

*Securing* 110th Congress  
**AMERICA'S  
FUTURE**



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SENATE REPUBLICAN CONFERENCE  
Jon Kyl, Chairman  
John Cornyn, Vice Chairman  
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# SENATE REPUBLICAN CONFERENCE

Jon Kyl, Chairman  
John Cornyn, Vice Chairman



## 110th Congress

June 28, 2007

Dear Republican Colleague:

**Another month has passed, and little progress has been made on the Democrats' "Six for '06" agenda. The reason for this failure is clear: Democrats misinterpreted the 2006 election and assumed they had a mandate to impose their will on the nation.**

**The public has squarely rejected the Democrat leadership's approach. Indeed, according to a Gallup poll from last week, only 14 percent of the public has "confidence" in this Democrat-led Congress. During the past month, we have witnessed the Democrats beginning to change their agenda midstream and to focus more on political payback for their November majority than on the business of legislating for the American people.** Two examples of this increased politicization stand out:

First, the Democrat leadership delayed consideration of an energy bill to stage a constitutionally dubious "no confidence" vote in relation to the service of Attorney General Alberto Gonzales. This political show was urged by the senator who leads the Democratic Senatorial Campaign Committee and who is desperate to please the left-wing activists who increasingly control his party.

Second, Democrats tried to deny American workers the right to a private and secret ballot when deciding whether to unionize. The majority leader admitted early that the vote would fail, but he still wasted Senate time. Perhaps it is understandable that the majority pushed this labor union priority, given that union bosses spent more than \$100 million on get-out-the-vote efforts in 2006.

When we return from the July 4 recess, Democrats intend to bring up a defense authorization bill that will hamstring the military with complicated and unnecessary burdens, both on the battlefield and in the detention and prosecution of unlawful enemy combatants. **On Iraq, their political base will not rest until Democrats find a way to undermine the troops' ability to complete their mission.**

We will also see Democrats pursuing higher spending in the appropriations process. The House of Representatives has passed four appropriations bills with \$5 billion in spending beyond the administration's request, and we should expect more of the same. **Democrats implausibly claim they cannot find spending offsets in the budget. The result will be the higher taxes that so many elected Democrats favor.**

We Republicans must use this opportunity to promote a national defense that gives Americans security from the terrorists; demand fiscal responsibility and the elimination of wasteful Washington spending; work to preserve tax policies that help working families and encourage growth and opportunity; and improve access to quality, affordable health care without burdensome government mandates.

The Senate has wasted the first six months of this Congress on a hard-edged, partisan agenda divorced from our national needs. We Republicans are confident we can do a better job for the American people.

Handwritten signature of Jon Kyl in blue ink.

Handwritten signature of John Cornyn in blue ink.

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# WAR ON TERROR

## NOTE:

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Senator Reid has indicated that the Senate will consider the FY2008 Defense Authorization Bill soon after the July 4th recess.

At least two issues affecting the War on Terror are likely to be addressed during that debate:

- (1) Iraq withdrawal, and
- (2) terrorist detention and prosecution.

This section contains information related to both topics.



## Senate Democrats Ready to Renew Battle on War Policy Via Defense Bill

By John M. Donnelly  
June 13, 2007

Senate Democratic leaders outlined plans Tuesday to bring to a vote in the coming weeks four legislative proposals they said would bring about changes in the Iraq War.

But all four face almost insurmountable obstacles on their journey to enactment.

**One measure would set a largely advisory timeline for withdrawing most U.S. combat troops from Iraq, a provision similar to the one President Bush vetoed as part of a war supplemental ([HR 1591](#)) last month. Another would rewrite Congress' 2002 authorization for the war ([PL 107-243](#)). A third would set readiness standards for U.S. military units. And a fourth would require the withdrawal of all but a limited set of U.S. forces by April.**

**Bush still is likely to veto a bill — probably the fiscal 2008 defense authorization ([S 1547](#)) — that carries one or more of the four provisions.** But Democrats hope political pressure to end the war will have increased significantly before the bill reaches Bush's desk, possibly this fall.

Democrats emerged from their first war strategy meeting since returning from the Memorial Day recess prepared to fight Bush over the war. "On Iraq, we're going to hold the president's feet to the fire," Majority Leader Harry Reid, D-Nev., told reporters.

### Challenges

But first, Democrats must get their proposals through a narrowly divided Senate. It's unclear whether any of the measures have enough support to overcome a potential GOP filibuster, let alone the two-thirds majority needed in both chambers to overcome a veto.

**The measures would come to the Senate as amendments to the defense authorization bill on the floor around June 27, Reid said.**

Democrats decided just before the Memorial Day recess to send the president a second war spending bill ([PL 110-28](#)) without the Iraq-related provisions that had triggered the veto. At the time, many Democrats acknowledged they did so because risking another veto of a war funding bill would have exposed them to the charge that they were imperiling money for the troops.

However, polls show the actions cost Democrats support from many of those who gave them a majority in Congress last November, based largely on a mandate to force changes in Iraq policy.

In unveiling their new Iraq agenda, Democrats showed they are ready to renew the battle. By using the defense authorization bill as the vehicle, they can make their points without being exposed to charges of tampering with troop funding. Moving the debate outside a war spending bill, they say, also could increase support among Republicans for the provisions.

“Remember, this isn’t a spending bill, this is an authorization bill,” Reid said. “So we’re playing in our territory now, not the president’s.”

Senate Republicans were not surprised by the proposals. Republicans shrugged off the Democratic plan as an attempt to score political points. “Democrats said they wanted to vote again and again and again on Iraq, that they were going to pick up seats by doing that,” one Republican aide said.

## **Timelines**

The four Democratic proposals are currently being written and are in varying stages of completion.

On timelines for withdrawal, the Senate will take up a version of language contained in the vetoed supplemental (HR 1591 — H Rept 110-107). It would require that the withdrawal begin in 120 days, save for a limited force to carry out missions such as training Iraqis, fighting terrorists and defending U.S. personnel and assets.

The legislation would set a goal of completing this withdrawal by a date certain. In the first supplemental, it was

March 2008. But Carl Levin, D-Mich., the Armed Services chairman and an author of the provision, said that date could change.

The readiness provision, meanwhile, is being written by Jim Webb, D-Va., who was once secretary of the Navy. Webb said it would almost certainly require that U.S. forces stay home between deployments for at least as long as they are deployed. He added that he would probably include a waiver in the event of an “unexpected crisis.”

The proposal furthest from completion is the reauthorization of the war, Reid said. It is expected to echo a resolution that Robert C. Byrd, D-W.Va., discussed last month. It would require Bush to renew the war authorization before he could extend military operations beyond Oct. 11.

As a result, the 2002 war authorization would expire on its fifth anniversary, and Bush would have to provide a new rationale to Congress to continue the conflict.

The most liberal Senate Democrats will be loath to reauthorize the war in any fashion. They are more likely to support a measure by Russ Feingold, D-Wis., and Reid that would simply require an end to all but the limited set of missions in Iraq by March 31, 2008. In May, the Senate rejected that proposal, 29-67.

“We’re going to push that very, very hard,” Reid said.



## Feingold, Levin dispute anti-war bona fides

*The Hill*

June 22, 2007

In an internecine skirmish over control of Democrats' anti-war message, Sen. Russ Feingold (D-Wis.) yesterday accused Sen. Carl Levin (D-Mich.) of misrepresenting his plan for withdrawal from Iraq.

Prominent voices in the liberal blogosphere echoed Feingold's challenge to Levin, urging the powerful Armed Services Committee chairman to embrace limits on troop funds as a tactic to end the war. **The two Democrats' scuffle portends a tense summer for the majority as at least three Iraq plans vie for votes on the defense authorization bill.**

Feingold's rebuke came after Levin wrote in *The Washington Post* yesterday that Feingold's proposal to block spending on certain deployments in Iraq would endanger troops "in harm's way."

Levin also unfavorably compared his war plan, co-authored by Sen. Jack Reed (D-R.I.), with Feingold's plan, which Senate Majority Leader Harry Reid (D-Nev.) backs. While Levin won 51 votes in April for his approach, the chairman wrote, "only 29 senators so far — none of them Republican — have voted for a funding cutoff. That's a long way from the 60 votes needed to end a filibuster."

Feingold, who had taken pride in the majority of Democrats supporting his and Reid's language, issued a stinging statement yesterday. He noted that the war-funding cutoff legislation he wrote, backed last month by three of the four Democrats running for president, would take effect only to prevent troops from being redeployed and later returned to combat.

"Senator Levin knows full well that the plan I introduced ... would end funding for the war in Iraq only after our brave troops have been safely redeployed out of Iraq," Feingold said, labeling Levin's portrayal of his plan as disingenuous.

Levin's office declined to respond to Feingold, and a spokeswoman for Reed, also mentioned by Feingold, did not respond to a request for comment by press time. **Yet the true counterpunch may not come until after the July 4 recess, when Reid has said the Senate will take up the proposals of Levin and Feingold as amendments to the defense authorization bill. There is also another offering in the works from Sen. Joseph Biden (D-Del.).**

Feingold did not let up late yesterday. On liberal-leaning pundit Ed Schultz's

radio show, he tagged Levin a flip-flopper for voting against a binding timeline for withdrawal from Iraq in summer 2006 before supporting it this year.

Meanwhile, a slew of liberal bloggers blasted Levin for suggesting that Congress should continue paying for the war until President Bush heeds calls to withdraw.

“Despite Levin’s flip-flop today in now supporting a redeployment timeline, his capitulation on the 2008 Defense Authorization bill only proves why he is not the man to force a change in Bush’s Iraq policy,” Steve Soto wrote on the Left Coaster blog.

Several singled out Levin’s decision to quote former President Lincoln in discussing the challenge lawmakers face on Iraq.

“There are no pretty words to describe what Levin has done here — he has disingenuously and cravenly used Abraham Lincoln to defend his actions,” Big Tent Democrat wrote on the popular liberal blog TalkLeft.

“Cut the crap,” blogger Bob Johnson warned Levin and fellow Democrats on the popular Daily Kos website. “Don’t

insult us with quotes from one of the most courageous of American presidents ... to justify your own cowardice to stand up to the bullies in the Executive branch.”

Anti-war activists began openly targeting Levin last month, when MoveOn.org ran radio ads criticizing him for voting against Feingold’s language.

Sen. John Kerry (D-Mass.), chief author of the June 2006 war timetable that Feingold then cosponsored, moved to snuff the fires of disagreement among Senate Democrats in Reid’s war cabinet.

“Everybody’s working to move in the same direction,” Kerry said, adding that Levin’s plan probably is best positioned to win GOP votes at present. “I understand the strategy, and that is one of the things we should be voting on.”

One Republican squarely in the majority’s sights for a future anti-war vote, Sen. Norm Coleman (Minn.), said the Democratic debate over whether to cut off war funds is unrelated to the practical and difficult choices of how to leave Iraq.

“The bottom line is, we will be in Iraq for a while,” Coleman said.

## Signs of Progress in Iraq

While there is still much to be done in Iraq, some encouraging signs of progress are beginning to appear. Our soldiers are conducting successful operations against al-Qaeda, violence is down in problematic areas of the country, and the Iraqis are working with us to defeat terrorism.

### The Surge Is Having an Effect

The troop buildup has given commanders the ability to pursue terrorists more aggressively:

- “The increase of 28,500 troops sent to Iraq as part of President Bush’s security plan enabled commanders to chase down al-Qaeda militants and keep them from regrouping, a U.S. general said. ‘The difference is for the first time, we have the forces,’ Lt. Gen. Raymond Odierno, the No. 2 ranking U.S. officer in Iraq, said at a dusty base in this agricultural community. ... ‘We think we surprised them with the amount of force we were able to generate.’” [Jim Michaels, “U.S. Forces Press Attacks Around Baghdad,” *USA Today*, 6/21/07]
- “‘We’ve had initial good success. ... There’s a lot of work left to be done,’ Mixon told CNN. ... The addition of about 28,500 U.S. troops this year makes it possible for the U.S. military to stage such offensives [throughout Iraq] without significantly diluting its troop presence in Baghdad, said Andrew Krepinevich, a military analyst at the Center for Strategic and Budgetary Assessments, a Washington-based think tank. The troop buildup was officially completed Friday.” [Cesar Soriano, “Coalition Troops Launch Major Offensive,” *USA Today*, 6/20/07]
- “‘U.S. and Iraqi forces waged battles on Baghdad’s northern and southern flanks to clear out Sunni insurgents, al Qaeda fighters and Shi’ite militiamen who had fled the capital and Anbar during a four-month-old security operation ... A top U.S. military official said U.S. forces were taking advantage of the arrival of the final brigade of 30,000 additional U.S. troops to open the concerted attacks. ‘We are going into the areas that have been sanctuaries of al Qaeda and other extremists to take them on and weed them out, to help get the areas clear and to really take on al Qaeda,’ the senior official said ...” [Sinan Salaheddin, “U.S. Backs Major Military Operation,” Associated Press, 6/19/07]

## **The Iraqis Are Making Progress**

Iraqis are stepping up to take responsibility for their own security:

- “More than 10 Iraqis tribes in the Baghdad area have reached agreements with U.S. and Iraqi forces for the first time to oppose al-Qaeda, raising the U.S. military’s hopes that a trend started in western Iraq is spreading here. Some of the groups, which have members who fought alongside al-Qaeda in the past, have been providing useful intelligence to U.S. forces about their former allies, according to the U.S. military.” [Jim Michaels, “Tribes Help U.S. Against Al-Qaeda,” *USA Today*, 6/20/07]
- “I think what I do see is the Iraqi army improving every day. I do see them fighting along side of us and sometimes independently here in Baghdad and the surrounding areas. They are staying and fighting. They are taking casualties. ... We are seeing those, that capacity that is needed in the Ministry of Defense starting to improve. They are nowhere near where they need to be yet. They are beginning to improve.” [Lieutenant General Odierno, CNN’s “Late Edition,” 6/24/07]
- “War being what it is, the images of Iraq that come America’s way are of car bombs and daily explosions. Missing from the coverage are the great, subtle changes our country is undergoing, the birth of new national ideas and values which will in the end impose themselves despite the death and destruction that the terrorists have been hell-bent on inflicting on us. ... A fundamental struggle is being fought on Iraqi soil between those who believe that Iraqis, after a long nightmare, can retrieve their dignity and freedom, and others who think that oppression is the order of things and that Iraqis are doomed to a political culture of terror, prisons and mass graves.” [Iraqi Prime Minister Nouri al-Maliki, Op-Ed, “Our Common Struggle,” *Wall Street Journal*, 6/13/07]

## **The Consequences of Failure Are Unacceptable**

Losing the war would devastate Iraq, embolden terrorists throughout the region, and jeopardize our own security.

- “Today, in Iraq, there should be no illusion that defeat would come at an acceptable price. George Orwell wrote that the quickest way of ending a war is to lose it. But anyone who thinks an American defeat in Iraq will bring a merciful end to this conflict is deluded. Defeat would produce an explosion of euphoria among all the forces of Islamist extremism, throwing the entire Middle East into even greater upheaval. The likely human and strategic costs are appalling to contemplate. Perhaps that is why so much of the current debate seeks to ignore these consequences.” [Peter W. Rodman and William Shawcross, Op-Ed, “Defeat’s Killing Fields,” *New York Times*, 6/7/07]

### ***Iraq: The Surge Is Making Progress***

*“The increased presence is having an effect, and it will continue to be felt in the weeks to come. We still have not reached...the end of our surge. Every day we are making progress.”*

—Lieutenant General Ray Odierno, US Army Commander, Multinational Corps-Iraq

#### ***Progress reported from the field:***

On May 31, Lieutenant General Ray Odierno, commanding general of the Multinational Corps-Iraq, conducted a Department of Defense press briefing via teleconference from his position in Iraq. Lieutenant General Odierno outlined the progress that has been made in Iraq since the surge began. The progress, he says, is a *“direct result of our increased presence.”*

#### ***Specific examples of surge successes include:***<sup>1</sup>

- 18,000 extremists detained since the beginning of the surge;
- 1,700 high-value targets captured or killed since the beginning of the surge;
- 2,400 car bomb caches found, compared to 2,600 for all of 2006;
- 441 weapons caches found in the Baghdad security districts, compared to 266 for all of 2006;
- 400 attacks in Anbar in 2007, compared to 811 at this time last year;
- 12,000 Iraqi security force volunteers in Anbar in 2007, compared to 1,000 such volunteers for all of 2006;
- 30 attacks in Ramadi in 2007, compared to 254 in all of 2006;
- 250 retail operators in the Dora market, compared to 6 at the beginning of the surge;
- Dollars spent by Multinational Division-Baghdad on various projects:
  - \$200,000 on agricultural projects
  - \$730,000 on civil cleanup
  - \$270,000 on educational supplies
  - \$100,000 on health care
  - \$230,000 on law and order projects
  - \$280,000 has been spent on improving the roads and rebuilding the railroad systems
  - \$360,000 on water and sanitation;
- 1 brand-new children’s sports center in Karrada, a district of Baghdad;
- 6,000 Iraqi lives enhanced by the al-Kula & al-Tali’a (electrical power) feeder project in al-Jalauwla district of Diyala province (State Dept. Weekly Status Report);
- 35,000 Iraqis with access to improved health care upon the completion of the al-Washhash primary health clinic in Baghdad (State Dept. Weekly Status Report);
- 500,000 Iraqis with improved traffic movement upon the completion of the Front Industrial Center road project in Najaf (State Dept. Weekly Status Report);
- 75 scholarships awarded by USAID to Iraqi public servants, 36% of whom are female, for advanced public management studies as part of Iraq’s National Capacity Development Program (State Dept. Weekly Status Report); and
- 2,143 trials in the Central Criminal Court of Iraq for suspected criminals, resulting in 1,858 convictions; thereby demonstrating the development of the rule of law in Iraq (State Dept. Weekly Status Report).

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<sup>1</sup> All examples were cited by Lieutenant General Odierno in his press briefing. A transcript is available at <http://www.globalsecurity.org/military/library/news/2007/05/mil-070531-dod01.htm>.

# The Washington Post

## Reality Check for the Antiwar Crowd

By Pete Hegseth

First Lieutenant, Army National Guard; Iraq War Veteran

June 25, 2007

As an Iraq war veteran who participated in combat operations and political reconciliation efforts, I take issue with some of the arguments repeatedly being made on Capitol Hill. Most recently I was bothered by statements from Sen. Carl Levin (D-Mich.), who cited three common antiwar arguments in his June 21 op-ed, "Lincoln's Example for Iraq," all of which run counter to realities on the ground in Iraq.

· *A deadline for withdrawal is an incentive for Iraqi political compromise.* Levin thinks we ought to pressure Iraq's government with a warning tantamount to saying: "You better fix the situation before we leave and your country descends into chaos." He should consider the more likely result: an American exit date crushing any incentive for Iraqi leaders to cooperate and instead prompting rival factions to position themselves to capitalize on the looming power void.

My experience in Iraq bore this out. Only after my unit established a meaningful relationship with the president of the Samarra city council -- built on tangible security improvements and a commitment to cooperation -- did political progress occur. Our relationship fostered unforeseen political opportunities and encouraged leaders, even ones from rival tribes, to side with

American and Iraqi forces against local insurgents and foreign fighters.

· *We can bring the war to a "responsible end" but still conduct counterterrorism operations.* The problem with this argument is what a "responsible end" would mean. What is "responsible" about the large-scale bloodshed that would surely occur if we left the Iraqis behind with insufficient security forces? What is "responsible" about proving al-Qaeda's thesis that America can be defeated anywhere with enough suicide bombings?

The senator also seems to believe that America will have success fighting terrorists in Iraq with a minimal troop presence, despite the fact that 150,000 troops have their hands full right now doing precisely that.

· *We are "supporting the troops" by demanding an immediate withdrawal from Iraq.* Levin says that "our troops should hear an unequivocal message from Congress that we support them." He explains his vote to fund and "support" the troops while simultaneously trying to legislate the war's end. But what kind of "support" and "unequivocal message" do the troops hear from leaders in Congress who call their commanders "incompetent" or declare the war "lost"?

Such statements provide nearly instant enemy propaganda to every mud hut with a satellite dish in Iraq and throughout the Arab world. These messages do not spell support, no matter how you spin them. And they could inspire insurgents, making the situation more dangerous for our soldiers and Marines.

Veterans know firsthand that numerous mistakes have been made in the war. But that does not change the unfortunate reality: Iraq today is the front line of a global jihad being waged against America and its allies. Both Osama bin Laden and Ayman al-Zawahiri have said so.

We face an important choice in the coming months: provide Gen. David Petraeus the time and troops he needs to execute his counterinsurgency campaign, or declare defeat and withdraw from Iraq. It seems that Democrats in Congress have already made their decision.

In his op-ed, Sen. Levin invoked the example of Abraham Lincoln, who endured years of challenges before finding the right generals and strategy to win the Civil War. After four years of uncertainty in Iraq, America finally has both the general and the strategy to turn the tide. The question is whether 2007 will unfold like 1865 or 1969.

President Lincoln chose to fight a bloody and unpopular war because he believed the enemy had to be defeated. He was right. And to me, that sounds more than a bit like the situation our country faces today. What path will we choose?

*The writer, a first lieutenant in the Army National Guard, is executive director of Vets for Freedom. He served in Iraq with the 101st Airborne Division from September 2005 to July 2006.*

## ***Detainee Provisions in the Defense Authorization Bill***

### **The Levin Provision**

The Defense Authorization Bill for FY2008 contains section 1023, the “Levin provision,” which would bar the military from detaining any unlawful enemy combatant – including those held in Iraq or Afghanistan – for more than two years, unless the military conducts a trial for each prisoner and provides him with a lawyer.

The Levin provision would also allow detainees to demand documents and compel testimony from witnesses (including from American soldiers), and it would require that detainees be provided with access to classified evidence.

### ***The Levin Provision Will Be Impossible to Implement and May Force the Military to Release Enemy Combatants***

#### **The Army lacks the resources to implement this system.**

- The military is holding about 800 detainees in Afghanistan and tens of thousands of additional detainees in Iraq – and has captured many more in recent security operations.
- Under the Levin provision, keeping each detainee would require the use of a military judge, a prosecutor, and defense counsel. This arrangement would require a dramatic reorganization and restructuring of Army personnel.
- Moreover, the provision allows the detainee to demand that security-cleared private counsel represent him as well.
- Under our agreements with the Iraqi government, Iraqi detainees cannot be transferred out of Iraq.
- The U.S. military thus would be required to train, transport, house, and protect civilian lawyers while they travel into a war zone to represent detainees.

#### **Intelligence sources will not allow their evidence to be given to Al Qaeda.**

- The Levin provision requires that detainees receive a “sufficiently specific” substitute of classified evidence, and that their private lawyers be given access to all “relevant” classified evidence.
- Foreign and domestic intelligence agencies already are hesitant to divulge classified evidence to in

Combatant Status Review Tribunal hearings.

- There is a real risk that those agencies will refuse to provide sensitive evidence to detainees and their lawyers because they will be forced to risk compromising intelligence sources for the sake of detaining an individual terrorist. Intelligence agencies should not have to make this choice.
- If detainees are given a legal right of access to information under U.S. control, there is a real risk that foreign governments will shut off all further supply of information to the United States.

**U.S. soldiers will be required to operate like criminal investigators.**

- Under the Levin provision, because detentions must later be justified to a judge, soldiers will need to adopt evidence-collection procedures like those used by law enforcement officers.
- Soldiers will likely need to carry evidence kits to maintain a chain of custody of the evidence against a detainee, and may need to carry combat cameras.
- Because detainees will be granted discovery rights against the military — including the right to recall U.S. soldiers from the battlefield — soldiers will likely have to spend hours after each patrol writing down statements (as police officers do), which will need to be reviewed by commanders.



## Leave well enough alone

By David B. Rivkin Jr. and Lee A. Casey

May 11, 2007

President Bush should resist the Democrats' efforts to amend the 2006 Military Commissions Act. That law struck an appropriate balance between the due process interests of detainees held at Guantanamo Bay, Cuba, and the equally important rights of American civilians, who are their primary targets.

The 2006 law, along with the 2005 Detainee Treatment Act, acknowledged that Guantanamo-detained enemy combatants are not ordinary criminal defendants and are not entitled to trial in the civilian courts, or to the version of habeas corpus review, available to such defendants.

These principles had been clearly established until the Supreme Court's decisions in *Rasul v. Bush* (2004) and *Hamdan v. Rumsfeld* (2006) misread the existing statutes and granted new rights to captured enemy combatants. With the military commissions and detainee treatment acts, Congress returned to the traditional system with important modifications that do, indeed, guarantee the detainees judicial review.

Detainees can challenge their classification as enemy combatants in administrative tribunals and can be criminally punished only after a full and fair trial in a military

**commission. The commission procedures are more protective of the detainees' rights than any military commissions in American history, including those used to try World War II German and Japanese war criminals.**

Moreover, tribunal and military commission decisions are reviewable by the federal appeals court in Washington, D.C., which is widely and correctly viewed as the most influential federal court apart from the Supreme Court itself. Detainees will also be able to seek review in the Supreme Court.

**The version of habeas corpus review now demanded by the administration's critics is not constitutionally required, especially because Congress has provided a suitable alternative. It would open the door to a broad range of claims routinely brought by state and federal prisoners, such as those dealing with conditions of confinement, that have long clogged the federal district courts. Congress has already struck the right balance and should leave it well enough alone.**

*David B. Rivkin Jr. and Lee A. Casey are Washington attorneys who served at the Justice Department under Presidents Ronald Reagan and George H.W. Bush.*

# The New York Times

## The Guantanamo I Know

By Morris D. Davis

Chief prosecutor for the DOD's Office of Military Commissions

*The New York Times*

June 26, 2007

Lindsey Graham, a Republican senator from South Carolina, is right: "The image of Guantánamo Bay and the reality of Guantánamo Bay are completely different." It is disappointing that so many embrace a contrived image. **Reality for Guantánamo Bay is the daily professionalism of its staff, the humanity of its detention centers and the fair and transparent nature of the military commissions charged with trying war criminals.** It is a reality that has been all but ignored or forgotten.

The makeshift detention center known as Camp X-Ray closed in early 2002 after just four months of use. Now it is overgrown with weeds and serves as home to iguanas. Yet last week ABC News published a photo online of Camp X-Ray as if it were in use, five years after its closing.

Today, most of the detainees are housed in new buildings modeled after civilian prisons in Indiana and Michigan. Detainees receive three culturally appropriate meals a day. Each has a copy of the Koran. Guards maintain respectful silence during Islam's five daily prayer periods, and medical care is provided by the same practitioners who treat American service members. Detainees are offered at least two hours of outdoor recreation each day, double that allowed inmates, including convicted terrorists, at the "supermax" federal penitentiary in Florence, Colo.

**Standards at Guantánamo rival or exceed those at similar institutions in the United States and abroad.** After an

inspection by the Organization for Security and Cooperation in Europe in March 2006, a Belgian police official said, "At the level of detention facilities, it is a model prison, where people are better treated than in Belgian prisons."

Critics liken Guantánamo Bay to Soviet gulags, but reality does not match their hyperbole. The supporters of David Hicks, the detainee popularly known as the "Australian Taliban," asserted that Mr. Hicks was mistreated and wasting away. But at his March trial, where he pleaded guilty to providing material support to a terrorist organization, he and his defense team stipulated he was treated properly. Mr. Hicks even thanked service members, and as one Australian newspaper columnist noted, he appeared in court "looking fat, healthy and tanned, and cracking jokes." Some imply that if a defendant does not get a trial that looks like Martha Stewart's and ends like O. J. Simpson's, then military commissions are flawed. They are mistaken. **The Constitution does not extend to alien unlawful enemy combatants.** They are entitled to protections under Common Article 3 of the Geneva Conventions, which ensures they are afforded "all the judicial guarantees which are recognized as indispensable by civilized peoples."

Justice John Paul Stevens, in the Hamdan decision that rejected an earlier plan for military commissions, observed that Article 75 of the Additional Protocol to the Geneva Conventions defines the judicial guarantees recognized as indispensable. A comparison

of Article 75 and the Military Commissions Act of 2006 shows military commissions provide the fundamental guarantees. Each accused receives a copy of the charges in his native language; outside influence on witnesses and trial participants is prohibited; the accused may challenge members of the commission; an accused may represent himself or have assistance of counsel; he is presumed innocent until guilt is established beyond a reasonable doubt; he is entitled to assistance to secure evidence on his behalf; he is not required to incriminate himself at trial and his silence is not held against him; he may not be tried a second time for the same offense; and he is entitled to the assistance of counsel through four stages of post-trial appellate review ending at the United States Supreme Court.

One myth is that the accused can be excluded from his trial and convicted on secret evidence. The administrative boards that determine if a detainee is an enemy combatant and whether he is a continuing threat may consider classified information in closed hearings outside the presence of the detainee. But military commissions may not. The act states, "The accused shall be permitted ... to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing." Unless the accused chooses to skip his trial or is removed for disruptive behavior, he has the right to be present and to confront all of the evidence.

Many critics disapprove of the potential admissibility of evidence obtained by coercion and hearsay. Any statement by a person whose freedom is restrained by someone in a position of authority can be viewed as the product of some degree of coercion. Deciding how far is too far is the challenge. I make the final decision on the evidence the prosecution will introduce. The defense may challenge this evidence and the military judge decides whether it is admitted. If it is admitted, both sides can

argue how much weight, if any, the evidence deserves. If a conviction results, the accused has the assistance of counsel in four stages of post-trial appellate review. These are clearly robust safeguards.

The Military Commissions Act says hearsay is admissible unless it is challenged. The party raising the challenge must persuade the military judge that the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the commission, among other reasons. While this standard permits admission of some evidence that would not be admissible in federal courts, the rights afforded Americans are not the benchmark for assessing rights afforded enemy combatants in military tribunals.

There is no ban on hearsay among the indispensable rights listed in the Geneva Conventions. Nor is there a ban on hearsay for the United Nations-sanctioned war crimes tribunals, including the International Criminal Court, the International Criminal Tribunals for the Former Yugoslavia and Rwanda, and the Special Court for Sierra Leone. The Nuremberg trials also did not limit hearsay evidence. Simply stated, a ban on hearsay is not an internationally recognized judicial guarantee.

**Guantánamo Bay is a clean, safe and humane place for enemy combatants, and the Military Commissions Act provides a fair process to adjudicate the guilt or innocence of those alleged to have committed crimes.** Even the most vocal critics say they do not want to set terrorists free, but they scorn Guantánamo Bay and military commissions and demand alternatives. The facts show the current alternative is worth keeping.

*Morris D. Davis, a colonel in the Air Force, is the chief prosecutor in the Defense Department's Office of Military Commissions.*

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# TAXES

**The AMT: *Democrats Plan a Drastic Tax Increase to Solve a Problem They Created***

**AMT History: President Clinton Vetoes Full Repeal in 1999**

- The Alternative Minimum Tax was created by a Democrat-controlled Congress in 1969 in response to reports that (only) 155 high-income Americans had found a way to legally eliminate their tax liabilities through various deductions.<sup>1</sup>
- The most significant change to the AMT came in 1990, also under a Democrat-controlled Congress, when the single rate was increased to 24 percent.
- In 1993, still under a Democrat-controlled Congress, the current two-rate structure of 26 percent and 28 percent was enacted (but with exemption levels increased).
- **In 1999, a Republican-controlled Congress repealed the AMT altogether, but President Clinton vetoed that AMT repeal.**
- From 2003-2006, Republican Congresses increased the AMT exemptions and shielded certain credits from the AMT (commonly referred to as a temporary “patch”). Because of these efforts, the number of taxpayers in the AMT has been held relatively constant—4 million taxpayers in 2006.<sup>2</sup>
- The Joint Committee on Taxation estimates that 22 million taxpayers will be subject to the AMT this year due to the “patch’s” expiration.

**Democrats’ Proposals All Contemplate Dramatic Marginal Tax Rate Increases**

- Democrats have failed to address the rapidly expanding number of taxpayers ensnared in the AMT, even though the “patch” expired last year.
- Given Democrats’ PAYGO rules, any plan could be expected to include dramatic tax increases.
- Republicans must remain vigilant to ensure that Democrats do not use the need for an AMT “fix” to enact dramatic tax rate increases that stifle our strong economy by raising taxes on work, savings, and investment.

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<sup>1</sup> This history is summarized in “The Alternative Minimum Tax for Individuals,” CRS, 1/9/07.

<sup>2</sup> “Alternative Minimum Taxpayers By State: 2003, 2004, and Projections for 2007,” CRS, 6/6/07.

## Why Do Republicans Say Democrats Will Raise Taxes?

*Because That's What They're Doing and That's What They Say They Will Do!*

### **SO FAR – Democrats Passed a Budget With the Largest Tax Increase in History**

- The Democrats' budget assumes a tax increase of at least \$736 billion, the largest tax increase in American history.
- No Senate Democrat voted to block this unprecedented tax increase on the American people.
- As *Roll Call* reported, "Even Budget Chairman Kent Conrad (D-N.D.) appeared to tacitly agree with the Republicans' premise that his five-year budget plan presumes that taxes will go up."<sup>1</sup>

### **TOMORROW – The Democrats' Presidential Candidates Back Tax Increases**

"The three leading Democratic candidates - Hillary Rodham Clinton, Barack Obama, and John Edwards - have all indicated - Mr. Edwards most vociferously - that they would **roll back the tax cuts** for the most wealthy Americans that President Bush and the former Republican-led Congress enacted." (Patrick Healy, "A Campaign for Big Ideas," *New York Times*, 6/25/07)

#### **Senator Obama Wants To Repeal Portions Of The Republican Tax Cuts:**

"Obama joins former North Carolina Democratic Sen. John Edwards in calling for higher taxes to help fix the nation's health care woes. ... [Obama] is calling for the tax cuts pushed by President Bush to expire in 2010 for upper-income earners -- an effective tax hike for more than 1 million taxpayers -- and is proposing a new tax on small businesses that don't provide health care to their employees." (Rick Klein, "No Lip Service: Dems Trade Higher Taxes For Social Programs," ABCNews.com, 5/29/07)

#### **Senator Clinton Has Called For Higher Taxes On Business And Personal Income:**

"Sen. Hillary Rodham Clinton said on Tuesday she might seek to scrap certain corporate tax breaks and subject CEO pay to public scrutiny if elected president in November 2008." (Brian Early, "Clinton Proposes Cutting Corporate Tax Breaks," Reuters, 5/29/07)

#### **Former Senator Edwards Would Consider A New Tax On "Excess Income":**

"Edwards, who has drifted steadily to the left since he first ran in 2004, suggested that a windfall-profits tax on business and individuals might be a way to reduce the deficit while expanding healthcare and promoting energy independence, two of his priorities." (Mark Z. Barabak and Maeve Reston, "Edwards Puts Taxes For Rich On The Table," *Los Angeles Times*, 4/30/07)

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<sup>1</sup> "Democrats Try to Outflank GOP on Tax Cuts," *Roll Call*, 3/22/07.

## The 100% Marginal Tax Rate

Wall St. Journal

Editorial

June 14, 2007

Tax rates are falling all over the globe -- even in Sweden. The exception is the U.S. Congress, which is scrambling to find some way, any way, to raise them.

**Last week, Democrats on the House Ways and Means Committee released a draft of their tax plan that would raise the highest income tax rate by 4.3 percentage points to 39.3% immediately. And because the proposal doesn't extend the Bush tax cuts, the highest income tax rate would rise to the neighborhood of 44% after 2010. This would lift the top federal income tax rate higher than it was even under Bill Clinton.**

And get this: For families with incomes between \$250,000 and \$500,000, the "marginal" tax rate paid on the next dollar of earned income could soar to 80%, or in some cases even above 100%. Why? Because when income rises above \$250,000, some taxpayers would be kicked into the Alternative Minimum Tax -- which means that they lose tens of thousands of dollars of write-offs for state and local tax deductions, marriage penalty relief, certain child credits, and so on. The value of the lost deductions can exceed the value of the extra income earned. So some Americans could pay more than \$1 in taxes for every \$1 they earn under the House tax plan.

The point of this revenue grab is to pay for making families with earnings under \$250,000 a year exempt from the Alternative Minimum Tax (AMT).

**Without legislation this year, the number of Americans who pay the AMT will rise as much as six-fold to 23 million. Even those with incomes as low as \$60,000 could pay the AMT in some high-tax states.** Maryland's Chris Van Hollen, chairman of the Democratic Congressional Campaign Committee, has said his party risks a tax revolt in 2008 without some kind of AMT patch.

**So Democrats are proposing to raise taxes on three million Americans in order to exempt 20 million from the AMT. The wealthiest 1% of Americans already pay more than one of every three income tax dollars into the Treasury.** Under the Ways and Means proposal, the share of all income taxes paid by the top 1% would rise to nearly 40%. The top 2% would pay roughly as much as the bottom 98% of all taxpayers. Ways and Means Chairman Charlie Rangel of New York seems to think this qualifies as tax fairness.

There is rough justice in watching Democrats squirm to fix the AMT monster they created in 1969 to punish 21 millionaires who legally escaped taxes at the time. And if Democrats want

to do away with the AMT, we're all for it. One sensible idea from Senator Arlen Specter of Pennsylvania would repeal the 1993 Clinton AMT tax hike, which raised the rates to 26% and 28% from the single rate of 24%. Mr. Specter's bill would relieve 10 million middle class tax filers from AMT tyranny.

**But Democrats don't want to cut taxes; they want all of that extra revenue to spend.** So instead they'd raise the top federal tax rate to its highest level in a quarter-century. **A 44% top marginal rate would reduce U.S. competitiveness by reducing the after-tax return on investment.** Less investment means fewer jobs and lower wages. A Tax Foundation analysis of tax

returns finds that roughly three in every five Americans in the highest income tax bracket are small business owners, who create most new jobs.

**What's missing from this Congressional tax debate is any recognition that today's tax rates are producing record tax receipts.** If the current pace of tax collections continues amid a modicum of spending restraint, the federal budget could be balanced within 18 months. The tax share of GDP is approaching 19%, which is above its modern historical average. It's a sorry day when American politicians have to be instructed in the virtues of low tax rates by the Swedes.

## **\$650 Billion Tax Hike**

Wall St. Journal

By Stephen Moore

April 30, 2007

Last week House Ways and Means Chairman Charlie Rangel effectively declared the death of Reaganomics in America. By this I mean that if Mr. Rangel and his Democratic colleagues in the House have their way, the quarter-century era of falling tax rates in the U.S. may finally come to an end. For those who understand the linkage between supply-side tax cutting policies and America's near-unprecedented prosperity over the past quarter-century, it's time to be afraid.

In the last several days, Mr. Rangel and other key Democrats on Ways and Means have come up with their plan to protect the middle class from the growing reach of the Alternative Minimum Tax (AMT). If nothing is done this year, 25 million workers will be liable to the AMT when they pay their taxes next April. So to defuse this political time bomb the House plans to exempt families with incomes below \$250,000. So far so good. But the Democrats' dilemma is to figure out how to come up with the \$650 billion of revenue this stealth tax would have raised over the next 10 years. The dilemma is self imposed because House Democrats adopted a "pay as you go" budget rule a few months ago, promising that any tax cut be offset with an equally large tax increase.

It is no surprise that Democrats want to go after high-income earners, whom they call "rich." What is surprising is how high rates must be raised to make their plan's numbers add up. The top AMT rate would increase to 31.5% from 28%. Democratic tax experts also recommend eliminating the lower rate for capital gains and dividends for those subject to the AMT. This would raise the capital gains tax rate to about 31% from its present 15% rate.

The Congressional Budget Office, using its own assumptions, calculates that the revenue-maximizing tax rate on capital gains is 28% (and many economists believe it is a lot lower than that). This implies that the tax hike contemplated by the House Democrats would not only reduce economic growth and cost jobs, it would lose revenue for the government.

The changes in the AMT rate, and the treatment of dividends and capital gains, still leaves Mr. Rangel at least \$600 billion short of paying for the AMT fix. House Democrats have acknowledged that to close this final gap, they will have to look to personal income taxes. Rep. Richard Neal of Massachusetts, the head of the Ways and Means tax panel, says this will require raising the top tax rate of 35%

by no more than three to five percentage points.

Mr. Neal should check his math. Tax experts on Capitol Hill and in the Treasury Department calculate that to get \$60 billion a year from the top 1% of income earners would more likely require rate hikes of 10 to 15 percentage points. This would lift the top federal marginal income tax rate as high as 50%.

"I can't think of a better way to throw the economy into recession and end the bull market expansion of recent years than to raise tax rates like this," warns Michael Darda, chief economist for MKM Partners. It's hard to argue with that assessment. Overnight, the U.S. would go from being a nation with one of the lowest set of income-tax rates to one of the highest in the developed world. With Germany and France looking to cut their tax rates, Mr. Rangel's plans could leave the U.S. with a higher top marginal rate.

The top 1% of earners today already shoulders 35% of the overall income-tax burden. Under the Rangel plan the share of the top earners would rise closer to 40%. Meanwhile, a new study by the Tax Foundation indicates that more than half of Americans get more money in checks from the government than they pay in income taxes. It is not a healthy trend for a democracy when an ever-larger share of the electorate comes to realize it can vote for more handouts with no liability or responsibility to pay for any of the government's upkeep.

These considerations aren't likely to deter class warriors in the Democratic Party who have been assured by

pollsters and pundits that their tax plans will be celebrated by middle-class voters. Chris Van Hollen, who runs the Democratic Congressional Campaign Committee, told the Washington Post that 87 million Americans will get a tax cut, and that only the richest one million -- many of whom sign their paychecks -- will pay more. "It is a great message of fiscal responsibility and economic fairness," he says. Many Americans who are supposed to see their taxes decline thanks to Democratic promises may be skeptical. The AMT was, after all, supposed to apply to only 150 Americans who had escaped the income tax in 1969. Now it threatens 25 million taxpayers.

Fortunately, for now at least Senate Democrats say they are unlikely to enact such a large tax increase. And President George Bush would likely veto a bill that would effectively cancel the pro-growth tax agenda he has implemented over the past six years. But we do have a sense now where the liberal wing of the Democratic Party wants to take the country on tax policy, and where we might end up if Democrats sweep the elections in 2008.

In countries as diverse as Ireland, China, India, Japan, Russia and Hong Kong, tax rates are flat or falling, part of a world-wide effort to reward growth and get more of it. Yet Reaganomics, alive nearly everywhere else, is dead in the halls of the United States Congress.

***Mr. Moore is senior economics writer for the editorial page.***



## No Lip Service: Dems Trade Higher Taxes for Social Programs

Some Democrats are telling voters a hard truth: They will raise taxes

By RICK KLEIN

ABCNEWS.COM

May 29, 2007

### The Democratic presidential candidates want to raise your taxes.

Most of them aren't exactly advertising that fact when they talk about their plans for health care, the environment and education. **But for a party that has long feared political fallout when talking about taxes, the Democrats' 2008 crop of presidential contenders is showing remarkable frankness in talking about the need for additional revenues to fund their priorities.**

Sen, Barack **Obama**, D-Ill., became the latest candidate to call for higher taxes Tuesday, when he unveiled his plan for universal health coverage. He is calling for the tax cuts pushed by President Bush to expire in 2010 for upper-income earners -- an effective tax hike for more than 1 million taxpayers -- and is **proposing a new tax on small businesses that don't provide health care to their employees.**

"We now face an opportunity -- and an obligation -- to turn the page on the failed politics of yesterday's health care debates," Obama said in unveiling his health care plan in Iowa. "To help pay for this, we will ask **all but the smallest businesses** who don't make a meaningful contribution today to the health coverage of their employees to do so by supporting this new plan. And we will allow the temporary Bush tax cut for the wealthiest Americans to expire."

**Obama joins former North Carolina Democratic Sen. John Edwards in calling for higher taxes** to help fix the nation's health care woes. Edwards wants to roll back the Bush tax cuts for Americans making more than \$200,000 a year, and said he would also consider raising capital gains rates and Social Security taxes.

In addition, **Sen. Christopher Dodd, D-Conn., is proposing a "carbon tax"** that would be

assessed on businesses based on how much pollution they generate, with the money to be funneled into a trust fund for renewable energy technologies. **Though individuals would not be assessed any new taxes, businesses would almost certainly pass on some of their costs to consumers, leaving Americans indirectly paying new taxes.**

"Taxes are becoming part of the debate," said Leonard Burman, director of the Tax Policy Center and a senior fellow at the Urban Institute, a liberal policy group. "You know they're going to be attacked for it. But people still want government to do things for them, and the question is whether the candidates can convince people that this is something that's worthwhile for them."

Campaign vows of higher taxes have been essentially off-limits for Democratic presidential candidates since 1984, when Democratic nominee Walter Mondale hurt his chances against President Reagan with a famous line at the Democratic National Convention that was widely interpreted as a pledge of higher taxes.

"Mr. Reagan will raise taxes, and so will I. He won't tell you. I just did," Mondale said.

While presidential candidates, including Bill Clinton in 1992 and John Kerry in 2004, occasionally talked about paying for their priorities with higher taxes, they carefully calibrated their proposals with populist rhetoric about making the wealthy pay their fair share. Even so, **in 2004, President Bush hammered Kerry for saying he would roll back tax cuts for the rich, in a stark display of the political peril surrounding any discussion of higher taxes.**

**"Tax the rich -- you know what that means? They dodge, you pay,"** Bush said in a typical campaign refrain, part of his campaign to brand Kerry as a Massachusetts liberal.

\* \* \*

## Five Tax Increases Democrats Are Aiming at You

By Amity Shlaes

March 28, 2007

March 28 (Bloomberg) -- Why won't Democrats tell us that they are after the Bloomberg reader?

Lawmakers in both houses of Congress are at work writing budget resolutions. All of them, especially the Democrats, talk about new benefits they intend to extend: an expansion of federal outlays for child-health care in the states, community-health centers, reauthorization of the farm bill -- you get the idea. Lawmakers also are planning middle-class breaks, including billions to limit the sting of the alternative minimum tax.

**Yet under Congress's own pay-as-you-go rule, someone has to pay for these increases. For every new entitlement dollar it spends, or tax breaks that it offers, Congress must also come up with sufficient entitlement cuts or tax increases to compensate. The AMT change alone would reduce revenue by \$40 billion during the next two years.**

And when it comes to offsetting that amount, lawmakers aren't being exactly clear. Aside from some muttering about how he might "rearrange" the tax-rate schedule by House Ways and Means Committee Chairman Charles Rangel, we're not hearing a lot about tax increases.

Maybe that's because in the end the increases the Democratic leadership is most likely to support will be paid by the very highest earners on Wall Street. Indeed the effect is so disproportionate that even Democrats, who normally have no shame about such things, are putting off to the last possible minute any announcement of them.

Raising Rates

**Consider five possible changes:**

The **first** is the most obvious: **raising the top marginal rate on income tax back to President Bill Clinton's old 39.6 percent levy.**

For 2006, the top bracket of 35 percent starts once income exceeds about \$335,000 in taxable income, a level routinely breached by even modestly successful staffers at Wall Street firms. Lawmakers would push that back up.

**Second**, lawmakers would also like to fiddle with the next rungs on the tax ladder. **Don't be surprised if in the name of tax reform Democrats start talking about recalibrating so that the current 28 percent and 33 percent brackets become 36 percent.**

A **third** likely change is especially important for Wall Street, which has enjoyed a tax on dividends of 15

percent for the past several years. **Lawmakers are likely to revert to the old system for dividends, under which the payments are treated as ordinary income and taxed up to the top 35 percent rate. Or make that 39.6 percent -- if the first of the changes above is made.**

### Capital Gains, Estate Tax

**Capital gains likewise are under the gun, with the possibility that the tax rate may move back to the 20 percent of the 1990s from the current 15 percent.**

Then there is the **estate tax**, which is already a mess. It phases out under current law in 2010, only to roar back in following years. In order to prevent its revival, lawmakers must enact a new law. **Democrats are likely to** take advantage of disillusionment at the complexity and write a new law that makes the **estate tax, once again, an American fixture.**

The reason these tax uglies are likely to be on the table is that they are reversions to the rates in place before George W. Bush came to power.

Democrats therefore can tell themselves and their constituents that they aren't really raising taxes. They are merely going back to the happy status quo of the 1990s. Undoing the Bush Legacy is easier and more enjoyable than writing a new tax increase.

\* \* \*

### Keep It Quiet

The only reason you don't know about this already is that lawmakers don't want you to. They are hiding behind the multistep process of budgeting. If lawmakers promise too much in coming weeks in their budget resolution, then later in the year tax committees will have to write legislation that comes up with extra money.

What could prevent such tax increases? A veto by President Bush, for starters. More revenue than forecast may flow into federal coffers as well. Watch the Treasury's daily statements -- they may list enough dollars to make fewer tax increases necessary.

Revenue flows, strong or weak, shouldn't cover the perverse intention here. **In an era when markets have proven the best engine to pull the country forward, these lawmakers are again making it their goal to squeeze the higher earner.**

Around September, in other words, you may well hear Schumer begin to talk about the sacrifice that must be made. And there's no doubt about who will be making that sacrifice.

Dear reader, it is you.

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# SPENDING

## Democrats' Five-Step Plan to Bust the Budget Through Wasteful Washington Spending

- 1. Democrats passed an omnibus “continuing resolution” for FY07 that took money from the military and gave it to Democrats’ domestic spending priorities.**
  - The omnibus CR *cut* \$3.1 billion for the Base Realignment and Closure Commission, crucial funding needed to provide proper facilities and housing for our troops and their families.
  - The omnibus CR instead dramatically *increased* funding for Democrat priorities such as Amtrak, vocational education, the National Institute of Health, and employee training.
- 2. Democrats passed a budget that assumes the largest tax increase in history and dramatic increases in domestic spending.**
  - Spending increases by \$23 billion above the President’s discretionary request for FY2008.
  - Entitlement spending grows unchecked by \$402 billion over five years.
  - The Social Security trust fund is raided by nearly \$1 trillion.
  - The nation’s gross debt increases by \$2.5 trillion over five years.
- 3. Democrats passed a pork-laden emergency war supplemental spending bill.**
  - Democrats held the troop funding hostage for more than 100 days to gain leverage they could use to increase non-war-related spending.
  - The final emergency supplemental included almost \$19 billion in spending that the President did not request and that could have been provided in the regular appropriations process.
- 4. Democrats tried to abuse the earmark process to ensure easier pork-barreling.**
  - House Appropriations Committee Chairman Obey (D-Wis.) announced that he would “airdrop” all earmarks in at the conference stage, thereby denying members the opportunity to strip out improper expenditures via amendment.
  - Republicans strongly objected and rallied the public to their side, and the Democrat House leadership then backed down – ensuring some transparency for earmarks. The jury is still out on how much wasteful spending will be included in the final bills, despite this Republican victory.
- 5. Democrats are moving appropriations bills full of excessive spending.**
  - Democrats’ commitment to overspending is evident in the appropriations bills that have already passed the House.
  - The four appropriations bills that have passed the House **already include more than \$5 billion in excess spending** beyond the President’s request.



## **The President's Radio Address on Vetoes of Appropriations Bills and Earmark Reform June 16, 2007**

THE PRESIDENT: Good morning. This week, Congress began to debate its annual spending bills. The American people expect us to spend their tax dollars wisely, or not at all, and to pursue pro-growth economic policies that will allow us to reduce the deficit while keeping our economy strong.

Since my Administration's tax relief was implemented four years ago, our economy has added more than eight million new jobs, and we've experienced 45 months of uninterrupted job growth. With more Americans working and more businesses thriving, our economy has produced record tax revenues. The Treasury Department recently reported that this year's Federal revenues are up eight percent over last year. As a result, our Nation's budget deficit is about one-third lower than it was at this time last year.

In addition to pursuing pro-growth tax relief, my Administration is working to reduce the Federal deficit through strict fiscal discipline. Over the past three years, we have met the urgent needs of our Nation while holding the growth of annual domestic spending close to one percent -- well below the rate of inflation. I've also proposed policies that would slow the unsustainable growth of our most serious long-term fiscal challenge: entitlement spending. By keeping taxes low and restraining Federal spending, we can meet my plan to have a balanced budget by 2012.

The **Democrats in Congress** are trying to take us in a different direction. They've **passed a budget that would mean higher taxes for American families and job creators, ignore the need for entitlement reform, and pile on hundreds of billions of dollars in new government spending over the next five years.** This tax-and-spend approach puts our economic growth and deficit reduction at risk.

For months, I've warned the Democrats in Congress that I will not accept an irresponsible tax-and-spend budget. **I put Democratic leaders on notice that I will veto bills with excessive levels of spending.** And I am not alone in my opposition. **In the House, 147 Republicans have pledged to support fiscal**

**discipline by opposing excessive spending. These 147 members are more than one-third needed to sustain my veto of any bills that spend too much.**

Another key area of difference between my Administration and the Democratic leadership in Congress is my support for meaningful **earmark reform**. Earmarks are spending provisions that are slipped into bills by individual members of Congress, often at the last hour and without discussion or debate. It's not surprising that this leads to unnecessary Federal spending. And the problem is growing. Over the last decade, the number of earmarks has more than tripled.

In January, I proposed reforms that would make the earmark process more transparent, end the practice of concealing earmarks in so-called report language that is never included in legislation, and cut the number and cost of earmarks by at least half. My Administration has also developed the government's first public database of earmarks, and we've posted them on a website: [earmarks.omb.gov](http://earmarks.omb.gov). On this website, we will also be releasing information on new earmarks, because this Administration wants you to see where your tax dollars are being spent.

After I announced my earmark reforms in January, **the House passed a rule that called for full disclosure of earmarks. But in the past few weeks, Democratic House leaders announced that they were abandoning this commitment.** Instead of full disclosure, they decided they would not make public any earmarks until after Members had already voted on the spending bills. This change would have allowed a small group of lawmakers and their unelected staff to meet behind closed doors to decide how and where to spend your tax dollars. **I'm pleased to report that earlier this week a group of House Republicans stopped this plan and extracted a commitment from House Democrats to list all earmarks in advance and give lawmakers a chance to strike them.** The American people need to hold House Democrats accountable for keeping that commitment.

**In the weeks ahead, my Administration will continue pushing for earmark reform and holding the line on Federal spending. The American people do not want to return to the days of tax and spend policies.** They expect accountability and fiscal discipline in Washington, D.C. And I will use my veto to stop tax increases and runaway spending that threaten the strength of our economy and the prosperity of our people.

Thank you for listening.

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# CARD CHECK

## **Union Payback Update: *Republicans Thwart Democrats' Attempt to Repay Big Labor at Expense of Workers' Rights***

Republicans thwarted Democrats' attempt to repay big labor for its 2006 campaign support by blocking the so-called Employee Free Choice Act, which would have effectively denied workers the right to cast a private ballot in union organizing elections.

*"Labor leaders made it clear to Democrats that, in return for political support in last year's election, they wanted a vote on legislation that would make organizing much easier."*

– Wall Street Journal, "Secret Ballot is Absolutely Necessary," 3/8/07

### **Democrats have reason to feel obligated to labor unions:**

- "Exit polls indicated union voters chose Democrats by more than a 2-1 ratio, and labor says its supporters made the difference in many of the races that put Democrats back in the majority in Congress."<sup>1</sup>
- "Organized labor spent some \$100 million on get-out-the-vote efforts last year, and reached tens of millions of voters by phone calls, mail and door-to-door canvassing on behalf of labor-backed candidates."<sup>2</sup>
  - "Labor political action committees contributed \$59.5 million for federal candidates, up 11 percent from the previous election cycle and higher than any other industry grouping, federal filings show."<sup>3</sup> The AFL-CIO contributed \$40 million.<sup>4</sup>
- AFL-CIO President John Sweeney said that the 2006 election contributions were "money well-spent" and that the election results were "clearly a mandate for a union agenda."<sup>5</sup>
- "The unions' other big coup was to get to [the 2006] Democratic freshmen early in the electoral game. Labor explained that any union support they received in their tight races in GOP-leaning districts would be entirely conditioned on their later vote for card check. Most of them signed up for this devil's bargain, since, as one Democratic aide admitted: "We didn't have a choice."<sup>6</sup>

### **Ending private ballots is a top priority for Democrats and big labor:**

- The AFL-CIO has included this bill in its "must do" list for Congress. Its president, John Sweeney, has said that he has "high expectations" for the bill.<sup>7</sup>
- "President John Sweeney asked state federations and central labor councils to make sure endorsed candidates were either already co-sponsors of the Employee Free Choice Act (EFCA) or pledged to co-sponsor it if elected."<sup>8</sup>
- House Speaker Nancy Pelosi has called the bill, "the most important labor law reform legislation of this generation."<sup>9</sup>

<sup>1</sup> "After '06 successes, labor gets ready for presidential race," AP, March 23, 2007.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> "Congressional changes buoy union leaders," Kent Hoover, Triangle Business Journal, Nov. 20, 2006.

<sup>5</sup> Ibid (emphasis added).

<sup>6</sup> "Checkmate: The Democratic Party's honeymoon is over," Wall Street Journal, Editorial, March 2, 2007 (emphasis added).

<sup>7</sup> "Congressional changes buoy union leaders," Kent Hoover, Triangle Business Journal, Nov. 20, 2006.

<sup>8</sup> "After Election Push, Employee Free Choice Act at the Top of the Agenda for the AFL-CIO," Stewart Acuff, Nov. 28, 2006, [www.commondreams.org](http://www.commondreams.org).

<sup>9</sup> "House votes to make it easier for workers to start unions," AP, Jim Abrams, March 2, 2007.

# Senate Republicans Block Union Bill

Jesse J. Holland  
Associated Press  
June 26, 2007

WASHINGTON (AP) Senate Republicans on Tuesday blocked a bill that would allow labor unions to organize workplaces without a secret ballot election.

Democrats were unable to get the 60 votes needed to force consideration of the Employee Free Choice Act, ending organized labor's chance to win its top legislative priority from Congress.

The final vote was 51-48.

The outcome was not a surprise, with Senate Minority Leader Mitch McConnell, R-Ky., saying for months that he would stop the legislation in the Senate. The White House also made clear that if the bill passed Congress it would be vetoed.

The House passed the bill in March. Democrats and labor unions pressed for a vote in the Senate in hopes of rallying their voters in the 2008 elections, where they hope to win the White House and increase their majorities in the House and Senate.

**"We will keep coming back year after year after year," said Sen. Sherrod Brown, D-Ohio.**

The GOP also plans to use the vote for election-year campaigning, with corporations and businesses being the top opponents to the legislation. The National Republican Senatorial Committee sent out a fundraising video

last week asking people to contribute in order to help stop the Employee Free Choice Act.

"Republicans will remind our constituents about the fact that Democrats proposed to strip workers of their voting rights," McConnell said.

The legislation was a litmus test vote for organized labor and businesses, strong supporters of Democrats and Republicans respectively. "Today's vote shows us who is standing with workers and which politicians are in collusion with corporate America to destroy the middle class," Teamsters President Jim Hoffa said.

Business associations, like the U.S. Chamber of Commerce, also plan to grade lawmakers based on their vote. "The Chamber will include votes on, or in relation to, this issue in our annual 'How They Voted' scorecard," warned R. Bruce Josten, the top U.S. Chamber of Commerce lobbyist, in a letter to Congress.

The bill would require employers to recognize unions after being presented union cards signed by a majority of eligible workers on their payrolls. Under current labor law, a company can demand a secret ballot election supervised by the federal government after being presented the union cards.

The bill's proponents say years of Republican control of the White House

and Congress have given corporations and businesses the upper hand when it comes to union elections. Obstacles to organizing are a major reason union membership has dropped from 20 percent of wage and salary workers in 1983 to 12 percent in 2006, they say.

Unions complain that employers have greater access to workers during secret ballot campaigns and claim that corporate threats, intimidation and eventual firings have become common for union activists. By dragging out the election process, companies often succeed in wearing down union enthusiasm, they add.

Employers contend that union recognition elections prevent just the reverse from happening. Using only a card check system, they argue, would

enable union organizers to use their knowledge of who did and didn't sign cards to intimidate reluctant workers.

In the 2004 elections, organized labor gave \$53.6 million to Democratic candidates and party committees in a losing effort to capture both the White House and Congress, according to the Center for Responsive Politics. That number rose to \$57.5 million in 2006, when Democrats successfully took the House and Senate from the GOP.

But businesses, which oppose the Employee Free Choice Act, donate largely to the Republican Party. Business concerns gave \$122 million to the Republican Party in 2004 and another \$81 million in 2006 for national elections, the Center for Responsive Politics said.

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# ENERGY TAXES

## **Republicans Defeat Energy Tax Hikes: *Tax Package Would Likely Have Raised Gas Prices, Increased Reliance on Foreign Oil***

During the energy bill debate, Senate Republicans defeated an energy tax package which would have raised gas prices and increased U.S. dependence on foreign sources of oil. The energy bill tax package Democrats proposed would have paid for renewable and alternative energy incentives by hiking taxes on oil and gas companies by almost \$29 billion over the next 10 years.

### **Proposed Tax Hikes**

- **Section 199 Manufacturing Deduction:** The tax package would have repealed the manufacturing deduction for large oil and gas companies.
  - The section 199 deduction was intended to help encourage U.S. manufacturing, including domestic oil and gas production. Lowering gas prices will require increasing domestic production of oil and gas.
- **Foreign Tax Credits:** The tax package proposed to change the treatment of certain oil income for the purposes of using foreign tax credits.
  - In practice, U.S. corporations are often taxed at a much higher rate than their foreign competitors. The foreign tax credits help U.S. companies stay competitive by allowing them to offset their U.S. taxes with credit for foreign taxes paid.
- **Severance Tax:** The tax package proposed a new 13 percent severance tax for oil produced from the outer continental shelf in the Gulf of Mexico.

### **Tax Hikes Raise Prices for Consumers**

Businesses always pass tax costs on to consumers. Raising taxes on oil and gas companies would almost certainly have lead to higher gas prices. In addition, the tax increases would have discouraged increased domestic oil and gas production, which would likely have increased our dependence on foreign sources of oil.

“The reality is that increased taxes and regulation creates an environment for less investment, which means less production and higher prices.”

—Steve Forbes, “Congress Takes Aim at ‘Big Oil,’ RealClearPolitics.com, 6/21/07



## Reid Works to Revive Tax Title: July Action Anticipated in House

By Heather M. Rothman  
June 25, 2007

Work on a comprehensive energy bill continued June 22 with Senate **Majority Leader Harry Reid (D-Nev.)** telling reporters he is **seeking vehicles to move a stalled energy tax package** and House Majority Leader Steny Hoyer (D-Md.) saying he expects the House to consider energy legislation in July.

**“The fight is not over, but this is a big first step,” Reid said the morning after the Senate passed an energy policy bill (H.R. 6) without the \$32 billion tax title the chamber failed to invoke cloture on June 21 (120 DTR G-6, 6/22/07).**

“There are a number of places we can look,” Reid said. He noted that Congress will consider a farm bill this year and that he expects the House to send over a few tax bills.

**“We're going to figure out a way to bring it back,” Reid said.** The Senate fell three votes short of the 60 needed to invoke cloture. The vote would have been successful if Sen. Barbara Boxer (D-Calif.) had not been out of town and if Sen. Tim Johnson (D-S.D.), who is recovering from brain surgery, had voted. Sen. Mary Landrieu (D-La.) was the only

Democrat to vote against cloture on the tax title.

Across the Capitol, Hoyer said that by June 29 the House Democratic leadership will announce “what we intend to do in July” related to energy, but said it was his “expectation” that the House would consider energy legislation on the floor in July.

He said the leadership has not yet decided when to move a \$16 billion package of energy tax incentives approved June 20 by the House Ways and Means Committee (119 DTR GG-1, 6/21/07). It could be added to an energy policy bill on the floor or receive separate floor consideration.

**“That decision has not been made but my thought would be that it would come up in close proximity ... to the consideration of the other pieces of the energy legislation,” Hoyer said.**

Conrad Causes Stir.

Prior to the Senate's June 21 final vote on the energy bill, Senate Budget Committee Chairman Kent

Conrad (D-N.D.) caused some discontent among Republicans when he said on the Senate floor that additional opportunities will present themselves.

**“We will have a chance in the House of Representatives, in the conference committee, to add back those provisions that passed on a strong majority vote, not only in the Finance Committee but on the floor of the Senate,”** Conrad said. Conrad's statement noted that, while Democrats failed to get the supermajority vote needed for cloture, only a simple majority of 51 is required for passage.

“You are inviting some of us not to approve anything tonight, to have another cloture, and you have nothing going to conference,” said Senate Energy and Natural Resources Committee ranking member Pete Domenici (R-N.M.), who voted against cloture on the

underlying bill but then voted for final passage.

Senate Minority Leader Mitch McConnell (R-Ky.) said Conrad's comments “created a considerable amount of angst” for Senate Republicans.

Reid said on the Senate floor that a number of Republicans approached him after Conrad's statement regarding conference committees and told all senators to “cool their jets.”

“If anyone is concerned about some trick to put this energy tax package in the bill in conference, they need to tell me how to do it because I don't know how,” Reid said late June 21, just prior to a vote on final passage. After pointing out that there are three motions that could be filibustered before going to conference, Reid said, “Everyone just relax on that issue.”

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# STEM CELLS

# Bush Vetoes Stem Cell Bill

By Deb Riechmann, Associated Press

June 20, 2007

WASHINGTON (AP) Pushing back against the Democratic-led Congress, President Bush vetoed a bill Wednesday that would have eased restraints on federally funded embryonic stem cell research.

Democrats, who had made the stem cell legislation a top priority when they took control of the House and Senate in January, were quick to denounce the president's decision.

"This is just one example of how the president puts ideology before science, politics before the needs of our families, just one more example of how out of touch with reality he and his party have become," Sen. Hillary Rodham Clinton, D-N.Y., told the Take Back America conference of liberal activists Wednesday.

To blunt criticism, the White House said Bush is issuing an executive order directing the Health and Human Services Department to promote research into cells that - like human embryonic stem cells - also hold the potential of regenerating into different types of cells that might be used to battle disease.

"This is, certainly not an attempt to muzzle science," White House press secretary Tony Snow said. "It is an attempt, I think, to respect people's conscience on such an issue."

If the measure Bush vetoed would have become law, the White House said it would have compelled taxpayers for the

first time in our history - to support the deliberate destruction of human embryos. Snow said Bush's executive order will encourage scientists to work with the government to add research on new stem cell lines - that does not involve the creation, harming or destruction of human embryos - to the list of projects eligible for federal funding.

"The president does not believe it's appropriate to put an end to human life for research purposes," Snow said. "That's a line he will not cross."

**Senate Majority Leader Harry Reid is expected to schedule an override vote, but the date has not been set. Democrats, however, currently do not have enough votes to override Bush's veto.**

Scientists were first able to conduct research with embryonic stem cells in 1998, the NIH says. There were no federal funds for the work until Bush announced on Aug. 9, 2001, that his administration would make the funds available for lines of cells that already were in existence.

Currently, states and private organizations are permitted to fund embryonic stem cell research, but federal support is limited to cells that existed as of Aug. 9, 2001. The latest bill was aimed at lifting that restriction.

The science aside, the issue has weighty political and ethical implications.

Public opinion polls show strong support for the research, and it could return as an issue in the 2008 elections.

Opponents of the latest stem cell measure insisted that the use of embryonic stem cells was the wrong approach on moral grounds - and possibly not even the most promising one scientifically. These opponents, who applaud Bush's veto, cite breakthroughs involving medical research conducted with adult stem cells, umbilical cord

blood and amniotic fluid, none of which involve the destruction of a human embryo.

This was the third veto of Bush's presidency. His first occurred last year when he rejected legislation to allow funding of additional lines of embryonic stem cells - a measure that passed over the objections of Republicans then in control. The second legislation he vetoed would have set timetables for U.S. troop withdrawals from Iraq.



## **White House Fact Sheet**

### **Advancing Stem Cell Research While Respecting Moral Boundaries**

*President Bush Takes Action To Support Ethical Research,  
Vetoes Bill Overturning Balanced Stem Cell Policy  
June 20, 2007*

#### **\*Excerpts\***

#### **Recent Scientific Breakthroughs Are Showing Stem Cell Science Can Progress While Respecting Moral Boundaries**

**There Have Been Advances In Therapies That Use Stem Cells Drawn From Adults, Children, And The Blood From Umbilical Cords - With No Harm To The Donor.**

**Researchers Are Now Developing Promising New Techniques That Offer The Potential To Produce Pluripotent Stem Cells - Without Having To Destroy Human Life.**

- This month, several new studies showed the potential of reprogramming adult cells, such as skin cells, to make them function like embryonic stem cells.
- In January 2007, scientists discovered that cells extracted from amniotic fluid and placentas could also provide stem cells that seem to do what embryonic stem cells can - without creating or destroying embryos.

#### **The Administration Is Taking Immediate Action To Increase Our Support For These Researchers In Their Vital Work**

**Today, President Bush Issued An Executive Order To Strengthen Our Nation's Commitment To Research On Pluripotent Stem Cells.** The Order:

- Directs the Department of Health and Human Services and the National Institutes of Health to ensure that any human pluripotent stem cell lines produced in ways that do not create, destroy, or harm human embryos will be eligible for federal funding.
- Expands the NIH's Embryonic Stem Cell registry to include all types of ethically produced human pluripotent stem cells.
- Renames the registry the Pluripotent Stem Cell Registry - so that it reflects what the stem cells can do, instead of where they come from.
- Invites scientists to work with the NIH, so we can add new ethically derived stem cell lines to the list of those eligible for Federal funding.

**President Bush Calls On Congress To Pass Legislation That Would Authorize Additional Funds For Ethical Stem Cell Research So He Can Sign It Into Law.** The Senate recently passed a bill that would authorize additional Federal funding for alternative stem cell research, and the President calls on the House to pass similar legislation.

## Stem Cell Research

- Republicans support the advancement of ethical science, medicine, and biomedical research.<sup>1</sup>
  - In just five years, Republican efforts doubled funding for the National Institutes of Health (NIH), the agency primarily responsible for federal health research.<sup>2</sup>
  - Since 2001, more than \$3 billion in federal funding from the NIH has been invested in research on all forms of stem cells.<sup>3</sup>
- All forms of stem cell research flourish under current law.
  - There is no federal ban or constraint on human embryonic stem cell research.<sup>4</sup>
  - More than \$130 million in federal funds have supported research on existing human embryonic stem cell lines since President George W. Bush first authorized such financing in 2001.
  - The President's policy has made 21 separate, existing cell lines available to researchers. More than 1,000 shipments of cells have already been made, and more than 3,000 other shipments remain available upon request.<sup>5</sup>
  - To date, more than 85 percent of human embryonic stem cell research projects leading to publication worldwide have used these approved lines.<sup>6</sup>
- Republicans are committed to pursuing ethical stem cell research to develop cures and find new treatments to improve patients' quality of life.
  - As of April 2, 2007, there were 1,373 publicly available clinical trials related to *adult* stem cells, including 671 that are currently recruiting patients.<sup>7</sup>
  - In contrast, there have been **no** successful therapies or treatments derived from human embryonic stem cells, nor are there any related publicly-available clinical trials.<sup>8</sup>

<sup>1</sup> "Advancing Stem Cell Science Without Destroying Human Life," Domestic Policy Council, The White House, January 2007, available at [http://www.whitehouse.gov/dpc/stemcell/2007/stemcell\\_010907.pdf](http://www.whitehouse.gov/dpc/stemcell/2007/stemcell_010907.pdf) (hereinafter "Domestic Policy Council").

<sup>2</sup> "Doubling the NIH Budget in the 107<sup>th</sup> Congress," Legislative Update, Office of Legislative Policy and Analysis, available at <http://olpa.od.nih.gov/legislation/107/pendinglegislation/doubledec.asp>.

<sup>3</sup> White House, Myth/Fact: President Bush's Stem Cell Research Policy.

<sup>4</sup> Domestic Policy Council, at 6-7.

<sup>5</sup> "Advancing Stem Cell Science Without Destroying Human Life," Domestic Policy Council, The White House, April 2007, at 6.

<sup>6</sup> Domestic Policy Council, at 6-7.

<sup>7</sup> "Advancing Stem Cell Science Without Destroying Human Life," Domestic Policy Council, The White House, April 2007, at 12.

<sup>8</sup> Domestic Policy Council, at 12.