school superintendent insisted on ''teaching children about the world they live in, and in Massachusetts same-sex marriage is legal.''

Now second graders are being indoctrinated to accept a radical redefinition of marriage against their parents' wishes. That is the reality today in Massachusetts.

It doesn't stop there. Already religious organizations in Massachusetts are feeling the pressure to conform their views as well. In March, the Catholic Charities of Boston discontinued their work placing foster children in adoptive homes. Why? Because they concluded the new same-sex marriage law would require them to place children—require them—to place children in same-sex homes. Clearly, this is an irreconcilable conflict.

So while we have advocates denying that same-sex marriage poses any conflict with religious expression or with traditional views, we are already seeing in Massachusetts that simply is not the case. We don't know yet the range and the extent of the religious liberty conflicts that would arise from the imposition of same-sex marriage laws, but we do know the implications are serious, that religious expression will be challenged, and that it is a matter of deep public concern. That is why we seek action in the Senate on this important issue.

As I have said before, it is only a matter of time before the Constitution will be amended. The only question is by whom. Is it going to be a small group of activist judges or by the people through a democratic process? I believe the people should make that decision.

We talked about the specific wording of the marriage protection amendment. Nothing in the amendment intrudes on individual privacy. Nothing stops States from passing civil union laws or curtails benefits that legislatures establish for same-sex couples.

It simply protects the States from having civil unions imposed on them from activist courts. It protects the legislative process by letting people speak and vote. It ensures that their voices are heard and their votes are respected.

My own views on marriage are clear. I believe that marriage is the union between a man and a woman for the purpose of creating and nurturing a family. We know that children do best in a home with a mom and a dad. Common sense and overwhelming research tell us so. Marriage between one man and one woman does a better job protecting our children—better than any other arrangement humankind has devised. I believe it is our duty to support this fundamental institution.

Now we will vote on proceeding on the marriage protection amendment. We will vote on whether we believe traditional marriage is worthy of protection, and we will vote on whether the courts or the people will decide its fate.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 435, S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.
>
> Bill Frist, Wayne Allard, Jim Bunning, Conrad Burns, Richard Burr, Tom Coburn, Jon Kyl, Craig Thomas, George Allen, Judd Gregg, Johnny Isakson, David Vitter, John Thune, Mike Crapo, Jeff Sessions, John Ensign, Rick Santorum.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S.J. Res. 1, an amendment to the Constitution of the United States related to marriage, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Nebraska (Mr. HAGEL).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—49

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

NAYS—48

Akaka	Feinstein	Menendez
Baucus	Gregg	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Conrad	Leahy	Snowe
Dayton	Levin	Specter
Dorgan	Lieberman	Stabenow
Durbin	Lincoln	Sununu
Feingold	McCain	Wyden

NOT VOTING—3

Dodd	Hagel	Rockefeller

The PRESIDING OFFICER (Mr. VITTER). On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 12 noon.

Thereupon, the Senate, at 10:33 a.m., took a recess, and the Senate, preceded by the Secretary of the Senate, Emily Reynolds, and the Sergeant at Arms, William H. Pickle, proceeded to the Hall of the House of Representatives to hear the address by Her Excellency Dr. Vaira Vike-Freitberga, President of the Republic of Latvia.

(The address delivered to the joint session of the two Houses of Congress is printed in the Proceedings of the House of Representatives in today's RECORD.)

Whereupon, at 12 noon, the Senate reassembled when called to order by the Presiding Officer (Ms. MURKOWSKI).

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 p.m.

having arrived, the Senate will proceed to consideration of the motion to proceed to H.R. 8, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to the consideration of H.R. 8, to make the repeal of the estate tax permanent.

The PRESIDING OFFICER. Under the previous order, the time from 12 p.m. to 3 p.m. shall be divided for debate as follows: From 12 to 12:30, the majority will have control; from 12:30 to 1 o'clock, the minority has control, alternating between the two sides every 30 minutes until 3 p.m.

The Senator from Arizona.

Mr. KYL. Madam President, today and tomorrow could be historic days in the Senate—indeed, in the history of our country—because we have an opportunity to eliminate what some have called the most unfair tax of all. I speak of what has been called the estate tax, or the inheritance tax, or more recently has become known as the death tax.

Just a word of the history of this tax would be interesting to my colleagues before I discuss the process by which this consideration will occur and some of the reasons why we need to proceed with it.

It is very interesting that the history of the estate tax actually can be traced back to ancient times and the Roman Empire, but the more relevant history for purposes of the United States, because we borrowed this concept from England, came from the Middle Ages when the sovereign or the state, of course, owned all of the assets—the land and even the personal property—within the country.

What would happen is, when the king owned all of the feudal property in England, he would grant the use of that property to the people within the kingdom. Certain individuals during their lifetimes—let's say a farmer—would have the land to till and the farm animals to take care of. When that farmer died, in effect, his family would have to buy back that property from the king in order to continue to farm that land, to raise those farm animals and so forth. When the king died, the king would let the estate retain the property on which the payment of an estate tax, called a relief, existed. That would then enable the family to continue to run the family farm or the family business, to put it in modern-day terms.

It seems very strange indeed in the 21st century we would retain this odd and clearly out-of-place custom of having to buy back our property from the king. We do not have a king anymore. There has never been a king in the United States of America. Our right to property is guaranteed in the Constitution. So it seems strange, indeed, that we should be following a custom which required us to buy back from the king our property when our father or our mother dies, for our children to have to buy it back when we die. Yet that is the etiology of the estate tax, that you pay the state to continue to enjoy the right to the property that you always thought was yours.

It is a very expensive price, indeed. In recent years, it has been 55 percent for the largest estates. Clearly, a lot of people could not afford this, people who put their life savings into their farm or their business.

I had a friend from Phoenix who owned a printing company. He started it himself, and after 40 years built it up to a prosperous printing company. He took a modest sum out for he and his family but basically plowed everything back into the company because to stay ahead in the printing business you had to buy the most modern printing equipment and technology.

On paper, his family had a lot of wealth. He had a lot of wealth when he died. But it was literally tied up in the company. His family looked at the estate tax. They had spent a lot of money buying insurance and so on. They found they were going to basically have to pay over half of the value of this company to the Government. They did not have that money. They did not have that liquid cash. So they had to sell this printing company in order to collect the money to pay the Government about half of it in the form of an estate tax.

What happened? This particular man was one of the most generous people in the city of Phoenix. He contributed millions of dollars. In fact, there is a Boys and Girls Club named after him. Every year his wife and his daughter would be involved in charitable activities. I know because my wife is one of the best friends of his daughter. They headed up charity events and raised millions of dollars for our community. When his family had to sell the business to pay the estate tax to the Government, they were no longer in a position to do the things for the community they had always done. They have remained very active and very giving but not to the same extent when they had a business to rely upon.

So this community lost in many ways. It lost a great, locally owned, family-owned business. It lost the patriarch of that business, a very generous person, who supported the community, and the family, of course, has not been able to employ those people. Over 200 people were employed in the business.

One of the modern-day rationales for the estate tax is that it prevents the concentration of wealth in just a few families. If there is any Nation that you don't have to worry about that, it is the United States of America. We are a Nation in which anyone can make wealth—and you can lose it quickly. Everyone aspires to get higher on the economic ladder. The notion that somehow there are just a few rich families in this country controlling everything is, of course, a wild myth. So it is not necessary to break it up.

But what happened when people like my friend Jerry, when he passed away and his family had to sell his printing company, what happened to the concentration of wealth? It sure took it away from his family, all right, though no one would contend they were really among the elite of this country. He was a poor Jewish kid from New York who came out west, made good, employed a lot of people and did a lot for his community. No, they sold to a big corporation, a public company. So the concentration of wealth, of course, was enhanced, not lessened, as a result of the application of the estate tax.

It is very hard for small businesses these days, or even small farms, to compete with publicly-owned businesses. When the CEO of a publicly-owned business passes on, nothing happens. The corporation simply goes chugging right along. But when the patriarch of a family-owned business passes away and half of the money in the business has to be paid to Uncle Sam, it can crush that small business. It is one of the reasons we need to eliminate this tax. The small family-owned business or family-owned farm cannot compete with the giant corporation which does not suffer the same kind of tax.

We should not have to buy back the estate from the king any longer. We need to end this most unfair tax of all, the death tax.

It is interesting that even though most Americans will not have to pay the death tax because their estates would fall within the amount that is exempted, by very large numbers, they recognize it is a very unfair tax. So when public opinion surveys ask people their opinion of the tax, the majority of people in this country say they would like to end the tax, that it is unfair and it should be eliminated. As a matter of fact, this applies to liberal and conservative voters.

According to a Gallup poll from April of this year, 58 percent of the respondents said that the inheritance tax is unfair. It is interesting, this poll was taken when Americans were filing their taxes. The death tax was called unfair by more people than the despised alternative minimum tax. Only 42 percent of the AMT said it was fair. Yet, of course, we know that also to be a very unfair tax. It was never intended to apply to average Americans. It was put in there to make sure that even the wealthiest Americans with all of their deductions, exemptions, credits and places to park their money that even they would have to pay some tax—even if they did not owe any income tax, they would owe an alternative minimum tax.

Now, that alternative minimum tax, much like the death tax, is reaching down to take money from more and more and more Americans. So we are recognizing that whatever its good intentions originally, it is an unfair tax.

It is interesting that even though more Americans will be hit with the AMT, a greater number of Americans believe the death tax is more unfair than even the alternative minimum tax. Of course, they are both unfair. They both need to be eliminated. It shows the sense of fairness that Americans have.

There was a poll taken not long after the Presidential election last year. It was interesting to me that while 89 percent of people who identified themselves as Bush voters believed the death tax is somewhat or very unfair, 71 percent of the Kerry voters also found the death tax at least somewhat or very unfair: 25 percent, somewhat; 46 percent, very unfair. So this reaches across the economic spectrum; it reaches across the political spectrum. Americans know an unfair tax when they see it, and they think it ought to be eliminated.

Of course, the economic theory backs them up. They say it is unfair because, among other things, it is a tax on hard work. It is a tax on thrift over consumption. It is a tax on assets that have already been taxed at least once when they were earned and sometimes multiple times as that money has been invested and then returned a profit.

Americans understand we should have a tax policy that encourages savings and encourages working more. When people know that the next dollar they earn is going to be taken by the Federal Government or that half of everything that is left in this estate could be taken by the Federal Government, what is the incentive for them to continue to work?

Dr. Edward Prescott, a Nobel Prize winner in economics from Arizona State University, got that prize by proving the phenomenon that there is a direct relationship in how much more people will work and how much they have to pay in taxes. When they know most of what they earn, they can put back into their business, save, invest or give to their kids, they will continue to work. When they know it will go to Uncle Sam, guess what. They don't work anymore. That is lost productivity. It is lost productivity that damages our entire country, our economy. It obviously hurts in job creation. It hurts in our ability to continue to enjoy the kind of growth we have.

The studies verify this. The studies verify, according to the Joint Economic Committee, for example, which has done one of these recent reports, that the estate tax has reduced the stock of capital in the economy by about $847 billion over the last several decades, the last 60 years. That is almost $1 trillion in lost capital that could have been put to work creating jobs and creating products.

In comparison, the estate tax raised $761 billion in inflation-adjusted dollars over this same period of time. The bottom line is, this is a destructive tax. It is not a tax that helps taxpayers very much. It is about 1 percent of the revenues we collect, and, according to estimates, Americans actually pay about the same amount in money every year to avoid paying the death tax as it brings into the Federal Treasury.

Alicia Munnell, an economist, has made that point. She was a member of President Clinton's Council of Economic Advisers. She estimated that the costs of complying with the estate tax laws are about the same as the revenue raised. It is expected to raise about $28 billion in this fiscal year.

The bottom line is, therefore, it is a very inefficient tax. It costs, actually, twice as much as we think it does. It does not bring in that much revenue. And certainly it is very detrimental to economic growth and to capital formation.

There is a way we treat this phenomenon in the Tax Code. It really tells us how we should treat the estate tax. Think about the unintended events that occur in your life. Obviously, death is the chief among them. You cannot choose when you die. Everyone knows they are going to die, but it is not an event that is a voluntary event or that we decide when we are going to do it, certainly not for tax-planning purposes.

It is much like a couple of other things that are recognized in the Tax Code as involuntary events. One of them is what happens when there is a theft. Someone breaks into your home and steals a lot of your property. You might get the insurance company to give you that money back. Should that money be taxed as income when you get it back from the insurance company? Of course not. It is merely a replacement for what was stolen from you. The Tax Code recognizes this in what is called an ''involuntary conversion,'' and they do not force you to pay the ordinary income tax on the money you get back when you suffer that loss.

It is the same thing for death. Death is not a planned event. Death is not something like a sale of property for which you would expect to pay a capital gains tax but, rather, something that occurs to you involuntarily; certainly you should not suffer a price when the estate is passed to you from your loved one, let's say. It comes, of course, at the worst possible time in people's lives to begin with, when they are grieving the loss of a loved one and now are going to have to pay the king to get that loved one's estate. This is not something which Americans believe is fair or right or just.

There is a way we treat this in the Tax Code—involuntary conversion. You don't get taxed on it. The same philosophy ought to apply to the estate tax. There are a lot of reasons. There are the purely economic reasons. There is American public opinion. There is the philosophy of the Tax Code. All of these things mitigate against having this unfair death tax today.

What we have done is to, therefore, set up a process by which we can take up the House bill which voted overwhelmingly to eliminate the death tax. That is H.R. 8. What we are debating now is the taking up of H.R. 8 so that we, too, can vote to repeal this fundamentally unfair tax. We will have a cloture vote. It will occur presumably sometime tomorrow. I urge colleagues to vote yes on cloture so that we can take up the House bill.

Some of my colleagues do not want to support the House bill for full repeal. I understand that. They are well aware of the fact that since there may not be support for that to get 60 votes, a lot of work has been done to develop an alternative which would end the most pernicious impact of the tax but still allow some revenue to be collected from the most wealthy estates each year. I will discuss that in a moment.

The bottom line is that in order for us to vote on full repeal or to vote on an alternative to full repeal, we will have to support the first cloture motion to proceed so that we can take up the House bill. Presumably, then, the majority leader would have a cloture vote on that underlying bill and people can vote yes or no on that as they please. I will vote to repeal the estate tax. Should that fail, we will then have the opportunity to vote on an alternative. That alternative has been relatively widely discussed, and we will have an opportunity to discuss it more later.

In general terms, what it would do is provide that most people won't have to spend the $30 billion a year that is spent on insurance policies, lawyers, accountants, estate planners, and the like to try to avoid paying most of the estate tax. For most people, under this alternative compromise, the exempted amount will be large enough that they won't have to worry about it, or if even after the exempted amount, their estate will be covered—and with the increase in real estate prices today and with the value of businesses and farms going up, frequently, simply because of the value of the land or the personal property, a lot of estates could get caught even with a generous exempted amount. We have a plan that only the capital gains tax rate would apply. If that is the case, then, whether you choose to sell the property before death or you are willing to pay whatever you have to after the exempted amount after death, it is the same. It would be 15 percent today; after 2010, it would be 20 percent, if that is not changed. Everybody knows, therefore, that the penalty, in effect, to the Government is the same. You pay on the gain if you sell the property before death. If your heirs inherit the property, they would pay that same 15 or 20 percent. There may be an addition to ensure that the very wealthiest estates pay at a higher rate. That is something we are discussing with colleagues.

The bottom line is, what we will do is make clear that for most people, they won't have to worry about the death tax anymore. For the very few who do, it would be only the very largest estates which would clearly have the financial means of doing something about it.

We are not going to be able to get to either a vote on full repeal or the alternative unless we vote for cloture to take up the House bill. That is the critical vote which will occur tomorrow.

We have a series of speakers. I believe the Senator from Texas, Mr. CORNYN, is next. Then we have Senators TALENT, SHELBY, BUNNING, ALLEN, THUNE, and GRASSLEY on the Republican side. I urge them to be here to ensure their place in line so that they have an opportunity to speak for the allotted time on this important issue, laying the foundation for what is going to be a historic vote tomorrow to finally get on the process for getting rid of this most unfair tax.

I urge colleagues' support and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I congratulate Senator KYL, who has been a true champion of this effort and a leader on a bipartisan basis, for his good work. I know we were delayed a little bit because we thought we were going to come to the floor with this important legislation about the time that Mother Nature sent us Hurricanes Katrina and Rita. But we are back here through no small effort on the part of Senator KYL. I thank him for his leadership.

This is an issue which affects my constituents in Texas a lot and concerns Americans, as we know, across a broad political spectrum, as a result of public opinion polls. It goes back to 2001, when Congress passed the Economic Growth and Tax Relief Reconciliation Act which included a phaseout of the death tax. Eliminating the death tax was an important part of that overall tax relief package which has played no small part in the incredible economic expansion we have seen in America since that time: 2 million new payroll jobs in the past year; more than 5 million new payroll jobs since May of 2003; unemployment is at 4.6 percent, the lowest in almost 5 years; home ownership has reached alltime highs, including among those categories of minority owners who traditionally have lagged behind in terms of their pursuit of the American dream. The economic growth and expansion we are seeing today would not have been possible but for the important tax relief this Congress passed with President Bush's leadership in 2001 and 2003.

Unfortunately, because of our budget rules, because of our inability to get 60 votes for permanent repeal, Congress has been unable to completely eliminate the death tax. The death tax will amazingly disappear in 2010 but then rear its ugly head in 2011 and revert to its pre-2001 level. In other words, unless we act, the American taxpayer will see a huge tax increase.

This debate is about whether Members of the Senate truly believe that death should remain a taxable event for American taxpayers, especially those who are hit in a disproportionately disadvantageous way—ranchers, farmers, and small business owners. I favor eliminating the death tax because, fundamentally, it is an unfair tax. Once you earn income and pay taxes on your income, then Uncle Sam comes along, when your loved one is lying on their deathbed, and says: We want another bite out of your savings and assets that have accumulated due to your hard work and industry.

There are those who say this is just to benefit the rich and wealthy. That ignores the reality on the ground. The death tax brings the hammer down on Texas farmers and ranchers whose most valuable asset is their land. To pay this double tax, farmers and ranchers are threatened with the prospect of selling just to pay their tax. This is true of small business owners who have chosen perhaps not to incorporate or form a business organization such that they can take advantage of other tax exclusions and exemptions but, rather, this affects small business owners in a disproportionately negative way as well.

The death tax discourages savings. By taxing bequests, the death tax discourages small business owners and family farms from saving and reinvesting in their business. Many economists bemoan the fact that Americans don't save enough compared to other countries. Eliminating the death tax would lower the barrier to savings that so many Americans face.

Not only does the death tax discourage small businesses and farmers and ranchers from saving, it also hinders their ability to operate from generation to generation. The current death tax burden especially makes it progressively more difficult for each succeeding generation to keep an agricultural operation going. The death tax reduces the inheritance available to heirs, again discouraging people from working, saving, and investing. We are all familiar with the stories of sons and daughters having to sell the family farm their parents gave them so they could merely pay the tax bill upon the demise of their loved one.

The death tax also discourages entrepreneurial activity, which is the key to keeping America competitive in the global economy. As ironic as it may seem, the former Soviet Union, our opponent in the Cold War, understands the positive economic benefits of eliminating the death tax. Last year, Russia eliminated its own death tax. In fact, 414 Members of the Duma, the Russian Parliament's lower house, voted in favor of the proposal, a record at the time.

Dying should not be a further burdensome, expensive, and complicated event because of the death tax. Right now, it is. IRS data indicates that more than half of the estates of those who die in America are required to file a death tax return even though they never owe any death tax to begin with. In addition, complying with one or more of the complicated parts of the Internal Revenue Code can be crushing when you consider that taxpayers need to hire attorneys and accountants, appraisers, and other experts to make sure that all their t's are crossed and their i's are dotted. Many taxpayers are not lucky enough to afford the armies of accountants and tax lawyers needed to avoid the death tax through the use of legal and reasonable trusts or foundations. The IRS interacts with American taxpayers every day in one way or another. It should not be there on the day those taxpayers leave this Earth.

I know there are concerns expressed by some colleagues with regard to the budget deficit. There is no doubt that Congress needs to do all it can to responsibly control the rate at which we spend on mandatory programs which are the primary cause of our deficit, growing as they are at the rate of 8 percent or more a year—Medicare, Social Security, and Medicaid. Earlier this year, I offered an amendment to the budget resolution that would have built on the successes of the Deficit Reduction Act and further reduced the growth in mandatory spending. Unfortunately, it was not accepted.

Some advocate keeping the death tax in the IRS Code as the key to opening the door of fiscal discipline. I disagree. Following this path will lead to nowhere and lead there fast. What it will do, instead, is slam the door on ranchers and farmers and family-owned businesses. That is not something I am prepared to do. To ensure the economy's continued momentum, we need to make sure the permanent elimination of the death tax is included in this legislation. We have to end the death tax once and for all as a matter of fundamental fairness.

The fact is, by cutting taxes, we spur economic activity, which, in part, accounts for why the budget deficit is actually lower than had been projected earlier, because the revenue to the American Treasury has increased with the burst and expansion of economic activity. With more people working, more people paying taxes, there is more revenue into the Treasury. We have been through a recession, national emergencies, corporate scandals, and a war. Yet because of the President's leadership and the leadership of this Congress in passing important tax relief, we were able to put money back in the pockets of ordinary Americans so that they could then invest and help grow the economy that has benefited us all. Let us not get in the way of that important progress by failing to take the necessary action to end the death tax once and for all.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the Book of Proverbs says:

> A good man leaves an inheritance to his children's children.

Tomorrow, the Senate will vote on whether the Government should have a part in that transaction. Tomorrow, the Senate will vote on whether to move to the consideration of a repeal of the estate tax.

During a particularly tumultuous time in American history, President Ford said:

Truth is the glue that holds government together. Compromise is the oil that makes government go.

We are not confronted with the same level of rancor today as when President Ford said that. But both of these institutional virtues—truth and compromise—are as essential today as they were then. To achieve true estate tax relief for our constituents, we will need a heavy dose of each.

The estate tax is a difficult issue. Members on both sides of the debate have strong feelings. Back home, many of us meet with ranchers, farmers, family businesses, and others who feel passionately about the estate tax. Some believe that it is an unfair tax. Others believe that it is an important source of revenue for government programs.

Personally, I believe that the estate tax has caused significant hardship for families in my home state of Montana. I often hear from ranchers and farmers who own land that has become very valuable. Often, they have little cash in their pockets to pay the estate tax when passing their land on to their children. In Montana, like many other places in the West, people are committed to their land. They are committed to their way of life.

Many of my constituents want to pass their ranch or farm on to their children. They do not want it divided up. They do not want it spoiled by developers. Their children want to stay on the land. They want to keep the lifestyle that is so important to them. They love the land. They are stewards of the proud western heritage of ranching and farming. They take their attachment to the land very seriously. And they do not take kindly to the government interfering with their link to the land. This is why I support repeal of the estate tax. From my view, from Montana's view, a tax that forces ranchers to break up their land is a bad tax.

This is my strongly held belief. But I realize that some of my colleagues believe just as strongly that inheritances over a certain value should be subject to tax. I understand that anything is possible. But it appears unlikely that we are going to change many Senators' minds on this issue. Each side is pretty well dug in.

As a consequence, we are short of the votes required to repeal the estate tax outright.

That is why I have been working together with Republicans and Democrats to achieve a compromise on the estate tax. Senator KYL, in particular has made an important effort to reach a compromise. I commend him.

My goal is to pass a repeal of the estate tax. But if we are not able to reach that goal, at the very least we should reach a resolution that will protect as many Montanans as possible from the estate tax.

I think that we can accomplish that. But we will need time. It will take real effort. It will take concessions. I am committed to that work.

I have met with many Senators from both parties on this issue. Our staffs have been meeting for months. We have been working to address the details, if we reach an agreement. After meeting with Republicans and Democrats on the estate tax, we have considered several proposals that will both increase the exemption for estates subject to the tax, and lower the rates of taxation.

These proposals will not eliminate the estate tax altogether. But they will—at the very least—eliminate the tax for 99.7 percent of Montanans and Americans alike. Only 3 tenths of 1 percent of Americans would have to worry about the tax again. That is a very small number. Only 31 out of nearly 9,000 estates in Montana would be subject to an estate tax in 2006 under the proposals we are discussing.

We are discussing proposals that amount to roughly half of the cost of full repeal. That is the ultimate consensus position. That is the middle.

I think that Senator KYL and I have made good progress. But I am willing to listen to other ideas that Members have. We should keep this process going. We should continue the work of negotiation. We have not finished our work on a compromise. But even so, the majority leader has decided to hold a vote on the estate tax.

Let's be honest. Tomorrow's vote is thus not a constructive step to actual reform. It is a political exercise. It is a reward to the noisy Washington interest groups that pray on resentment and discord. Both Democrats and Republicans are guilty, on occasion, of forcing votes just to score political points. But that is not a productive way to run the Senate. So what will we be left with tomorrow at the end of this vote? Perhaps more distrust of one side from the other. But we will not have accomplished the goal that many of us in this body seek: true estate tax relief for our constituents.

As our former Majority leader George Mitchell used to say said: ''Do you want to make a statement, or do you want to make law?'' I am committed to making law. I will work together with Republicans and Democrats alike. I will work with anyone in this body to reach a consensus on the estate tax that gives real estate tax relief to Montana families, and importantly, has the votes to pass.

But such a compromise will take time. My hope is that we can return to negotiations after this vote. I hope that then we can bring to those negotiations a renewed sense of purpose and drive to accomplish a true compromise—consistent with the best traditions of this body. We owe this spirit of cooperation to the Senate as an institution. More importantly, we owe it to the ranchers and farmers and families in Montana and across America who expect us to work together for a compromise on the estate tax that will provide real relief—not political statements.

Madam President, let us not just make statements. Let us negotiate. And let us make the law that will end this tax once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, today, we are witnessing another display of Republican anguish for America's oppressed minority, the rich and the super-rich. They suffer from a terrible injustice: They have to pay taxes on their millions and multimillions and even billions of dollars in accumulated wealth.

Thanks to my Republican colleagues, the rich and super-rich pay far less in taxes than they did 5 years ago. But their sympathy knows no bounds. So today we are debating eliminating taxes—not just lowering them but eliminating them—on only the wealthiest one-half of 1 percent of all Americans, taxes they don't even pay themselves but their estates pay after they die.

This debate is not about saving family farms or small businesses, although I personally favor exempting them from all estate taxes.

This proposal is about eliminating a tax that falls only on the rich and the super-rich. When it comes to tax cuts for them, the Republicans just cannot do enough. They have done so much already. They lowered the top personal income tax rates by more than any other categories. They reduced the tax rate for capital gains to 15 percent. President Bush wanted to eliminate taxes on dividends, but Congress settled on a 15 percent rate for that income as well.

Republicans and a few Democrats—but mainly Republicans—have created a Federal Tax Code where a working person with taxable income above $28,400, or a head of household with taxable income above $38,400, pays much higher tax rates than rich people pay on millions of dollars of income from dividends and capital gains.

Let me say that again. A working American pays a tax rate of 25 percent or higher on every dollar of earned taxable income above $28,400, or $38,400 for a head of a household. A multi-millionaire or a billionaire pays a tax rate of only 15 percent on any amount of unearned taxable income. Now, there is a tax injustice to the middle class working Americans that we should be doing something about.

But, no, what do my Republican colleagues propose today? More tax cuts for only the wealthiest people in America. They don't seem to care that they are sacrificing the financial strength and stability of our Federal Government to continue these tax giveaways. They are addicted to what the nonpartisan Concord Coalition has called the ''most reckless fiscal policy in our Nation's history.''

When George Bush became President, the Federal Government's operating budget had just been balanced for the first time in nearly 40 years. Now, it is running deficits of $500 billion a year. The entire Social Security trust fund surpluses are being spent to cover part of those operating deficits. The rest of it is being borrowed. President Bush's own budget projects that in fiscal year 2011, the year this proposed repeal would become permanent, the on-budget deficit will be $415 billion.

Total Federal debt will have grown to $11.5 trillion. Over $3 trillion of that debt will be owed to the Social Security trust fund. That is the amount of the trust fund surpluses the Republican tax giveaways will squander to pay for them.

The Federal financial situation only gets worse during the following years. According to the Social Security trust fund's trustees, that fund will start to run annual deficits in 2016—that is 10 years from now—as more and more baby boomers retire. Those annual Social Security trust fund surpluses will be gone. Those previous surpluses that President Bush and most Members of Congress once promised would be saved in a lockbox until needed to pay Social Security benefits will be gone, too—gone to pay for part of the tax cuts for the rich and super-rich. So then the Federal Government's operating budget will be running huge deficits.

The Social Security trust funds will start running big deficits. The operating fund will owe the trust fund over $3 trillion, and yet this Senate is talking about eliminating a tax on the richest one-half of 1 percent of Americans.

This is beyond fiscal irresponsibility. This is fiscal insanity. These projections are right from the President's own budget office and the Social Security trust fund trustees. The revenue shortfalls are catastrophic. We are standing on the look-out tower of the Titanic and all we have to do is open our eyes and look at the financial iceberg that is dead ahead. My Republican colleagues want to keep going full speed ahead. They also want to pour more coal on the fire. The people in the first-class cabin will get to enjoy their extra champagne and caviar for a short while longer.

Nobody likes to pay taxes. This country was founded by anti-tax rebels. But once it became our country and our Government of we, the people, most Americans willingly paid their fair share of the taxes necessary for the public services that we collectively want, like national defense, education, highways, and the rest.

There used to be an ethic in this country that if you made more money as an individual or a corporation, you paid more taxes. That was your fair share. That was a reasonable price to pay for living in the greatest country in the world and for being successful in it. Now that ethic has been lost. Now too many people and companies want to make more and more money and pay less taxes or pay no taxes or get rebates.

Politicians pander to those desires by offering more and more tax cuts because they are popular and they help them get re-elected—while still increasing Government spending, because that is popular, too. But the result of that lost ethic and the insatiable desire for more and more tax cuts in the last year—setting aside Social Security—total Federal tax revenues amounted to only three-fourths of expenditures. Under existing tax policies, it won't get much better. Under this estate tax proposal, it will get worse.

So the question before us is: Who cares about the future of this country? Who will say no to the demands for more money by its most privileged people who apparently don't understand or don't care what they are doing to the financial future of everyone else? But we do know, we, the 100 elected representatives of all the people of this great and still strong Nation, we, the stewards of its financial treasures and the trustees of the public trust, we do know. It is our responsibility to know what eliminating the estate tax would do to our Nation's future financial solvency, and there is no possible way to responsibly adopt this proposal. There is no way to justify placing the financial interests of a few Americans ahead of the financial interests of all the rest of America.

If we eliminate this tax, we might as well eliminate all Federal taxes starting in the year 2011 and start over again because the Federal tax system will have been irretrievably broken, and it will be just a matter of time before everyone finds out and discovers that this country's financial future has been squandered by a few in here to benefit a few out there. Then there will be hell to pay.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, we are debating the question of whether the estate tax ought to be eliminated. It has been fashionable to call this tax the death tax. That is a name conjured up by some PR people for a handful of wealthy families whom the New York Times revealed this morning have spent $200 million over the last several years trying to convince people there is a death tax.

There is no death tax. None. We do have a tax on the wealthiest estates in the country. Currently, the exemption levels of $2 million per person or $4 million a couple mean that only one-half of 1 percent of estates are taxed.

To eliminate the estate tax would cost the Treasury $776 billion from 2012 to 2021. That is the time it would be first fully in effect. That doesn't count the interest lost. The interest lost would be another $213 billion. So the total cost to the Treasury would be nearly $1 trillion in the time 2012 to 2021.

Let's look at our current budget condition because that should inform what we do here. Do we have this money? And the answer is clearly no, we don't have the money. We already can't pay our bills. This is what has happened in the last 5 years. These are the deficits that have been run up. They are the biggest deficits in the history of our country. This year they are anticipating a deficit of $325 billion. That doesn't accurately describe our fiscal condition because what is going to get added to the debt this year is not $325 billion. What is going to get added to the debt this year is over $600 billion.

In the midst of this sea of red ink, what our colleagues are talking about doing is eliminating another trillion dollars. Let's just stack it on the debt. They are not proposing cutting spending to offset this amount. They are not proposing other taxes to offset this amount. They are proposing borrowing the money. This is our pattern of borrowing since this President took over.

In the last part of his first year, the debt of the country stood at $5.8 trillion. We don't hold him responsible for the first year because that was a budget determined in the previous administration. But here is what is happening to the debt under this President in 10 years—the first 5 years we have already seen and the 5-year budget that is before us now.

If the 5-year budget that has been passed in the House and the Senate goes forward pursuant to the President's proposal, this will be the debt at the end of that period—almost $12 trillion. This President will be responsible for doubling the debt of the country.

Already he has more than doubled the amount of American debt held by foreign entities. It took all these Presidents—42 Presidents—224 years to run up $1 trillion of external debt. This President has more than doubled that amount in just 5 years. This is an utterly unsustainable course, debt on top of debt.

The result is, we now owe Japan over $600 billion. We owe China over $300 billion. We owe the United Kingdom almost $200 billion. We owe the oil exporters almost $100 billion. And now Mexico has gotten on to our list of top 10. We owe Mexico $40 billion.

Most of the added borrowing we have done to float this boat, most of the money has not come from our own country. We have borrowed more from abroad in the last 5 years than we borrowed from America to finance these deficits.

Our colleagues are saying: Let's go out and borrow another trillion dollars, primarily from Japan and China, in order to give a tax reduction to one-half of 1 percent of the estates. This makes no earthly sense.

Under current law—here we are in 2006—a couple can shield $4 million. In fact, with any kind of estate planning, they can shield far more than that. In 2009, that will go up to $7 million. That is under current law.

Under current law, in 2009, 99.8 percent of estates will pay zero. There is no death tax. There is no death tax.

There is a tax on wealthy estates, and if we don't get some help from the very wealthiest among us, guess what. We are either going to have to ask middle-class people to pay more, or we are just going to keep running up the debt.

The proposal of our friends on the other side is just stack it on the debt, stack it on top of the debt that has already doubled under this administration's watch.

Already under current law, the number of taxable estates has dramatically fallen. In 2000, we had 50,000 estates that were taxable. That was down to 13,000 this year. By 2009, it will be further cut to just 7,000.

What is this really about? This is really about a handful of wealthy families who, according to the New York Times in this morning's paper, have spent more than $200 million over the last several years to convince people there is a death tax. I just had a colleague tell me a baggage handler stopped him and urged him to end this death tax because he was deathly afraid he was going to get taxed. That baggage handler doesn't have to worry. One has to have $4 million in their family before they pay a penny of tax. With any kind of estate planning, you can shield far more than that.

I recently spoke with a North Dakota estate lawyer. He does more estates than any lawyer in my state. I said: Is this estate tax with a $4 million exemption per family a problem?

He said: Kent, it is a nonissue. Not only do you have $4 million, but in addition, you have a whole series of things you can do to further reduce your tax liability, and on top of that, if you do have any liability, you have 14 years to pay if you have a closely held business or a farm.

You have 14 years to pay. People say there is a liquidity problem. There is no liquidity problem. The only people who have an issue are very wealthy people.

I would love to be able to say to them that we can dramatically reduce your tax burden, but the problem is we can't pay our bills now. People say it is the people's money. Absolutely it is. It is also the people's debt, and this debt that is going to be added to is in all of our names. This is in all of our names. Are we really going to take on $1 trillion of additional debt in order to help a handful of very wealthy people who really don't need the help?

We have already heard many of them say: Please, don't do this. Warren Buffett, the second wealthiest man in the world, said this makes no sense at all. Mr. Gates, the father of the richest man in the world, has come before us and said: We don't need this kind of help. We have been blessed by being in America. We have had the opportunities of being here. We expect to make an additional contribution.

There is something else that should be mentioned, and that is, we have other tax relief we need to consider, and this should be the priority over estate tax repeal. Repeal costs $369 billion from 2007 to 2016. During that same period it would cost $286 billion to extend the 10-percent bracket. That really does affect people, middle-class people. It would cost $183 billion to extend the child tax credit. That really does affect middle-class people. And it would cost $46 billion to extend the marriage penalty relief.

I submit these are priorities. These are the issues—extending the 10-percent bracket, extending child tax credit, extending marriage penalty relief—to which we ought to pay attention.

Finally, this is a quote from the chairman of the Finance Committee last year:

> It's a little unseemly to be talking about eliminating the estate tax at a time when people are suffering.

The chairman of the Finance Committee had it right last year. It is unseemly. It is unseemly to be eliminating the estate tax when our country is in deep debt, when our country is at war, when our country is running up record deficits, and when there are so many other needs that are the real priority for the people of this country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Madam President, is it in order for our side to speak now?

The PRESIDING OFFICER. Without objection, the Senator from Missouri may proceed.

Mr. TALENT. Madam President, I wish to speak a few minutes today about the repeal of the death tax and why we ought to do it and, the very least, why we ought to vote on it. I do this with a background of somebody who chaired the Small Business Committee in the House for two terms and had occasion to have hearings on this proposal and on the death tax. And more than that, I have spoken over the years with scores and scores of small business people and farmers who are penalized by this tax in a particularly demoralizing way. I think it is time to get rid of it or at least to vote on getting rid of it. We owe that to them.

These are the people who drive America's economy. These are the people who create the jobs, who create the technical innovations on which we depend. They are particularly hard hit by our death tax, which is the most onerous estate tax or death tax in the world.

Keep in mind that death taxes work on estates that have already been taxed. There isn't anything in an estate that hasn't already been taxed as a lot of it has already been taxed several times, and our death tax allows the Government to come in on the demise of a person and collect up to 55 percent of what they have worked for, what they have earned, and what they saved in the hope they could benefit their children.

The death tax is punitive. It costs the economy. It is directed precisely at the kind of activity that we need for economic growth and at precisely the kind of people who drive economic growth. Repeal of the death tax would increase nonresidential investment capital by $25 billion, an average of 100,000 to 200,000 jobs a year, greater disposable income for American workers, and stronger economic growth. That is what the economists say when they study it.

I believe the impact of the death tax is far greater than just what the economists have been able to estimate and monetize because it is a particularly demoralizing tax. It says to the small businesspeople and the farmers, indeed, to everybody who saves and invests, that you can do everything you can to build up your business, you can do everything you can to build up your farm, you can do all that with a view toward benefiting your community, your employees, and making the kind of success we want you to make out of your life, you can be successful at the American dream, and then the Government comes in and takes more than half of it and often takes more than half of it under circumstances which have the impact of destroying the whole enterprise. This is not speculation; this is what small businesspeople are saying and what they have said year after year after year. I know because I have had them before my committee.

Many in Missouri are affected by this tax. Renee Kerchoff is the second-generation owner of Rudroff Heating and Air-Conditioning, started in Belton, MO. Because her family worked hard, because they were willing to take risks, because they reinvested what the business earned instead of keeping it for themselves, the business has done well. Her father is no longer living. Renee's mother is living. She is going through the dilemma thousands and thousands of family businesspeople go through in this country every day: she is trying to figure out how to save the business when her mother passes away because she will owe a huge financial liability to the Federal Government.

When I was chairing a committee in the House, I had one woman—not Ms. Kerchoff but a different woman—break down in front of the committee trying to explain how she and her brother were unable to save the family business. ''Mr. Chairman,'' she said, ''if we have to sell the business, what is going to happen to the employees?'' What happens to employees when you have to liquidate a business? What happens to employees when you have to sell out to a big company? They get laid off.

Farmers, in the view of this tax, are often considered to be wealthy because they have farmland maybe near a suburban area that has gone up in value. There are farms in Missouri where the land is valued at $1 million or more. Those farmers would be surprised to hear that the Federal Government believes they are wealthy. A lot of that land is near St. Louis or Kansas City. It has gone up in value, but they don't have the cash to pay the tax. They are going to have to sell the farm to pay the tax instead of passing it on to their heirs.

This is a common story all over the United States. What are these family businesspeople and farmers trying to do? They are reacting to this. They don't want to sell the business. They don't want to sell the farm. They are spending enormous amounts of time and effort and money on lawyers and accountants trying to figure out how to preserve what they have built up for their whole lives. Do we want them meeting with their brothers and sisters and other family members and spending hours and hours on an estate plan, or do we want these innovative and hard-working people spending hours and hours figuring out how to grow their business and create jobs and grow the economy so that the rest of us will benefit?

To me, the answer is clear. We can unleash this layer of people around this country by telling them: Look, when you earn money, yes, you are going to pay a substantial amount to the Federal and State government—and many of them pay 50 percent or more of their income in Federal and State taxes—but once you have paid that, what is left is yours. It is yours and your family's. You can reinvest it in the business, you can build up the farm, and you don't have to have this hanging over your head year after year. We are not going to penalize you for succeeding at the American dream.

Heaven knows, enough small businesspeople and farmers fail. They try their best, but they don't succeed. And here we have a tax which dates back decades and decades, an out-of-date tax which punishes people for doing what we want them to do. That is what is wrong with this tax. It is economically wrong. It has bad impacts. The think tanks can study it and monetize all that and figure out all the bad, negative impacts of this tax, but it is just wrong. It is wrong, when a person has spent their whole life trying to build something up so they can leave something to their kids and their grandkids, for the Government to come in and take it all, and that is what it amounts to, especially when they have paid taxes on it already.

We have a weird tax system. We have a tax system that says to people: If you spend everything you earn, if you are a small businessperson and you take the money out of the business and you consume, if you go out and you draw the biggest salary you can draw, you don't expand the business, you don't build it up, you don't try to help your employees by creating more opportunity for them, you don't try to do anything for your community by expanding the economic base of the community, if you spend it all, the Tax Code favors that, we think that is OK. But if you try to do what my parents and the people of my parents' generation routinely did, which is live up to your responsibilities of the next generation, you try to save it and invest it and grow it because you believe in America, you believe in the future of the country, and you want to help your kids or your grandkids or somebody else's kids or grandkids, the Government doesn't like that. The Government is going to come in and take all of that. Why? Because we are afraid we are going to lose revenue.

I am a believer that if you trust in the American people, in the hard work, the decency, the foresight of the American people, we are going to do OK with revenue. If we grow this economy, the Government will have plenty of revenue.

At the very least, we ought to vote on this. I believe it is time for us to ask, as a body, are we going to filibuster everything? I mean, is there no bill we can just allow to come to a vote? If you don't like this, vote against it. Now we are filibustering the motion to go to the bill. I hope everybody in the country understands that this is a filibuster of an attempt just to debate the bill. We are not even going to allow that. Despite the expressed wishes of small business organizations and farm organizations, despite the trend in the rest of the world, we are not even going to debate it. We don't trust the American people with their money. We don't trust the small businesses and the farmers to expand the economy and to create jobs, and we don't even trust ourselves to vote on something. No wonder people are frustrated.

There is still time to do the right thing here. Let's vote on the motion to proceed, pass the motion to proceed, debate the bill, and then I hope pass the bill—if not a permanent repeal, at least a substantial permanent reform that lowers this tax substantially, creates simplification, and says to our entrepreneurs, our small businesspeople, our investors, our farmers: We trust you, and we believe in you. Go out and do what you want to do because we think that is good for America.

We still have the chance to do that. I hope we will.

I yield the floor.

Mr. SHELBY. Mr. President.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to voice my strong and unwavering support for a full repeal of the estate tax, or the death tax, as we often refer to it.

Until World War I, the Government only imposed an estate tax or inheritance tax to raise revenue to fund expenses directly related to the necessities of war. Even then, the rate was measured. However, that practice changed after World War I, and unlike four previous occasions, the tax was not repealed once a peace agreement was reached. In fact, the tax continued to increase until it reached 70 percent during Franklin Roosevelt's administration.

What was once a means to finance war eventually became a significant revenue stream that funded all aspects of a growing Federal bureaucracy. Today, the estate tax continues to provide a significant revenue stream to the Federal coffers and functions as a redistribution of personal wealth and punishment, basically, to those successful business owners seeking a better way of life.

The death tax places an undue burden on our Nation's family-owned farms and small businesses. These individuals work tirelessly day in and day out to make their own way, to contribute to society and the economy, only to be told their loved ones will be punished when they die. Too often I hear sons and daughters forced to sell a piece—if not all—of the legacy their parents worked to create and sustain simply to pay the estate tax. That scenario is wrong. We should not punish hard work and entrepreneurship; we should reward it. We should reward those who choose to continue their family businesses rather than shut them down. These people work hard to promote prosperity and growth in their local communities, only to be told by the Federal Government that in addition to the taxes they have paid each and every year, they must now pay an additional tax, the death tax, because someone died.

Taxing death has a negative impact on the desire of Americans to invest and to save. A basic economics class will teach you that savings and investment are positive for individuals, families, and our economy. Punitive taxes such as the estate tax, capital gains tax, dividend tax, and the gift tax all have a negative impact on our overall economic growth.

In 2001, as my colleagues well know, Congress acted to eliminate the estate tax by January 1, 2010. Unfortunately, this provision sunsets in 2011, just 1 year after it is fully repealed. As it currently stands, in 2011 the Tax Code is set to completely reverse all progress we have made to reduce the tax burden on our Nation's entrepreneurs. So those who are not fortunate enough to die, can you imagine, in 2010 will be faced with the prospect of their loved ones being responsible for as much as 55 percent of the estate's assets.

Whether it is a construction company, a cattle farm, a medical practice, or any of 100 other businesses, they all require significant capital investment in land, equipment, and materials that quickly overcome the threshold we will return to in 2011. These investments are not part of the business; in most cases, they are the business.

I am also concerned that, like other taxes I mentioned earlier, the estate tax serves as a second bite at the apple. Our current tax system too often taxes income and then asks for more. The estate tax or death tax is one of the more egregious examples of this situation.

I believe the Federal Government should work to minimize the burden on the American taxpayer and to simplify our tax system. The estate tax is contrary to both of these purposes. It not only taxes assets a second time, it also is one of the more complicated taxes to comply with in our bloated Tax Code.

I believe repeal of the estate tax is one of the many steps we as elected representatives of our respective States and people should take to spur economic growth, remove the burden on small business, and simplify our tax system, and I urge my colleagues to support immediate and full repeal of this tax.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise today in strong favor of abolishing one of the most unjustified taxes we have in America today: the death tax. Americans should not have to talk to their undertaker and their tax man on the same day. Small businesses and family farms should not be forced to close down in order to pay the Government money because a loved one has passed away. Unfortunately, I see this happening when I travel back to Kentucky every week. We are not looking out for our economy or our very own people when we charge them for inheriting the American dream.

The mom and pop diner on the corner of our town squares and third-generation farms in our rural areas are being unduly burdened by a repressive Tax Code. In fact, many are forced to close their doors or sell out, just so they can afford what the Government says they owe.

America's prosperity was created by our entrepreneurial spirit, but today it is estimated that 70 percent of all businesses never make it past the first generation, while 87 percent do not make it to the third generation, and only 1 percent make it to the fourth generation. Why? One of the big reasons is the burden of the death tax.

We call this tax the death tax not only because of the time that it strikes often unsuspecting families but also because it kills American businesses and jobs. The ridiculous complexities of the death tax actually favor individuals whose tax lawyers and accountants plan for years to shield money from estate taxation. The real people who are affected by the estate tax are often small businesses and farms, when death catches them unprepared.

The estate tax is equal to an unfair double tax on savings and investment. In short, it is a tax on the American dream, the dream that if you work hard and save money you can leave your children with the opportunity to live a happier and more prosperous life than you yourself did.

Estate taxes give taxpayers an incentive to save less and spend more. We all know that is not what we need in today's economy. The Commerce Department reported recently that Americans' personal savings fell into negative territory at minus ½ percent last year. We ought to be doing all we can to encourage savings, not to penalize people for it. We should give grandparents and parents an incentive to leave their children with the fruits of their lifelong labors. It is time for the Senate to wake up and realize the death tax, which raises only a very small portion of our revenue, is ready for its own death.

Poll after poll has shown us that this is what the American people want us to do. Please, let us join the House of Representatives in repealing this unneeded, burdensome tax.

Distinguished colleagues, I urge you to join me in supporting the repeal of the death tax today. The time for talk is over. Today is the time to take an action that can really make a difference. This is the only way we can ensure that our fellow citizens experience the American dream, not the American nightmare. I urge my colleagues to vote in favor of cloture.

I yield the floor.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I want to make a couple of comments with respect to the bill before us now. I just came from meeting with Wyoming youngsters who were here with the National Guard, helping young people finishing up with their GEDs, and so on. It was very impressive, very impressive to have young people moving forward and being able, hopefully, to be successful. That has a little to do with what we are talking about here today.

The fact is, the question of how we treat people who have been successful, in terms of their business, in terms of their operations, is something we are talking about here. We have had, of course, a number of discussions on the matter of estate taxes. It seems like we have been back and forth on it for a very long time. The problem is still there. I think this is a great opportunity for us to do something significant about that.

I have to tell you, in a State such as Wyoming where a lot of people are in small businesses and ranches and farms, this is a particularly important one. A family works all their lives—several families. They put together an operation—not wealthy families, but the value of the property is such that when the time comes that the older members of the family pass away, they have to sell the property in order to pay the tax. It takes it away from the continuation in that family and the business.

I know that is not a brand new idea. I think it is the important aspect here, that people have paid taxes all through their processes—whenever there is a profit, there is a tax; whenever there is a sale, there would be a tax. But to force the family to have to sell to accommodate the tax as an estate tax seems to me effectively a death tax, and that is not the way it ought to be.

Here is an opportunity for us to do something. I hope we can eliminate the tax. If we can't, we need to at least make a reasonable agreement as to how it might be done in a way that allows people to continue to pass their businesses and their farms and their ranches on to their families, and to be able to do it without being forced to dispose of the property before their family can continue to do it.

Mr. President, I yield the floor.

Mr. ALLARD. Mr. President, I rise to offer my strong support for permanent repeal of the death tax.

It is said that "a penny saved is a penny earned." Unfortunately, that is not the case for many Americans—especially those who have family businesses and farms. Instead of being rewarded for their initiative and determination, entrepreneurs are penalized for taking advantage of all this country has to offer.

For much of the 21st century, the death tax has burdened this country's hardest working citizens. It is finally time for Congress to permanently repeal this unfair tax. That is why I am pleased to support the Death Tax Repeal Permanency Act. Death should not be a taxable event.

Fortunately, the Economic Growth and Tax Relief Reconciliation Act of 2001 increased the amount that taxpayers can exempt from estate and gift taxes and slowly reduced the rate over the period 2002 through 2009. This act will fully repeal the death tax for 1 year in 2010.

However, if Congress does not act to make this repeal permanent, then the death tax will return to its pre-2001 levels. Failure to permanently repeal this tax results in estate-planning uncertainty for family-owned businesses and farms that are not sure whether or not to anticipate the return of the tax in 2011. Furthermore, failure to permanently repeal this tax would reinstate an unfair regime that taxes people twice—once on their income and again at their death.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized, it should not be repeatedly re-taxed by Government. The death tax violates this tenet. At the time of a person's death, much of their savings, business assets, or farm assets have already been subjected to Federal, State, and local tax. These same assets are then unfairly taxed again under the death tax.

One of the most disturbing aspects of the tax is that it can destroy a family business, or force the sale of a family ranch or farm. Despite what the opponents may claim, this can and does happen. To prove this point, I would like to share the story of some of my constituents. The Laurence family was forced to sell their 1,810 acres of ranch land just north of Carbondale, CO. The daughter of the late Rufus Merrill Laurence explained that the death tax forced the sale of the family's ranch, land Mr. Merrill had hoped to keep in the family for generations to come.

No American family should lose its business or ranch because of the death tax. The problem is that the death tax fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets in order to pay the tax. This practice can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized.

Similarly, more and more large ranches and farms are facing the prospect of break-up and sale to developers in order to pay the estate tax.

The death tax also discourages savings and investment. Former Federal Reserve Board Chairman Alan Greenspan repeatedly warned about the dangers of a low national savings rate, and current Fed Chairman Ben Bernanke has continued to raise the same concerns. Yet the death tax sends the message that it is better to consume today than invest and make more money in the future.

The death tax also undermines job creation. The Heritage Foundation estimates that the death tax alone is responsible for the loss of between 170,000 and 250,000 potential jobs each year. These jobs are never added to the U.S. economy because the investments that would have resulted in higher employment are simply not made.

The death tax also holds back overall economic growth. The Joint Economic Committee found that the tax reduces the stock of capital in the economy by $497 billion, or 3.2 percent. Permanent repeal of the death tax would allow individuals to save more money, spur job creation, and allow business resources to be put toward productive economic activities.

America is a nation of tremendous economic opportunity—opportunity for ownership that is available to all who go in search of it. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth. The death tax is a relic, and should be treated as such. It constitutes double taxation, damages family businesses, and harms the overall economy. It is time for the death tax to go—and this time, for good.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise today to express my deep concern about efforts by the President and some in Congress to repeal or all but eliminate the estate tax.

The estate tax is an important component of our progressive Federal tax system, it is the Federal Government's only tax on wealth, and by 2009 less than one-half of 1 percent of all estates will be subject to the tax. Far from being a ''death tax,'' the tax falls on heirs who seldom had any real role in earning the wealth built up by the estate holder.

The estate tax is simple: when a very wealthy person dies, the decedent's estate pays a portion of the total assets to the Federal Government and the remainder is then passed on to heirs. Capital gains that have built up in the estate tax free are passed on to the heirs on a ''stepped up'' basis, and the heirs are not liable for any income tax on these gains. No tax is levied if the estate passes to a spouse or is donated to charity. The overwhelming majority of estates pay no Federal estate tax.

This tax raises significant revenue, it is highly progressive, and it provides an important backstop to the income tax.

Today, only estates worth more than $2 million are subject to the estate tax and an individual will be able to pass along up to $3.5 million tax-free by 2009. A couple can pass along twice that amount. And let's not forget that estate planning often shields even greater sums of wealth from taxation.

The House Committee on Government Reform estimates that the heirs of Lee Raymond, former ExxonMobile CEO, and the current CEOs of the five largest U.S. oil companies would receive a windfall of up to $211 million if the estate tax were permanently repealed. The committee has also calculated that estate tax repeal could save the heirs of President Bush, Vice President CHENEY and 11 Cabinet members as much as $344 million.

It would be hard to call this a middle class tax cut without pretending a great deal.

Indeed, the Congressional Research Service reports that in 2004 when the exemption was $1.5 million, 99 percent of estates paid no estate taxes whatsoever. It bears repeating that less than one-half of 1 percent of estates will pay any tax at all as the estate tax exemption climbs to $3.5 million by 2009.

Despite the concerns expressed by some farm and small business groups, the vast majority of taxable estates are those of multimillionaires and billionaires who made their fortunes through their business and investments in securities and real estate or were born into extremely wealthy families.

After the President's tax cuts passed in 2001, he took a victory lap through Iowa where the New York Times quoted the President as saying:

> I heard somebody say, ''Well, you know, the death tax doesn't cause people to sell their farms.''

He added:

> I don't know who they're talking to in Iowa.

Perhaps it was Neil Harl, an Iowa State, University economist whose tax advice has made him a household name among farmers throughout the Midwest. He has searched far and wide but has never found a case in which a farm was sold to pay estate taxes. ''It's a myth,'' says Professor Harl, who has only found heirs who wanted to sell the family farm.

Even the American Farm Bureau Federation, one of the leading advocates of estate tax repeal, can not provide a single example of a farm lost due to estate taxes.

The reality is that only a small fraction of taxable estates consists primarily of family-owned farm or small business assets. The Tax Policy Center estimates that in 2004, only 440 taxable estates—2 percent of all taxable estate—were primarily made up of farm or business assets. And the Congressional Budget Office found that the vast majority of family farms and small business estates would have sufficient liquid assets—such as bank accounts, stocks, bonds, and insurance—to pay the tax without having to sell any farm or business assets. CBO also found that with a $3.5 million exemption—$7 million per couple—only 13 or fewer farms would encounter any liquidity constraints.

Moreover, there are already special provisions in place to ease tax burdens for family-owned small businesses and farms, such as allowing additional sums to be bequeathed tax free and permitting estate taxes to be paid in installments over 14 years at favorable interest rates.

So if saving family farms and small businesses is not the real root of the repeal effort, you would think that there would be some sound economic rationale. However, claims by proponents that eliminating the estate tax would encourage saving and investment, reward entrepreneurship, and contribute to economic growth turn out to be myths as well.

Repeal advocates argue that capital assets have already been taxed during the taxpayer's lifetime, so a tax at death is gratuitous. But the reality is that a large share of capital assets has never been taxed. Under current law, we have a provision called the ''step-up'' in basis that allows capital gains from the appreciation of assets—such as a house or stocks—during the decedent's lifetime to escape taxation through 2009. In 2010, the lone year in which full repeal is currently slated to be in effect, we switch to a ''carry-over basis'' in which heirs of large estates would inherit the potential capital gains liability that is realized only when the asset is sold.

In effect, today under the pretax law, the heirs receive the estate but on a stepped-up basis—the current value of the home. So for the home the father purchased for $30,000 and is now worth $1 million, they receive the estate based on the value of a million dollars. No taxes were ever paid on that appreciation other than the estate tax.

The Small Business Council of America opposes the full repeal of the estate tax because they estimate that a great number of small business owners will be worse off due to the loss of step-up in basis and only an extraordinary few will be better off. Four years from now, the Halls of Congress will be filled with heirs who won't want to pay taxes that they have inherited with repeal of the estate tax.

But any economic rationale for repeal falls apart when you learn that it will reduce national saving and hurt economic growth. According to the Joint Committee on Taxation, making estate tax repeal permanent would cost an additional $369 billion over 10 years. This estimate, however, dramatically understates the true cost of repeal. The full cost of repeal would not be felt until the second decade, beyond the time period of the budget estimates. In that decade, the cost of repeal could reach nearly $800 billion, plus debt service costs that would bring the total to nearly $1 trillion.

A compromise plan currently circulating in the Senate would permanently raise the exemption to $5 million and cut the top estate tax rate to 15 percent, which would cost nearly as much as full repeal, and it is not much of a bargain.

Rising federal budget deficits make the cost of repeal or ''repeal-lite'' even more unpalatable. The drain on the budget would occur at the very time that the baby boom generation enters retirement and rising Social Security and Medicare costs would strain our budget.

The President's tax cuts were passed at a time of huge projected surpluses in the Federal budget. The surpluses have been squandered by this administration and with deficits as far as the eye can see, it is simply irresponsible for the President and Republicans in Congress to press for full repeal of this tax.

By financing repeal with debt, we would be replacing the so-called ''death tax'' for a few very wealthy heirs with a ''birth tax'' for all, an action that seems neither wise nor fair. The cost of estate tax repeal will be paid for with borrowed money. Future generations of taxpayers—who will make significantly less than the deceased multimillionaires and billionaires whose estates would no longer owe taxes—will have to repay those funds. Estate tax repeal would raise the per-person debt burden by about $3,000 in just the first 10 years after the tax disappears.

In 2005, the CEO of ExxonMobile earned $9.1 million. Contrast that with the fact that the typical firefighter, police officer, or soldier today makes less than $50,000 a year and the inequity of this repeal is inescapable.

Clearly, estate tax repeal will predominately benefit the heirs of a handful of very wealthy estates. According to the Forbes 2005 ''World's Richest'' list, three members of the Mars family have $10.4 billion each and four members of the Walton family have nearly $20 billion each. These heirs still rank among the world's wealthiest people even after taxes.

Jamie Johnson, heir to the Johnson and Johnson fortune, put it this way, ''I was always told that the American Dream is about getting a bigger and better life than your parents have. But that dream was accomplished by my great-grandfather. ''

In their book about the history and politics of the estate tax, Death by a Thousand Cuts, Yale professors Michael J. Graetz and Ian Shapiro provide an eye-opening account of how a few very wealthy individuals and families have been working long and hard behind the scenes on repeal efforts. In the meantime, some of the wealthiest Americans—including Warren Buffett, William Gates, Sr., George Soros, and Ted Turner—have warned about the corrosive effect of eliminating the estate tax.

When Teddy Roosevelt endorsed the idea of an inheritance tax, he said that its ''primary objectives should be to put a constantly increasing burden on the inheritance of those swollen fortunes, which it is certainly of no benefit to this country to perpetuate.'' Indeed, our Founding Fathers abandoned an economic aristocracy—where large fortunes were handed down generation after generation, concentrating wealth and power—to create a meritocracy based on the ideal of equal opportunity for all. Underlying the estate tax is the notion that because our government provides a stable environment for wealth to be created and flourish—our financial markets, legal system, regulatory system, and strong national defense—society is owed a modest return on those investments.

Television ads last year depicted a World War II veteran supporting the repeal of the estate tax, the underlying message being that the tax is somehow unpatriotic. Ironically, the estate tax was first adopted in the nineteenth century to pay for government shortfalls due to wartime spending.

Today, we are at war and yet there is no sense of the shared sacrifice that has united this country in past conflicts. Our military families are making tremendous sacrifices, and too many of them have made the ultimate sacrifice in service to our country. With $320 billion appropriated or pending for Iraq operations to date and nearly 2,500 service men and women killed, the human and financial tolls are both more staggering than imagined.

With mounting war costs, the impending retirement of the baby boom generation and deficits as far as the eye can see, it is unconscionable to think that we are going to vote on repealing one of the most progressive taxes on the books.

There has been a lot of discussion about the death tax. It is not the death tax. It is the estate tax. But there is a death tax that is paid by Americans to sustain and support this country—and it is terribly unfair because it falls on a few. In Iraq, it has fallen upon 2,480 of our soldiers. In Afghanistan, it has fallen upon 299. It also falls upon the police and fire officers who each day risk their lives and some who give their lives. They truly pay the death tax. They will never be touched by this estate tax.

The average base pay of a specialist in the U.S. Army is $24,000. He won't be worried nor will his family be worried about the estate tax. Firefighters make about $40,000; police officers, $47,000 on average in this country. Yet, sadly, too many of them each year for their country pay the ultimate death tax. It is more debilitating than any check one sends to the IRS.

What do they need? What do their families need? They certainly need a strong, robust economy that will support their families in the future.

For those young Americans who are wounded in action—and right now in Iraq, 17,869—they need a strong Veterans Administration to support them years from now just when this repeal of the estate tax burden would take its toll and take more and more money away from the Federal revenue.

They are the ones who really pay the cost. If we pass this measure, we won't be able to help them when they need the help. We won't be able to support the Veterans' Administration system. We won't be able to provide the kind of support for education, for opportunities for higher education that will be so necessary for their children.

This repeal vote misses the point. The death tax was a slogan thought up by Republican operatives to sell an idea that does not have a compelling economic rationale. But there is a real death tax, and sadly, Americans in uniform must pay it for this country every day. They will receive no benefit from this repeal. Indeed, our ability to help them and their families will be limited in the years ahead.

I don't think this is just bad policy, it is unconscionable.

I yield the floor.

Mrs. LINCOLN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I come to the Senate today to discuss the issue of estate tax with a little bit of a different perspective from some of my Democratic colleagues who have spoken so very passionately on this issue already today.

I respect many of their approaches and concerns, but I come to this issue from a little bit of a different perspective. That perspective is because I believe the estate tax in its current form is unfair.

Outright repeal of the estate tax for family-owned businesses and farms has been a goal of mine since I entered Congress 14 years ago. I have grown up on a seventh generation Arkansas farm. I have watched as small communities and family-owned businesses have dwindled from their inability to maintain their competitiveness in the ever-growing global community, but also with the unbelievable challenges they face of the cost of health care, the cost of doing business, real estate costs, and others.

I have seen too many small business owners and farmers in my home State restrict the growth of their enterprises in order to avoid facing the impossible choice of leaving their families with an up to 55 percent Federal tax burden or the other option of selling off portions of their assets when they die in order to pay that tax.

However, because of our current budgetary constraints, I do recognize outright repeal is not feasible. Not at this time. With that said, it is more important than ever that we do what we can now to provide some certainty and relief for those who are so drastically impacted by this tax.

Last week, I received a phone call from a constituent who owns a family trucking and farming equipment business. The business was started by the family in 1927. Over the years and through much hard work they have grown from a small dealership into a thriving family business that now employs more than 450 Arkansans.

I hope many of us will continue to focus on the issue that small businesses are the No. 1 employer in this country and are the least likely to send their jobs overseas. They are the foundation, in many instances, of our communities. Whether it is the sponsor of our Little League teams or the group that is sponsoring the Cub Scout campout, we know they are the heart of our communities in rural America.

Seeing this business grow, we all are thrilled to hear these stories. I am particularly thrilled to hear stories of families, families who have invested their capital, their hard work, ideas, and their lives in their trade, and are ultimately successful in realizing that American dream we all talk about.

This same story is repeated all over our great State of Arkansas, whether it be the jewelry store owner in Fayetteville, the meatpacker in Morrilton, the car dealer in Springdale, or the timber farmer in Monroe County.

Indeed, these stories can be heard across our entire Nation. Family businesses are the engines of our small communities. It is the family-owned businesses that provide the jobs, the wages, and the health care, in most instances, for our constituents. It is the family-owned business that sponsors our Little League teams or pays our local State and Federal taxes. They are an intricate part of the community. They live in our rural communities. They care about what happens to them.

Yet because of the estate tax, we are forcing them to spend valuable assets on estate planning and life insurance rather than creating more jobs by investing and expanding their businesses. We are putting them at a disadvantage with their publicly traded competitors.

What kind of risk do major publicly traded corporations have to mitigate against with the death of a CEO? None. But a family-owned business has to spend tremendous amounts of resources in mitigating against that risk.

I, for one, intend to fight for these family businesses, fight for these communities, and fight for these jobs in rural America. Unfortunately, as this businessman from my State was quick to point out to me, we in Washington have left far too many of these family businesses in a quagmire as a result of the erratic estate tax policy we set in 2001. Under the Economic Growth and Tax Relief Reconciliation Act of 2001, the estate tax will be phased out in 2010 only to come back in full force in 2011 at a 55-percent rate.

For the family-owned business and farms which comprise more than 80 percent of all business enterprises in America, and which spend tens of thousands of dollars each year in planning for this tax, the status quo is unacceptable. It is not acceptable because many of our mom-and-pop shops are having to lock a significant portion of their capital resources into estate planning that may or may not be needed down the road. For small businesses with very limited liquidity, the uncertainty is paralyzing at a time when we should be giving them every opportunity to expand.

At the expense of our family businesses, this issue has been used by some as a political football for far too long. It should end now. It can end now. Since current policy was set in 2001, we have revisited this issue in the Senate on multiple occasions. However, each time we have had the opportunity to act, we have failed to reach a reasonable solution, a compromise, which is what most people in this country want Congress to do, to come together to bring results for the problems they experience, not an end-all-be-all solution but a compromise that gets them some results.

In this Congress, interested parties on both sides of the aisle have been at the negotiating table since early last summer. We have the information we need to form a compromise solution. We have that opportunity now. It is my understanding from leaders on the other side of the aisle that should a true compromise be forged on this issue prior to tomorrow's vote, a vote on that compromise would be allowed.

Let me emphasize again, the time for a solution is now. Our economy is yearning for the investment of these small businesses, these family-owned businesses, that can help regenerate what we need in our economy, the jobs in our community that we need them to expand on. The time for the solution is now, not later.

We have told these family businesses now is not the time far too many times already. I am so very hopeful this time we will do better. We know we do not have the perfect solution. But we also know if we do not seize the opportunity to provide them the certainty they need to continue their businesses, to take the money they are now spending on estate planning and reinvest those dollars into the job creation and the expansion of their businesses, we will have missed a great opportunity.

We have the opportunity to come together, to provide some certainty for these family businesses through the estate tax reform by raising the estate tax exemption, reducing that tax rate to a reasonable level. Let's not let that opportunity slip away.

I encourage my colleagues, come to the table. Look at what we have to work with. We have enthusiastic American family jobs and businesses that want desperately to be a part of making this country strong. We have an opportunity to offer them some solutions, some certainty, in order to be able to do just that, to give back to this great country that has given them the opportunity to create and build a family and a family business they are enormously proud of.

Let us not let this opportunity slip away. I encourage my colleagues to please take seriously this issue—not politically, but seriously, the issue of the relief that we can provide by coming together on a compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today we have another clear chance to see the priorities of the other side of the aisle. While my Republican colleagues claim to have a plan to address gas prices, college tuition, and middle-class tax breaks, today the American people can see what the true agenda is: another gift to the wealthiest Americans who need it the least.

Tomorrow, we will vote on whether we should consider permanently repealing a tax that only affects those who inherit estates larger than $4 million. We will be voting on whether repealing this tax should be a top priority for the United States Senate. And we will be voting on whether repealing a tax for those with multi-million dollar estates is a good way to spend the American people's tax dollars—$1 trillion of those tax dollars, to be exact.

In my State of more than 8 million, only 1,100 New Jerseyans paid any estate tax in 2004. Of those New Jerseyans who inherited an estate, a small 1.5 percent paid any estate tax when the exemption was $2 million. Today, that exemption has doubled, and in three years, it will have more than tripled, so even fewer New Jerseyans will be affected. I strongly support giving estate tax relief to family farmers, small business owners and others who need it, but that's not what this bill does. This bill showers a trillion dollars in benefits on the top half percent of Americans at a time of record debt and deficits.

By contrast, however, more than 120,000 New Jerseyans have benefited from a tax deduction for college tuition that Republicans have let expire. We had the chance to extend this deduction in the most recent tax bill, but somehow, the tuition deduction just didn't make the list of priorities in a $70 billion bill of tax cuts.

We cannot honestly pretend that repealing this tax is a priority for the American people; 99.5 percent of Americans aren't affected by this tax. And 3 years from now, under current law, even fewer will be subject to it. Congress has already acted on the estate tax, increasing the exemption level from $1.3 million to $4 million, so that only a quarter of the estates taxed in 2000 pay a tax today. Under current law, those who inherit a $7 million estate in 2009 will pay no tax.

And yet, the American people are being told that this is about saving them from more taxation. Small businesses are being told that the estate tax could be the death of their business. The average American is now in fear that they, too, might have to pay a burdensome tax when a parent dies. But the American people should see these for what they are: scare tactics.

Instead, the American people should be up in arms that this is the issue their Senators think is a high priority. They should be furious that instead of dealing with any of the issues they are concerned about, instead of addressing energy prices, instead of providing a tuition deduction to help families with the cost of college, we are talking about repealing taxes for the super wealthy.

So let's not be swayed by a few stories or scare tactics.

Instead, let's look at the facts. The fact is that under the current exemption, only 135 small businesses Nationwide have to pay any estate tax. The fact is that while full repeal would help those with multimillion dollar estates—such as Vice President CHENEY, who would save up to $60 million from repeal or former Exxon Mobil Chairman Lee Raymond, who would save $164 million—full repeal would actually hurt most small businesses, according to the Small Business Council of America.

And the fact is, while this may save a few millions for a handful of multimillionaires, the American people will be paying off the cost of repealing this tax for years to come.

Let's see this for what it is. This is a tax that does not affect 99.5 percent of Americans. This is not a tax crisis, and it is not a family business crisis. Repealing it is irresponsible. Greater debt upon the next generation of Americans for the benefit of a wealthy few is morally wrong.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise to strongly endorse H.R. 8, the Death Tax Repeal Permanency Act of 2005 and urge my colleagues to vote for it. This has been brought up year after year for decades. I hope my colleagues will vote in favor of giving the death penalty to the death tax. It is an unfair tax.

I like listening to all the different commentaries. The preceding speaker from New Jersey was acting as if it is the Government's money, that this is the taxpayers' money somehow going to those who have estates. It is individuals, human beings. Americans are the ones who are the owners of their property, not the Government. My view, as a matter of principle, is that death should not be a taxable event. The sale of an asset ought to be the taxable event.

This is an important tax policy that affects family businesses, small farms, people all over this country who would like to pass on their American Dream, what they worked on and worked for and accrued through their lives, to their children.

I was listening to the Senator from Arkansas who said she wanted a solution, fairness, and certainty. There is going to be a chance to have that fairness, that certainty and solution. Tomorrow we will vote on this measure, and we can repeal the death tax. That will bring a solution. It will bring fairness, and it will bring certainty.

In 2001, I proudly supported efforts to reduce taxes on families, individuals, and small businesses, and also to phase out over a period of time the death tax. We reduced the death tax in the strange way that they do things in Washington. The death tax was at 55 percent. It gets reduced over a period of years, until the year 2010, to zero. In 2006, it is one amount; in 2008, it is another. By 2010, it is down to zero. But then in the year 2011, it goes back up to 55 percent and a $600,000-something exemption. One would think in looking at this tax policy that the folks in Washington are incentivizing the American people to die in the year 2010. If they die that year, there is no death tax. If they survive, then they will be subjected to a 55-percent tax. This is a strange and odd policy. It hurts hardworking taxpayers who wish to leave their life's work to their loved ones.

It has harmed entrepreneurs and innovators who want to rely on a predictable, consistent tax system so that they can invest and create jobs and expand opportunity and spur economic growth. This absurd, complicated tax policy does not allow people to plan with a simple, stable, and certain tax law.

We have an opportunity to give the death penalty to the death tax once and for all. This is the right thing to do for a number of reasons. First and foremost is the issue of fairness. Talking about whose money is this, if an American man or woman earns money, they get hit with an income tax. If they invest it, they get hit with taxes on any interest. If they sell an asset that they have invested in, that ends up getting hit with a capital gains tax. Dividends are taxed. Interest is taxed. If they buy something with that earned money that has already been taxed once or twice before, they pay a sales tax. And as a practical matter, the Government taxes people to death. Then, after they do die, what happens? You have, in effect, the IRS, like a bunch of buzzards, hovering around at the funeral trying to get another chunk out of what is left from that person who is deceased.

I like to paraphrase Virginia's first Governor, Patrick Henry: There should be no taxation without respiration in the United States of America. We do need to get rid of this death tax.

Part of the American dream is to be able to pass on what you have worked for or the business you have started. You may have inherited it from someone else or bought it, but you built it up and would like to pass it on. A majority of Americans agree. About 70 percent of Americans, according to surveys, support it, even if they would not be subjected to this tax, because they recognize how unfair it is to be taxing death. This is a matter of fairness that the American people understand.

The second reason to eliminate the death tax is that it has a harmful effect on our economy. In many cases, the assets that are subjected to the death tax have already been taxed once or twice or three or four times before. That means the death tax is the fourth or fifth tax. It drains our economy. It provides little incentive to keep a farm and provides little incentive for a business to expand or to improve because its value would go up.

We have done a lot of things in the last few years that are beneficial for small business: For example, the $100,000 expensing for capital equipment as opposed to $25,000. That new equipment will make that company or that enterprise more productive, more efficient, and undoubtedly more profitable. But if you keep doing that year after year and improving it, you will improve the value of your business, making it subject to the death tax which is obviously counterproductive.

Another way this unfair tax hits people in the Commonwealth of Virginia is to look at the outer suburbs, Prince William County, Loudon County, the Piedmont of Virginia, the Shenandoah Valley. Someone may have farmland or forestry property in the hills and mountains. That property, when someone dies, is not taxed at what the value would be for running cattle on it or growing trees. It is taxed by the Federal Government at its highest and best use. The highest and best use of most of this property is not running cattle or growing soybeans or timber. It is going to be taxed at what the value would be if it were subdivided into a development or if it were along a highway commercially. So what happens so often is urban sprawl or suburban sprawl in the Piedmont, the Shenandoah Valley, the Richmond area, and elsewhere in Virginia and in the country because that forestry property will give you just the return when you harvest the timber. But to pay those taxes, you will have to get a loan. You are not going to get enough income off of that property to be able to pay those taxes. So what happens is that that forestry property or that family farm gets subdivided to pay the Federal Government death taxes. And whatever remains of that farm, if any, after it is subdivided, is a less efficient farming or agricultural or forestry operation.

This does harm people in a variety of ways, not just fairness, not just impeding and countering incentives for improving a business. It also means for Virginia ending up with more suburban sprawl. Talk to developers when they develop a subdivision. It is usually and so often from an estate sale where that family cannot keep the family farm going, and it changes the nature of many communities.

I have listened to all the arguments: Gosh, why can't we do this, and why can't we do that. We can do a lot tomorrow. We can act. It is something that has been promised year after year. Some people may not think it is entirely how they would like it, but why not do something positive, constructive and useful and follow the will of the majority of the Senators. Those of us advocating this are not in the minority. We are in the majority. There is a supermajority needed to keep proceeding, but stop the obstruction. Let's follow the will of the majority of the American people, the will of a majority of the Senate, and for tax fairness, for tax simplification, for certainty and stability of tax policy, let's kill the death tax once and for all and provide new life to the American economy and the American Dream.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I echo what my colleague from Virginia has said and rise in support of repealing the unfair death tax.

It is fair to say that death should not be a taxable event. There is decisive majority support in the Senate for repealing the death tax. And if you look at what happened in the House of Representatives, 272 votes in favor of repealing the death tax, a bipartisan vote in the House, and a big, bipartisan support vote in the Senate. What is happening is it gets filibustered. It takes 60 votes to end the filibuster. I hope my colleagues will join with the rest of us, those who have chosen to try to block this from consideration, and vote with us to at least allow us to proceed to consideration, to proceed to a vote, to allow the will of the Senate and what I believe is the will of the majority of the people in the country to be worked.

It is an unfair tax because the Donald Trumps and Paris Hiltons of the world, which are the examples most often used by our colleagues on the other side, are not going to pay it. They have a team of lawyers and accountants who are going to make sure that they pay little or no death tax. It is family-owned farms and small businesses that will end up paying the tax.

There are a lot of numbers being put up by both sides in this debate. After spending a little time in Washington, it becomes clear that just about everyone can find a statistic to support their particular point of view. I brought with me some real South Dakota stories that can help us understand who the death tax can hit and how it can hurt or even shut down a family farm or business.

Perhaps the most well-known example of a family-owned and operated business in my State of South Dakota is Wall Drug. I had hoped to have a poster to show it because people across this country, anybody who has traveled down interstate 90 in South Dakota has seen signs for Wall Drug. Although it currently draws thousands of people every day, Ted and Dorothy Hustead never imagined the success of their family-owned and operated business. Wall Drug wasn't always the tourist attraction it is today.

In fact in 1931, Ted and Dorothy Hustead and their son Bill moved to the prairie town of Wall, SD. Ted was a pharmacist and started his own drugstore with $3,000 left behind for him by his father. After a 5-year trial, the Husteads were ready to give up their family-owned business until Dorothy's extraordinary advertising idea.

The Husteads began advertising free ice water on the billboards to draw people in who were traveling across the hot, vast prairie of South Dakota.

The story is told that before they could get back to the store, after putting the signs up on what used to be highway 16 in South Dakota, there were already customers streaming into the store to get some of this free ice water. The first sign sprung up on highway 16 and it turned out to be the key to their success. Today, Wall Drug's advertisements are still along the highways of South Dakota, still advertising free ice water, along with other more modern draws. Their signs can also be seen all over the world, often with the mileage dutifully added. My office is 1,565 miles from Wall Drug.

This didn't happen overnight. In 1951, Ted and Dorothy's son, Bill Hustead, joined the business, working to create the family attraction that Wall Drug is today. The second-generation Husteads expanded the business and increased advertising spending.

In 1981, Bill's oldest son Rick became the first member of the third generation to join the business. Later joined by brother Ted, the third-generation owners continue to run the family business based upon the same western hospitality once embodied by their grandparents. Holding its reputation high, Wall Drug represents America's strong entrepreneurial spirit, built on innovation and perseverance and passed down through three generations of the Hustead family.

Why do I use this illustration to tell the Wall Drug story? Because it would be a shame to see family operations such as Wall Drug be sold off because of an untimely death in the family. That is what might happen to this business and these two other South Dakota stories that I will share with you. The effect of the death tax is very real on these family-owned operations, family-owned businesses.

In central South Dakota sits a 3,000-acre family farm. I will describe it as a medium-sized farming operation in South Dakota—not too big, not too small. Unfortunately, a death occurred in the family. As a result, $750,000 will likely be paid in taxes. This is a huge amount of money for a farm operation in my State, where land values can make an operation look a lot more valuable on paper than they are in reality. In other words, farmers like this can often be described as ''land rich'' and ''cash poor.'' All their value is in their land. When a massive death tax bill comes due, the only option is often to sell the land to pay this unjust tax. Thus, a family legacy comes to an end.

There is another operation in my State of South Dakota, with 10,000 acres in the north central part of the State. Like so many farms and ranches in South Dakota, the parents who have run the place for decades are now advancing in years. In this particular family, the mother passed away and the father is getting on in age. Their kids would like to continue in the business, but the tax on the farm would likely be $1.5 million. That might make it impossible for the kids to stay on and keep that family farm alive. I find it very disturbing that our Federal Tax Code could influence a family's ability to keep their farm from being broken up and sold off.

These are examples of real family farms that are facing the effects of the death tax. This is just not an exercise in the theoretical. Real farms, ranches, and real small businesses are watching how the Senate is going to act on this important issue. Our action, or inaction, this week will affect real businesses in each of our States.

Mr. President, in my State and other rural States, we are seeing the next generation leave for school and, too often, not coming back. We need to put in place incentives for our young people to keep rural America alive and strong. The death tax is an incentive for exactly the opposite effect. It can help push young people away from carrying on the family business in rural places. I hope the Senate will do the right thing and bring a permanent end to the unfair death tax.

I will offer one final thought on an argument we are hearing from the other side of the aisle. I have heard it said that repealing the death tax will add up to $1 trillion to the deficit. We heard a similar argument made when it came to reducing the tax rate on capital gains. The other side was wrong then, and they will be wrong again this time.

The analysts who have churned out figures in the trillion-dollar range are not taking into consideration the nature of the death tax and its larger impact on the economy. With the death tax permanently killed, family business owners would then reroute tens of thousands of dollars from lawyers and accountants hired to avoid being hit by the death tax back into their business. There this capital would be used to hire another employee or add value to their operation.

In fact, repealing the death tax would remove the asterisk on the American promise of passing your hard-earned business or nest egg to your children or grandchildren. The death tax in its current form has a chilling effect on the creation of new family businesses that would be created if assets could be passed down to the next generation. How many next generation beneficiaries would have invested in a new business if only they had sufficient capital to do so? How often has the death tax prevented this? How many potential jobs were not created as a result?

The changes in economic behavior if the death tax was no longer a factor to consider is hard to determine. But the dividend and capital gains rate reductions serve as a good indicator. Those rate reductions have paid for themselves many times over in increased Government revenue.

Last month's budget report from the Treasury Department has tax receipts up by $137 billion, up 11.2 percent for the first 7 months of fiscal year 2006. The year before, if you look at 2004 to 2005, there was a $274 billion increase in Federal revenues, or 14.6 percent more Federal revenues for fiscal year 2005. Reducing those taxes spurred economic growth and increased Government revenue. That is exactly what I expect would happen if we were to eliminate once and for all the death tax.

So I ask my colleagues to take a look at the death tax and getting rid of it simply as a matter of bringing fairness to our Tax Code. That is how the American people view it; that is how South Dakotans view it. Even though many Americans might not have a substantial nest egg to pass on to their children, they understand the death tax to be unfair. For that reason, they oppose it. They also know that it is those very same small businesses, small farms, and ranch operations that are creating jobs and making it possible for young people to continue to stay in the rural areas of this country.

One recent poll suggests that 68 percent of Americans support repealing the death tax. It is simply unfair for death to be a taxable event. I urge my colleagues to allow us to vote, allow us to proceed to the debate, and to get an up-or-down vote on the floor of the Senate, and to join the House of Representatives, which passed it by a very big bipartisan vote—legislation that would repeal and end the death tax once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I speak in favor of doing away with the death tax. To follow a principle of taxation and not just for the sole purpose of doing away with the tax, but following on what the Senator from South Dakota said, an obvious one is that death should not be an incident of taxation—not because it is death, but because when you collect taxes in an instance like that, it is like a fire sale. When you force a sale at a particular time to pay taxes, the value is going to be less than if the marketplace works. So by letting the asset pass from one generation to the other and letting the succeeding generation sell it according to the willing buyer/willing seller, more money is going to come in. That is a principle that has been laid out by the Senator from South Dakota.

Another principle that hasn't been spoken about yet is when to tax for Government services—tax income the earliest it is made, and tax it once. Beyond that, you ought to let the marketplace decide the value of something and tax it accordingly. Under both circumstances, more money is going to come into the Federal Treasury.

So I believe that death should not be a taxable event. Since I have been in the U.S. Senate, I have been working on reform of the estate tax. Taxing people's assets upon their death is just plain wrong—not wrong to the heirs as much as it is wrong to think that you are going to get more money into the Federal Treasury that way than if you let the marketplace work and determine the true value of something with a willing buyer and a willing seller.

Heirs should not be forced to sell a single asset in order to meet an arbitrary tax due date—the due date caused by death. Assets should not have to be sold to pay taxes. The market should determine when things are bought and sold. That is the best measurement—when a willing buyer meets a willing seller and they agree on a price and a time when that asset should be sold.

Unfortunately, under existing law, we have it all wrong. Under current law, in 2011 when we will once again have an estate tax due and owing within 9 months of death of 55 percent, and even in some cases up to 60 percent, that is just not right. It is not right for the family involved and it is not the best thing for the Federal Treasury, because that is not going to bring in the massive amount of revenue that would come in if the marketplace were working. It is not right because we have forced many unwilling sellers to have to deal with a very willing shark of a buyer who is waiting in the murky waters of tax uncertainty.

Some people wonder why I care so much about this issue. I have reporters from big city newspapers calling me, because I am a U.S. Senator, to remind me that Iowa is somewhat economically poor compared to very so-called wealthy places, like New York City, and that land and companies in the Midwest are not worth much. They take great joy in calling up my constituents—probably very randomly—and maybe stopping by once or twice for a so-called investigation about the haves and the have-nots of our State. They do it trying to find out the grassroots feeling about this great tax debate.

I may not get to write on the front page of a fancy urban newspaper, but I do get to talk to a lot of my constituents because I visit every county every year to find out what is important to my constituents through my town meetings. I will give you, from those meetings, a couple of examples, as my colleague from South Dakota did for his State, of why I think this debate is so important and this bill is so important and this cloture vote should pass.

Unfortunately, we have it all wrong. Under current law, in 2011 we will once again have an estate tax due and owing within 9 months of death of 55 percent and even in some cases up to 60 percent. That just is not right. We have forced many unwilling sellers to have to deal with a very willing ''shark'' of a buyer waiting in the murky waters of tax uncertainty. These are real people who live in Iowa. They have devoted their entire lives, for multiple generations, to building businesses and creating good jobs for people of rural Iowa.

Over 40 years ago, Eugene and Mary Sukup started a grain handling and storage manufacturing company in Sheffield, IA. On my family farm, my son and I used Sukup equipment to store our corn and soybeans and to use drying equipment for drying corn for storage. So I know that the Sukups, as a family manufacturing business, have a quality product and they serve their customers well, and they serve all Iowa well in the sense of jobs. Today, the Sukup family and the next generation of two sons and their families are involved; they are still headquartered in this little community of Sheffield, IA, with a population of 968 people. But they employ over 300 people from 5 different counties, in good-paying jobs, with good retirement plans. In fact, the original employee team that started with them 40 years ago is still there today, and, in many cases, the next generation of that family has also joined the team.

In addition, the Sukups' facilities in other States, also contributing to the economy of those other States, like Defiance, OH; Jonesboro, AR; Arcola, IL; Aurora, NE; and Watertown, SD—places where good jobs and hard work that isn't flashy and doesn't make the scandal page of big city papers are valued as important ingredients of down-home, good living. These are the places where people invest in the local economy and contribute to the community as good taxpaying citizens.

Let me tell you about another little Iowa town, Shenandoah. That is where Lloyd Inc. is located. It, too, is not a flashy company. They started making animal dietary mixes in 1958 and now is a significant provider of veterinary drugs. Eugene Lloyd is a doctor of veterinary medicine and the CEO of the company. He tells me that the company has never laid off employees due to poor business cycles and employs over 80 well-educated people in Shenandoah, a town of less than 6,000 people.

The company has also provided generous health care and retirement plans to their employees and, like I said, in rural America, those benefits are very important.

Unfortunately, even after vigilant estate planning, these two family-owned companies will be facing a combined estate tax bill of well over $40 million. That is $40 million that will leave the State of Iowa. The companies will probably face a fire sale and so often, it is sold to someone with no interest or desire to maintain the current location or contributions to the community. So there are two companies, two towns, 6 counties, 4 families and hundreds of employees, all of which will be hurt if we don't do something about the death tax. Businesses will be sold, locations will be shut down, and real people will lose good jobs and the State of Iowa will lose $40 million of hard capital invested for almost 90 years between the two companies. Not to even mention how much salary, retirement plans and charitable contributions they have made to those little Iowa communities.

So when the multinational or foreign companies come calling, we have no one else to blame but ourselves for letting these family owned companies committed to the community go away.

All of us from rural America are trying to battle what is called out-migration. If we leave the death tax in place in its punitive form in 2011, it will suck jobs, businesses, and people out of rural America.

That is why I care about this death tax debate—real people, in real Iowa counties that have entire communities that would care. It is strange, in New York City, how many multimillionaires live on any one block in Manhattan?

Those so-called multimillionaires seem a little different when you check out the Iowa corn crop, or you sit together at church or the grandson's baseball game. They are, as the popular book says ''the millionaire next door,'' they are the pillars that help hold up all those 99 counties that I visit every year. I know these are not the kind of stories that make the front page of the big city papers, but when family businesses get sold and shut down or moved out of State or even out of the United States, it certainly makes the front page of the newspapers about which I really care.

So when you hear about the number of estates affected, keep in mind, to some extent, that statistic is only a snapshot. The estate tax return is filed by the representative of the dead person. Those statistics, so often dwelled on by many of the proponents of the death tax, don't capture the full picture. The statistic is only a look at the dead person who owned the business or farm. It doesn't take into account the dead person's family, employees, or neighbors. All of those folks are affected if the death tax burdens that family business or farm.

I plan to vote for cloture, and I hope 60 other Senators also vote for cloture on Thursday. It is time we had a real debate on a reasonable solution to this problem. Kicking the can of tax uncertainty is draining dollars out of these family owned businesses, just as well as the estate tax, only the expense of planning for these uncertainties takes money every month and not just all of it within 9 months of death. Vote yes on cloture. We owe these folks an answer.

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

The Senator from Delaware.

Mr. CARPER. Mr. President, I have asked my staff to see if they can find some charts—maybe the kind of charts prepared by our friend, Senator CONRAD.

Let's look at this first chart. One of the charts I asked to see if they can find is a chart that deals with what has happened in this decade under current law with respect to the amount of an estate that is excluded from the estate tax so we can see what it looks like over time and what the rates look like over time.

As I recall, the amount that could be excluded from the estate tax in 2001 was about $1.35 million. It went up to $2 million, $3 million, and this year it is about $4 million combined, two people in a family, husband and wife, and then I believe in 2009 there is $3.5 million excluded for each spouse, for a total of $7 million for a family in which there are two people. The amount of the tax, going back to 2001, I believe was about 55 percent. Over time it has been decreasing, so that in 2009 the amount of the estate that will be excluded from the tax is $7 million, and I believe the rate is 45 percent. The next year, in 2010, there is no estate tax, and then in 2011 we go back to where it was in 2001, which is again about a little less than $1.5 million, and the rate would be 55 percent.

People like to have some certainty in their lives so they can do planning for a whole lot of activities. Certainly businesses like to have certainty so they can do planning. That is especially true when folks are trying to develop business plans or estate plans. When we look at a tax that goes from an exclusion of $7 million at a rate of 45 percent to the next year having no tax, and the year after that we will be back where we were in 2001, that certainly doesn't provide the kind of certainty under which businesses or families like to operate.

My hope is that during the course of this debate or this year, we can come up with some certainty. There are folks who would like to see the estate tax go away altogether. When I was Governor of Delaware, we actually eliminated the inheritance tax. We cut taxes 7 out of 8 years. Can you believe that, Mr. President? We reduced taxes 7 out of 8 years. We also balanced the budget 8 years in a row.

The concern in getting rid of the estate tax altogether is we didn't balance the budget last year or the year before that, and we are not going to balance the budget this year or for as far as the eye can see. In fact, the way to come closest to reducing the deficit, as the administration would have us believe, to cut it in half, is to assume we are not going to spend any more money in Iraq the next year and the year after and we are not going to spend any more money in Afghanistan or do anything to fix the alternative minimum tax, which is likely to cost us some money—in fact, a whole lot of money. If we ignore all those items, we can pretend the deficit will be cut in half, but I don't think we can in good faith ignore them.

Let me see what else we have in charts that might be worth looking at. This chart gives us some idea of the percentage of the estates that are going to be taxed in 2009. Again, this is if we consider a $7 million exclusion with a rate of about 45 percent. It says that in 2009, only 0.2 percent of estates will be subject to that tax. If we exclude everything up to $7 million, that doesn't leave very many estates. That is 2 estates out of 1,000 which would have to pay anything at all. And even in 2009, the rate would be down from 55 to 45 percent. This chart shows a pie. That is a pretty small sliver out of that pie. Actually, it would probably be a lot slimmer than that if we really wanted to show it in proportion.

Let's take a look at one more. This chart shows how many estates were being taxed in 2000—roughly 50,000. When we go up to the $7 million exclusion for a husband and wife, the number of taxable estates is down to about 7,000.

I wish we had another chart that actually showed what the value of the estate tax is in revenues to the Treasury. I don't know if we have a chart showing that information. If we can take a look, that would be good.

Some folks like to call the estate tax the death tax. That is actually pretty clever. But I always think of it as the estate tax.

I think of something I call the birth tax. It is a tax that every child born in the country this year inherits upon their birth because it is the amount of our debt that accrues to them and, frankly, to the rest of us. The amount of money we owe as individuals as a personal obligation—again, take the total amount of our debt divided by the total number of people, and we are talking about tens of thousands of dollars. In fact, if we look not just at the money that is accumulated debt but if we look at that more on an accrual basis, we are looking at a birth tax that is not $20,000 or $30,000 per person but maybe 10 times that amount of money.

This is the cost of the estate tax repeal. We generally only look ahead 5 years. We have been raising the amount of estates that are excluded and lowering the tax rate for the last couple of years—actually, the last 5 years—and the amount of money lost to the Treasury is actually pretty small.

Starting right about 2010, it jumps rather considerably, and it looks like it is $60 billion a year starting in 2012, and it just climbs to 2021 and almost $100 billion a year. This wouldn't concern me if we had a balanced budget. This wouldn't concern me if we had a reasonable prospect for a balanced budget. This concerns me because we don't have a balanced budget and we don't have any prospect for a balanced budget going forward. For us to go willy-nilly into eliminating the estate tax altogether is just imprudent—woefully imprudent.

Should we do nothing? Should we just let the clock continue to tick, so we get to 2009 with a rate of 45 percent and $7 million excluded from the estate tax, and then in 2010 it all goes away, no estate tax, and then in 2011 it comes back to where it was 10 years earlier? Does that make sense? I don't think that makes much sense, either. Rather than simply criticize those who make the estate go away, we ought to find a middle ground, a third way, and the third way says: What can we do that is fair and reasonable to farm businesses, families, and so forth, and at the same time will not make the budget deficit look like this or this much worse going forward?

The approach I like is we go back to where we will be in 2009 if we don't change the law. There are several of us who are going to introduce legislation to do this. I am not sure who will be in the lead. I will be one of the cosponsors. It says: Let's think about providing continuity and certainty. Let's acknowledge the fact that moneys should be excluded from the estate tax. And what is a reasonable level? Right now, we are at $4 million for a family, and in 2009 it will be at $7 million. We are going to suggest we exclude not just in 2009 but in 2010 and 2011 at least $7 million.

I believe we should index that amount going forward, just stay at $7 million for the next 10, 20, 30 years, but it will go up every year in conjunction with some deflator, the CPI or something such as that, and say the rate that is going to be effective in 2009 on the money in excess of the $7 million that can be excluded is 45 percent and lock it in at 45 percent for a while. So not only in 2009 will the amount excluded be $7 million, but in 2010 we will exclude $7 million, maybe with a CPI adjustment, and in 2011, $7 million, again adjusting according to inflation, but the rate would stay the same at 45 percent.

I wish I had a chart that actually shows how that would affect this accumulation of debt, our deficit. It would reduce by about 70 percent the amount of red ink. It wouldn't eliminate it entirely, but we wouldn't be looking at numbers of close to $100 billion a year in 2021. We might be looking at $30 billion. We wouldn't be looking at $50 billion a year in lost revenues to the Treasury; we would be looking at something more like $15 billion.

If people don't think we should have the estate tax where it was in 2001, that is not going to make them too happy because it is still a fair amount of loss to the Treasury, but it is not this huge loss to the Treasury. As long as we are running these huge deficits with little prospects of things getting better anytime soon, we need to find a middle ground, something more fiscally responsible and something responsive to what has been expressed to me by our farm families and small businesspeople.

We are going to have a chance to vote on a cloture motion on the motion to proceed tomorrow. I understand those who want to eliminate the estate tax entirely would like to prevail tomorrow and they would like to go forward. I don't know if the cloture motion on the motion to proceed tomorrow is going to pass. If it doesn't pass, rather than throwing up our arms and saying that is it for another year or two, I hope we will actually take a closer look at what some of us are going to be introducing either today or tomorrow which says that $7 million is a reasonable amount of money to exclude from the estate tax, which is lower than the current rate on estates, 45 percent for everything above $7 million is not an unreasonable level, and see if we can't work toward that goal.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am sure it is not going to be a surprise to anyone here that I am opposed to the repeal of the inheritance tax. Now, I don't believe people ought to be taxed beyond what is normal by increasing taxes here or there, but I do have a problem with figuring out ways to reduce taxes, inheritance taxes, on the wealthiest among us. We are talking about wealth that staggers the imagination, that is so vast that the average American can't even comprehend it. We are talking now about making it easier for the wealthiest among us to pass along the fortunes that some of them worked hard for, a lot of them inherited, and for the next generation who is waiting for dad or mom to pass away so they can make sure they can keep up with the yachts and the airplanes and the things of that nature. I don't say that everybody who is wealthy is spoiled or has bad values, but I think we have to look very carefully at what we are doing in the circumstances in which this country is living.

To give an example, this is like saying, if you are in debt, deeply in debt, the best way to solve your problems is to go out and borrow more money to pay off the old debt. It sounds foolish, doesn't it? But that is what we are about to do if we chip away at the taxes that are now—the revenue that is now collected through inheritance taxes.

At first glance, it sounds like a good idea to get rid of the inheritance tax. When you look below the surface, you learn that repealing it is a bad deal for the vast majority of Americans.

There is a lot of misinformation being passed around about who pays this tax. We have even given it a name that makes it so repulsive that as soon as you hear it, you say: Wow, what is this, a death tax? Do you mean you have to pay a tax for dying?

No. You have to pay a tax for making so much money that life can forever be comfortable. Not a bad thought, but at what cost? That is the thing that we are concerned about.

Here is the truth: One-half of 1 percent of the estates this year will be subject to tax. I don't know how many people who make $45,000 a year can understand what happens with one-half of 1 percent of the estates in this country of ours. What it says is that 99.5 percent of the estates left are not subject to any tax. To be even considered for this tax, an estate must be worth at least $2 million.

For any of you who hear my voice or look at the figures you see in the paper, remember, when someone says to you: You don't want that death tax out there, do you? It doesn't affect you unless you are worth at least $2 million. Then, on top of that, there are all kinds of tax shelters and exemptions. So very few people pay the tax. As a matter of fact, the average rate that estates pay is somewhere in the high teens, and rarely ever approaches the 55 percent marginal rate, which is the highest of them all. So I think some of my colleagues have to understand the history of the inheritance tax.

I was very lucky in my lifetime. My father died very young and left my mother a widow when she was 37 years old, and I was already in the Army. I had enlisted in the Army just over—well, over 62 years ago. My mother was this young, struggling widow, deep in debt because my father, who was a very healthy man, got sick on the job, and it took a year to rob him of his strength and his energy, so that there was nothing left except grief and debts my mother had to pay.

I was the beneficiary, as a result of my military service, to get something called the GI Bill. The GI Bill said to those who serve: We are going to help you make up for some of the years that we took for you to protect our country and protect our ideals, and we are going to provide funds for you to improve your lot, to get an education, to make up for the time lost, for building a career. The GI Bill sent me to college. I never would have been able to go. It would never have been available to me.

When I graduated high school, I had a job loading trucks. That is what my life was like. But good fortune struck me, and the opportunities that America gives were mine in abundance.

I went to Columbia University. I went to the business school there. I sit on that school's board now. I look back in amazement at what good fortune that I had. I created a company with two other fellows named ADP, Automatic Data Processing. Automatic Data Processing is a company that today employs 44,000 people in 26 countries in which we serve. Three guys from factory-working fathers, two of them are brothers, and my father, all worked in the same kinds of factories in Patterson, NJ. So life was good.

We presented a new idea in America, those years when we started. It was called outsourcing. It was the opportunity for companies to render specialized services so that the companies who hired us could devote themselves to making their product better and selling it cheaper and being more efficient totally. So as a consequence of that—why is this story relevant? It is because as a consequence of creating a company—my old company before I came to the Senate over 20 years ago—that company had the longest growth record of any company in America at over 10 percent, each and every year, growth and income. Every year for 42 years in a row we had the longest growth record in America, and I take modest pride in knowing I was part of that development.

As a consequence, of course, I made some money, a lot of money by most standards, and I brought my four kids up to understand that they were also lucky, and not just because their father was successful, and each one of them has worked very hard to make their own lives.

I tell that story because what I want to be understood is that I would be a beneficiary, or my kids would be beneficiaries, of a no-tax estate if it was left to them. But what would that do for my children as a result? It wouldn't do anything for them, in my view, in the long run. Give them more money? No. I would rather give them a safe country. I would rather give them a chance to fight against childhood diseases. My oldest grandchild has asthma, and my daughter, when she takes them out to play sports anyplace, the first place she looks for is an emergency clinic to make sure if he has an attack, they can get there in a hurry.

That is the most important thing in my life, to make sure that my children are safe and that we know that if, heaven forbid, they are the one-third of the children in America who are going to get diabetes in their juvenile years, that we will be able to fight against it. I meet with those families. I talk to them. I talk to the children, and I ask them about the terrible inconvenience that it is to deal with sticking their fingers day and night and making sure they feel good throughout their schoolday.

So when I think of what legacy I might give my children, it is not more money in the bank. It is a safer country, it is air that they can breathe, it is water that they can drink, it is assistance, if they need it, to get through school, the same thing that every grandparent wants for their grandchildren.

Now, to say, OK, FRANK, you have been lucky. You did well. You provided a lot of people with very good jobs. But now what we are going to do is reward you on top of the rewards you have already gotten by giving you more money, by making sure that your kids can live comfortably.

I have a list of people who are lobbying against the estate tax. When you see the size of some of these estates, it blows your mind, to use a common expression. I want to take a look at the chart that shows what happens if we cut estate taxes for the wealthiest.

This is interesting. There is a company called Halliburton, a company that used to be run by the Vice President of the United States, and who still gets an income from them, almost as large as his income from the U.S. Government. This is the Vice President of the United States who gets an income from a private company that does all kinds of defense business that has been charged with overcharging us for work they did in Iraq, that got a no-bid contract that ran over $2 billion. The CHENEY family—and listen, we respect success, but Vice President CHENEY still has options, tens of thousands of options that are not yet exercised in Halliburton, whose value depends on their ability to do better.

That is the price of the stock. So if we want to reward Vice President CHENEY and Halliburton for their questionable work and their questionable morality when they still do business with Iraq through sham corporations, Iran who gives money to terrorists, who go to Iraq to kill our kids—Halliburton, that is the company. Vice President CHENEY was the CEO of the company. I am not suggesting there is a connection anymore, but I will tell you this: If you want to go to ADP and sell them something, you tell them you know FRANK LAUTENBERG—I was the chairman and CEO of the company—it does make it a notch easier to get some business. We are going to give them a $12 million tax cut—$12.6 million. That is what happens if we repeal the estate tax, as is suggested.

A famous name here, it is not the Hilton Hotel, but it is Paris Hilton, and she will get $14 million in tax cuts if we go ahead and eliminate the estate tax as suggested. The chairman of Exxon made a lot of money. He made $145,000 a day—$145,000 each and every day—and the average wage in this country is $45,000 a year, the average wage. The number of people who make $145,000 a year is very small. Senators in the United States Senate make a little more than $145,000. In fact, they make $165,000. But here, Mr. Raymond made $145,000 a day. So we are going to be nice to him because he made so little: $145,000 a day. We want to give him a $164 million tax cut, give his heirs $164 million. It is obscene, Mr. President. That is what it is.

It is really funny. When you ask for the origins—when did the inheritance tax come into play—people forget that it was originally pushed by President Roosevelt. President Roosevelt, people say? Yes, but not Franklin Roosevelt. It was developed by a Republican, Teddy Roosevelt. He believed that an inheritance tax should not be aimed at the average citizen or even citizens of above average wealth. President Theodore Roosevelt said the inheritance tax should ''be aimed merely at the inheritance or transmission in their entirety of those fortunes swollen beyond all healthy limits.'' This is what the current estate tax does. It affects only the hereditary elite, those who inherit estates of more than $2 million. I repeat: 99.5 percent of American families will not be affected by the estate tax. They won't have to pay a penny out of their legacy.

So when I look at where we stand now, deep in debt because in America we increased the debt limit so we could splurge some more and spend and borrow up to $9 trillion—not earn, borrow to get us up to $9 trillion, and it is rumored that soon we will be looking at the possibility of raising the debt limit again.

And repealing the inheritance tax will only further balloon our Nation's debt. So in order to increase the inheritance of the richest people in the country, we are going to pass more debt to everyone else's children and grandchildren.

I would like someone to explain why that is a good idea.

In 2009, the estate tax exemption will be $3.5 million—but that is not good enough for most Senate Republicans.

Here's what that means in real life:

You could have a $1.9 million mansion, a 44-foot motor yacht, a beautiful summer beach house, his and hers Porsches, and a $600,000 investment portfolio—and still—still—you would not pay a penny of estate tax.

The people who need a break are not the wealthiest one-half of 1 percent. It's everyday people who deserve a break. They deserve a break from high gas prices, rising college tuition and health care costs.

But instead of trying to help everyday people, the Republicans in the Senate are clamoring to help the richest families in America.

Forget gas prices—Congress needs to make sure Paris Hilton gets a few more million dollars in inheritance. We have to make sure that the heirs to the former CEO of ExxonMobil don't miss out.

Some of the wealthiest Americans in the country have actually spoken out against this madness.

Billionaire investor Warren Buffett said that the estate tax has played a ''critical role'' in promoting American economic growth by creating a society in which success is based on merit rather than inheritance.

Buffett said that repealing the estate tax ''would be a terrible mistake'' and would be the equivalent of ''choosing the 2020 Olympic team by picking the eldest sons of the gold-medal winners in the 2000 Olympics.''

Mr. President, if we repeal this inheritance tax, what would be the effect on everyday people and the Federal budget?

For starters, it would cost our Nation $73 billion every year by the middle of the next decade.

What could we do with that much money?

We could provide health insurance for every uninsured child in America, and have enough left over to give them full college scholarships.

We could give every family in America a $500 tax cut.

We could eliminate 75 percent of the Social Security shortfall.

We could provide clean food and water to the 800 million people in the world who lack it.

We could provide the funds necessary to pay for the war in Iraq for the next 10 years.

So that is our choice. We can help everyday people, or we can give a big gift to the richest people in America.

I have heard my colleagues on the other side say they hear stories every week about farmers or small business people having to sell their businesses to pay the estate tax. But they have not been able to cite a single example of this actually happening.

In fact, in 2001, the American Farm Bureau could not find even one family farm that had to be sold to pay the estate tax.

The estate tax mostly does not hit small business people and family farms. The vast majority of assets affected by the estate tax, more than 70 percent, were in liquid assets like stocks, bonds, and cash.

In an attempt to do away with this ''small business'' and ''family farm'' fiction once and for all, in 2002, Democrats proposed to completely and permanently exempt all family farms and all family-owned businesses from the estate tax. But those on the other side of the aisle voted against it. It was an illustration that they are interested in protecting the wealthy, pure and simple.

Mr. President, this week has really showcased how backwards the priorities of this Senate are. Instead of tackling gas prices or dealing with the war in Iraq, we tried to pass a constitutional amendment on gay marriage.

Now, instead of helping families afford college or get better access to health care, we are looking to help the richest families in the country get richer.

This is indeed the twilight zone Senate. In my view, it is time to cancel this show.

I yield the floor.

Mr. KENNEDY. Mr. President, the audacity of the Bush administration and their congressional allies truly knows no limit. In spite of all of the urgent problems facing our Nation—from the ongoing war in Iraq, to the devastating hurricane damage along the gulf coast that has not yet been repaired, to the outrageously high gasoline prices that are squeezing American families—the top Republican priority is eliminating the estate tax for the richest families in the country. President Bush's policies have already added nearly $3 trillion to the national debt in the last 5 years. Now, they are proposing more of the same, more tax breaks benefiting only the wealthiest among us.

The first 10 years of estate tax repeal would cost $800 billion in lost revenue, nearly a trillion dollars when the cost of interest on the higher national debt that would result is included. It is unaffordable. It is the ultimate example of misplaced priorities. Repealing the estate tax would cost as much each year as the Federal Government spends on homeland security, and it would cost more than we spend on education. And, it would be grossly unfair.

Today, under current law, only 5 estates in 1,000 are subject to the estate tax. By 2009, only 3 estates in 1,000 will be subject to the estate tax. Only estates over $3.5 million will be taxed. Thus, repealing the estate tax would only benefit a few thousand heirs of the richest men and women in the country. One columnist recently called it the ''Paris Hilton Tax Break'' and that description accurately identifies who would benefit from such an enormous tax giveaway.

The notion of an estate tax is nothing new or radical. We have had an estate tax for over 100 years. During much of that period, it covered a far greater percentage of estates than we are taxing today. One of the strongest advocates of the estate tax was Teddy Roosevelt, who believed it was essential to a fair and democratic society. Those who have benefited most from the opportunities America offers have a special obligation to contribute something back to their country.

Advocates of repeal always claim that the estate tax forces the sale of large numbers of farms and small businesses each year. That claim is greatly exaggerated. CBO analyzed this issue. It concluded that if the 2009 exemption level of $3.5 billion had been in place in 2000, only 94 small businesses and 65 farms in the entire country would have owed any estate tax. Of those, most had sufficient liquid assets to cover the estate tax owed without touching the business or farm. The few that did not, have the option of paying the tax in installments over 14 years.

These small businesses and farms are being used as a sympathetic Trojan horse to conceal those who would really benefit from estate tax repeal. The real beneficiaries of repeal would be the heirs of the richest men and women in America.

If we eliminate the estate tax on the largest concentrations of wealth in our society, we will be permitting the very few who inherit huge amounts of money to receive their millions tax free while working Americans have to pay substantial taxes on their wages. It would be terribly unfair to tax work while giving inherited wealth a free ride.

The estate tax is the most progressive of all Federal taxes. At a time when the income gap between the wealth few and the middle class has grown disturbingly wide—wider than it has been in decades, why would we want to transfer more of the tax burden from the rich onto the shoulders of middle class families. Make no mistake, the trillion dollars that would be lost should the estate tax be repealed will have to be made up by increasing other federal taxes, taxes paid mostly by the middle class. That is the injustice of repealing the estate tax.

What we should do is make permanent the estate tax that will be in place in 2009—covering estates over $3.5 million—$7 million per couple—with a top tax rate of 45 percent. Only three-tenths of 1 percent of estates would owe any tax under that proposal. While the maximum rate of 45 percent may sound high, that figure is very misleading. Analyses show that the effective tax rate on these estates—the rate after the $3.5 million exemption and other available deductions are taken into consideration—would be, on average, only 17 percent.

I believe all the revenue from preserving the estate tax at the 2009—level should be statutorily dedicated to the Social Security trust fund. Saving Social Security for the many who depend on it is far more important than repealing the estate tax for the wealthiest few.

No Government program reflects the values of the American people better than Social Security. We are a community that takes care of our most vulnerable members: the elderly, the disabled, and children whose parents have died prematurely. Two out of every three retirees receive over one-half of their income from Social Security. Without it, many of them would be living in poverty. Social Security does much more than provide retirement income for seniors. It also provides lifetime disability insurance protecting those who become seriously injured or ill. When a worker becomes disabled before reaching retirement age, Social Security is there to help him and his family. And when a worker dies leaving minor children, Social Security provides financial support for those children until they reach adulthood.

The revenue from the estate tax would reduce the Social Security shortfall by more than 25 percent, according to the Social Security Administration's chief actuary. It would add years of solvency to the program. That would set the right priority for America.

The priorities of this Republican Congress have been wrong for our country. If we are serious about reducing the deficit and strengthening the economy, we must stop lavishing tax breaks on the rich, and start investing in the health and well-being of all families. These families are being squeezed unmercifully between stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance is up 56 percent in the last 5 years. Gasoline is up 75 percent. College tuition is up 46 percent. Housing is up 57 percent. The list goes on and on, up and up—and paychecks are buying less each year.

The dollars that Republicans now want to spend on the ultimate tax break for the rich—allowing the heirs of multimillionaires to inherit their enormous wealth tax free—are dollars that should be used to help all Americans. The American people deserve better; and in November they will insist on a new Congress that truly shares their values and cares about their needs.

Mr. BIDEN. Mr. President, I rise today to speak in support of the Native Hawaiian Government Reorganization Act of 2006. Unfortunately, this bill has been mischaracterized and therefore misunderstood by many.

Sponsored by Senator DANIEL K. AKAKA and Senator DANIEL K. INOUYE, the bill brings into focus the unique political and legal relationship that the indigenous peoples of Hawaii, Native Hawaiians, have with the United States. The United States has treated Native Hawaiians in a manner similar to that of American Indians and Alaska Natives since Hawaii became a territory in 1898. All that this legislation does—with the substitute amendment that addresses some concerns raised by the Departments of Justice and Interior—is extend the Federal policy of self-governance and self-determination to Native Hawaiians, thereby providing parity in Federal policies toward American Indians, Alaska Natives, and Native Hawaiians.

More than 160 statutes have been passed by Congress recognizing the political and legal relationship that Native Hawaiians have with the United States. These statutes demonstrate how Congress has repeatedly acknowledged the legal and political relationship between Native Hawaiians and the United States. Just as it has done with the other indigenous people of this country, the Native Americans and Alaskan Natives, Congress has established Federal programs to address the health, education, and housing needs of Native Hawaiians. As an indigenous people that exercised sovereignty over lands now comprising the State of Hawaii, Native Hawaiians are seeking parity with other federally recognized indigenous peoples. S. 147 is the vehicle for which this can be achieved.

Beginning with the debates of the Continental Congress and continuing in the records of discussion and correspondence amongst the framers of the Constitution, it was recognized that the aboriginal, indigenous people who occupied the lands now comprising the United States had a status as sovereigns that existed prior to the formation of the United States. Based upon the recognition of that preexisting sovereignty, the U.S. Constitution—article I, section 8, clause 3—vests the Congress with authority to regulate commerce with the three classes of sovereign governments identified there—foreign nations, the several States, and Indian tribes.

In numerous rulings over the ensuing 215 years, the U.S. Supreme Court has repeatedly held that legislation enacted to address the conditions of the native people of the United States is constitutional and does not constitute discrimination on the basis of race or ethnicity because the sovereign status of the Indian tribes is the basis for the government-to-government relationship the tribes have with the United States.

The Court has thus consistently drawn a distinction between legislation that addresses the conditions of the native people of the United States on the grounds that the United States has a political and legal relationship with the Indian tribes—a relationship that is not predicated on race or ethnicity but rather on sovereignty—and legislation that addresses the conditions of specific groups whose members are defined only by reference to their race or ethnicity—African Americans, Hispanic Americans, etc.

The status that the Constitution recognizes in Indian tribes was later extended to Alaska Natives in their capacity as aboriginal, indigenous people of the United States, and it is on the same basis that the Congress has enacted legislation for the aboriginal, indigenous people of Hawaii.

Many opponents of the bill are attacking and classifying reconciliation efforts between the United States and the Native Hawaiians as race-based. However, anyone who has a clear understanding of Hawaii's history cannot deny that Native Hawaiians are Hawaii's indigenous peoples, nor can they deny that Native Hawaiians have a legal and political relationship with the United States based on their status as Hawaii's indigenous peoples. It is offensive that laws intended to seek justice and equality for African Americans are now being used to oppress native peoples.

We must be fair and thorough while deliberating the merits of this legislation. It is unfair to pick and choose what aspects of the Constitution and related statutes do and do not apply. This is an opportunity that each Member of this Chamber has to demonstrate their commitment to recognizing and respecting the aboriginal, indigenous people that had a status as sovereigns that existed prior to the formation of the United States. The time to recognize Native Hawaiians and their contributions to our country is now. I urge my colleagues to support efforts of the Senators from Hawaii to secure Federal recognition for Native Hawaiians.

Mr. BINGAMAN. Mr. President, I rise today to speak in opposition to the legislation before us today, H.R. 8, which would make the repeal of the estate tax permanent starting in 2010. Without so much as a hearing, debate, or markup in the Finance Committee, the majority is bringing the largest tax bill that will be before us this Congress with the clear intent of not allowing the minority any reasonable opportunity to amend it. The Joint Committee on Taxation has estimated that repeal of the estate tax will require roughly $370 billion in debt financing through 2016, although a more accurate cost of 10 years of enactment is closer to $1 trillion when interest on the debt is calculated into the equation. At a time when interest rates are being raised steadily to address inflationary fears, it is hardly the time for our Government to be adding to our national debt in this magnitude for tax relief that only benefits the wealthiest in our country.

In 2001, in my State of New Mexico, there were only 200 people dying with any estate tax liability. This left roughly 98 percent of New Mexican estates entirely untaxed. If the exemption had been $2.5 million, as will occur in 2009 under current law, 99.7 percent of people dying in New Mexico would have owed no estate taxes. At a time when gas is over $3 a gallon and many businesses are telling me that they can no longer afford to offer health insurance to their workers, I cannot in good conscience support repealing the estate tax—an act that provides a benefit to only about .3 percent of New Mexicans.

The effort to permanently repeal the estate tax is a continuation by the majority of giving tax breaks to a small minority of Americans—those who need it least. Just a couple of weeks ago, the President signed the reconciliation tax bill into law which added 2 additional years of tax relief for those receiving dividends and capital gains. Slowly but surely, the majority is creating a society where those who work for a living will be paying taxes while those who are fortunate enough to have investments or inherited wealth will either avoid taxation or be paying at a significantly lower rate. The result will be a United States that has slid back to economic disparity not seen since the Gilded Age where extreme wealth accumulated in the pockets of our Nation's wealthiest while the average working family was left behind. At a time when gas prices are climbing, the cost of electricity is growing, and health care costs are exploding, it is simply unacceptable that this Congress is devoting time and our children's resources to providing another tax break to the wealthiest among us. Instead this Congress should be looking at ways to reduce the tax burden on folks who only have earned income—and generally not enough of it.

I would remind my colleagues on the other side of the aisle that the impact of deficit spending is immense and one that will be borne not only by us in the coming years but by future generations who have no say in our current financial irresponsibility. Since this administration took over and Congress has been controlled solely by one party, we have seen our Nation's economic security drop precipitously. In order to pay for unaffordable tax cuts, we have become a beggar nation, forced to go to foreign countries with our hat in hand asking them to buy our debt. Many of these countries, such as China and Japan, are the very same countries that are becoming more and more competitive with our Nation for high-tech and higher salaried jobs—a fact that is not unrelated. As interest rates continue to rise to combat inflationary pressures, it is costing this Government more and more to sell our debt to our foreign competitors. At the same time, we are facing demand pressures to offer a higher rate of return to attract these wary investors, as they gradually accumulate more of our debt than most economic models would indicate is prudent. The only prudent course of action would be to tighten our belts and balance our budget thereby returning control of our economic prosperity to us instead of leaving it in the hands of our foreign competitors. But instead of coming up with rational tax policy that rewards the majority of Americans who work for a living, we are foisting on these families the delusion that estate tax relief benefits them and handing out further tax cuts to those who have seen their wealth grow at historic rates in the past several years.

Mr. President, we owe it to our children and grandchildren to provide them with the opportunities we inherited from our parents. The real ''death tax'' is the one we are leaving for our children to pay when we are gone. With the passage of the Deficit Reduction Act in 1993, we were able to correct years of irresponsible tax policy and head our Nation back in the right direction. By maintaining fiscal discipline, we were able to have our first surplus in decades. It is shameful that we are considering legislation today that, in many senses, is the final nail in the coffin of fiscal responsibility by providing additional tax cuts to the richest in our Nation to the detriment of hard-working American families. This is not the act of a Government that is supposed to represent all of the people in our Nation—a nation that was founded on the belief that the opportunity for prosperity is to be shared by everyone. This legislation is another step toward creating an America that I was not elected to represent by my fellow New Mexicans—the vast majority of whom earn their living by going to work every day. I hope my colleagues will join me in opposing this legislation.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to consideration of the motion to proceed to S. 147, which the clerk will report.

The assistant legislative clerk read as follows:

> Motion to proceed to S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

The PRESIDING OFFICER. Under the previous order, the time from 3 p.m. until 6 p.m. shall be divided for debate as follows: 3 to 3:30, majority control; 3:30 to 4, minority control, alternating between the two sides every 30 minutes until 6 p.m.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, one of the parliamentary mysteries of the Senate is that we are now about to move, as was reported, to the Native Hawaiian Government Reorganization Act. Some might wonder why. I was presiding, as the Senator from Minnesota is now, earlier in the week. I heard an eloquent speech by a Senator from the other side of the aisle, the Senator from Vermont, who said we ought to ''focus on solutions to the high [gasoline] prices, something that hurts people in your state and mine, the rising cost of health care . . . the ongoing situation in Iraq. . . . We're not going to talk about any of those things,'' said the Senator from Vermont, from the other side of the aisle.

Yet as a result of efforts there, on that side of the aisle, we are now moving ahead to the Native Hawaiian Government Reorganization Act, S. 147.

The legislation may seem insignificant, but I am here today to say that, in this seemingly insignificant piece of legislation, is an assault on one of the most important values in our country. It is a value so important that it is carved in stone above the Chair of the Presiding Officer. It is our original national motto: E Pluribus Unum, one from many. This bill is an assault on that principle because it would, for the first time in our country's history, so far as my research shows, create a new, separate, sovereign government within our country, based on race, putting us on the path of becoming more of a United Nations than a United States of America. It will set a precedent for the breakup of our country along racial lines, and it ought to be soundly defeated.

No one has to take my word for this. The U.S. Commission on Civil Rights, a body established to protect the rights of minorities and the underprivileged, has publicly opposed this legislation. Here is what the Commission on Civil Rights said:

> The Commission recommends against passage of the Native Hawaiian Government Reorganization Act of 2005 as reported out of committee on May 16, 2005, or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups, accorded varying degrees of privilege.

So this bill undermines our unity. It would undermine our history of being a Nation based not upon race but upon common values of liberty, equal opportunity, and democracy.

We have had many great accomplishments in our country. Our diversity is a magnificent accomplishment. But the greater accomplishment, greater even than our diversity, is our ability to unite all of that diversity into one Nation. We should be going in that direction and not in the opposite direction.

Our Constitution guarantees equal opportunity without regard to race. This legislation does the opposite.

Those who favor this bill like to describe a bill that is not the bill I have read. Those who favor the bill say it is not about sovereignty, it is not about land and money, it is not about race, it is what we did once in Alaska and that the Native Hawaiians would be just another Indian tribe. It is a nice bill, they say. It is sponsored by the two Senators from the State of Hawaii, whom we all greatly respect and admire, so, they say, let's just pass it.

Let me address each of those claims one by one—sovereignty, to begin with. Those who favor the bill say this is not about sovereignty. After all, they argue, the new government that would be set up would be subject to the approval of those who are ''Native Hawaiians,'' and it would have to be approved by the U.S. Secretary of the Interior. But the bill expressly states in section 4(b) that its purpose is to establish a ''political and legal relationship between the United States and the Native Hawaiian governing entity for the purposes of continuing a government-to-government relationship.''

A government-to-government relationship—such as a government relationship between the United States and France or England or Germany or any other country. That sounds like a sovereign government to me.

That's not the end of it. In an interview on National Public Radio on August 16 last year, the Senator from Hawaii, who is the sponsor of this bill, was asked if this could lead to secession of the State of Hawaii from the United States. The NPR reporter stated, ''But [Senator AKAKA] says this sovereignty could even go further, perhaps even leading to independence.'' And the Senator from Hawaii responded, ''That could be. As far as what is going to happen at the other end, I'm leaving it up to my grandchildren and my great-grandchildren.''