

typical sanitation trucks and concrete mixers.

In sum, as a fixed income tax credit, no audit or administrative issue will arise about the amount of fuel used for the off-road purpose. At the same time, the credit provides a rough justice method to make sure these taxpayers are not required to pay tax on fuels that they shouldn't be paying. Also, as an income tax credit, the proposal would have no effect on the highway trust fund.

I would like to stress that I believe the IRS' interpretation of the law is not consistent with long-held principles under the tax law, despite their administrative concerns. Quite simply, the law should not condone a situation where taxpayers are required to pay the excise tax on fuel attributable to non-propulsion functions. This bill corrects an unfair tax that should have never been imposed in the first place. I urge my colleagues to cosponsor this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 875

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fuel Tax Equalization Credit for Substantial Power Takeoff Vehicles Act".

**SEC. 2. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

**"SEC. 45E. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.**

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is \$250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", plus", and by adding at the end the following new paragraph:

"(14) the commercial power takeoff vehicles credit under section 45E(a)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45E. Commercial power takeoff vehicles credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 88—EXPRESSING THE SENSE OF THE SENATE ON THE IMPORTANCE OF MEMBERSHIP OF THE UNITED STATES ON THE UNITED NATIONS HUMAN RIGHTS COMMISSION

Mr. KENNEDY (for himself, Mr. LUGAR, Mr. LEAHY, Mr. BROWNBACK, Mr. BIDEN, Ms. SNOWE, Mr. KERRY, Mr. SMITH of Oregon, Mr. TORRICELLI, Mr. CHAFFEE, Mr. CORZINE, Mr. ALLEN, Mr. AKAKA, Mr. LIEBERMAN, Mr. BAYH, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEVIN, Mr. REED, Mr. KOHL, Mr. DURBIN, Mr. JOHNSON, Mr. SARBANES, Mr. WELLSTONE, Mrs. BOXER, Mr. MCCAIN, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 88

Whereas the United States played a critical role in drafting the Universal Declaration of Human Rights, which outlines the universal rights promoted and protected by the United Nations Human Rights Commission;

Whereas the United Nations Human Rights Commission is the most important and visible international entity dealing with the promotion and protection of universal human rights and is the main policy-making entity dealing with human rights issues within the United Nations;

Whereas the 53 member governments of the United Nations Human Rights Commission

prepare studies, make recommendations, draft international human rights conventions and declarations, investigate allegations of human rights violations, and handle communications relating to human rights;

Whereas the United States has held a seat on the United Nations Human Rights Commission since its creation in 1947;

Whereas the United States has worked in the United Nations Human Rights Commission for 54 years to improve respect for human rights throughout the world;

Whereas the United Nations Human Rights Commission adopted significant resolutions condemning ongoing human rights abuses in Cuba, Iran, Iraq, Chechnya, Congo, Afghanistan, Equatorial Guinea, Burundi, Rwanda, Burma, and Sierra Leone in April, 2001 with the support of the United States;

Whereas, on May 3, 2001, the United States was not re-elected to membership in the United Nations Human Rights Commission;

Whereas some of the countries elected to the United Nations Human Rights Commission have been the subject of resolutions by the Commission citing them for human rights abuses; and

Whereas it is important for the United States to be a member of the United Nations Human Rights Commission in order to promote human rights worldwide most effectively: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the United States has made important contributions to the United Nations Human Rights Commission for the past 54 years;

(2) the recent loss of membership of the United States on the United Nations Human Rights Commission is a setback for human rights throughout the world; and

(3) the Administration should work with the European allies of the United States and other nations to restore the membership of the United States on the United Nations Human Rights Commission.

S. RES. 88

Mr. KENNEDY. Mr. President, today, Senator LUGAR and I are introducing a resolution expressing our concern over the recent loss of the U.S. seat on the United Nations Human Rights Commission. We are pleased that Senators LEAHY, BROWNBACK, BIDEN, SNOWE, KERRY, GORDON SMITH, TORRICELLI, CHAFFEE, CORZINE, ALLEN, AKAKA, LIEBERMAN, BAYH, BINGAMAN, FEINGOLD, LEVIN, REED, KOHL, DURBIN, JOHNSON, SARBANES, WELLSTONE, and BOXER are cosponsors of this resolution.

We are deeply concerned that in the vote on May 3, the United States was not re-elected to membership on the Commission. The Commission is the most important and visible international body dealing with the promotion and protection of human rights and is the main policy-making organization dealing with human rights issues in the United Nations. The 53 member governments of the Human Rights Commission prepare studies, make recommendations, draft international human rights conventions and declarations, investigate allegations of human rights violations, and handle communications relating to human rights.

The United States has held a seat on the Commission since its creation in 1947 and has worked effectively through the Commission for the past

fifty-four years to improve respect for human rights throughout the world. It is essential for the United States to regain its position on the Commission and to continue to promote human rights worldwide.

The loss of membership on the Commission is a diplomatic setback for the United States and for human rights worldwide. Our resolution emphasizes the important contributions of the U.S. to the Commission, and it urges the Administration to work with our European allies and other nations to restore the membership of the United States on the United Nations Human Rights Commission as soon as possible.

I urge my colleagues to support this resolution.

#### AMENDMENT PREVIOUSLY SUBMITTED ON MAY 9, 2001

SA 430. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

#### TEXT OF AMENDMENT PREVIOUSLY SUBMITTED ON MAY 9, 2001

SA 430. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 480, line 12, strike the period at the end and insert a semicolon and the following:

“(6) other instructional services that are designed to assist immigrant students to achieve in elementary and secondary schools in the United States, such as literacy programs, programs of introduction to the educational system, and civics education; and

“(7) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant students by offering comprehensive community social services, such as English as a second language courses, health care, job training, child care, and transportation services.”.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 648. Mr. HELMS proposed an amendment to amendment SA 574 proposed by Mr. HELMS to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

#### TEXT OF AMENDMENTS

SA 648. Mr. HELMS proposed an amendment to amendment SA 574 proposed by Mr. HELMS to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

In lieu of the matter proposed to be inserted, insert the following:

#### TITLE —EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

##### SEC. 1. SHORT TITLE.

This title may be cited as the “Boy Scouts of America Equal Access Act”.

##### SEC. 2. EQUAL ACCESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts’ or the youth group’s oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms “elementary school”, “local educational agency”, “secondary school”, and “State educational agency” have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(B) SECRETARY.—The term “Secretary” means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term “youth group” means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

##### SEC. 3. EFFECTIVE DATE.

This title takes effect 1 day after the date of enactment of this Act.

#### MEASURE READ THE FIRST TIME—S. 872

Mr. JEFFORDS. Mr. President, I understand that S. 872, introduced earlier today by Senators MCCAIN, EDWARDS, and KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 872) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Mr. JEFFORDS. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

#### PUBLIC SAFETY OFFICER MEDAL OF VALOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 37, S. 39.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 39) to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Public Safety Officer Medal of Valor Act of 2001”.*

##### SEC. 2. AUTHORIZATION OF MEDAL.

*After September 1, 2001, the President may award, and present in the name of Congress, a Medal of Valor of appropriate design, with ribbons and appurtenances, to a public safety officer who is cited by the Attorney General, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty. The Public Safety Medal of Valor shall be the highest national award for valor by a public safety officer.*

##### SEC. 3. MEDAL OF VALOR BOARD.

(a) ESTABLISHMENT OF BOARD.—*There is established a Medal of Valor Review Board (hereinafter in this Act referred to as the “Board”), which shall be composed of 11 members appointed in accordance with subsection (b) and shall conduct its business in accordance with this Act.*

(b) MEMBERSHIP.—

(1) MEMBERS.—*The members of the Board shall be individuals with knowledge or expertise, whether by experience or training, in the field of public safety, of which—*

*(A) two shall be appointed by the majority leader of the Senate;*

*(B) two shall be appointed by the minority leader of the Senate;*

*(C) two shall be appointed by the Speaker of the House of Representatives;*

*(D) two shall be appointed by the minority leader of the House of Representatives; and*