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Senate

JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, in opposition to this amendment, first, ask people at the IRS. This would be very difficult to handle mechanically.

Regardless of that, repeating as I have often in opposition to other amendments along these same lines, we have $95 billion for children in the bill already. The amendment includes an acceleration for low-income families paid for by tax increases on small business owners. We need to balance incentives for spending and investments. We have a correct balance in this bill. This amendment breaks this balance.

There also would be a budget point of order, and I make that, that the amendment increases spending and if adopted would cause the underlying bill to exceed the committee section 302(a) allocations. Therefore, a point of order ought to rise against it pursuant to section 302(f).

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of the act for the purpose of the pending amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BAUCUS. Mr. President, I have two housekeeping matters that have to be cleared up.

AMENDMENTS NOS. 593 AND 612 WITHDRAWN

Mr. President, I ask unanimous consent that the pending McCain and Burns amendments be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—49

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Campbell	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kerry	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Wyden
Dayton	Lautenberg	
Dodd	Leahy	

NAYS—51

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, for our leader, I ask unanimous consent that the next amendments in order be the following in the order mentioned: Senator DASCHLE, substitute; Senator NICKLES, on the subject of dividends; Senator REID; then Senator BREAUX, and Senator BREAUX's deals with section 911; Senator SANTORUM, dealing with annuities; Senator BINGAMAN, small business pensions; Senator MIKULSKI, caregivers; Senator SESSIONS, sunset tax increase provisions; and Senator DAYTON, a substitute.

I further ask unanimous consent that there be 2 minutes equally divided prior to the vote in relationship to the amendments, that no amendments be in order to the amendments prior to the vote, and, finally, that this sequence of votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the pending amendments be set aside.

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

AMENDMENT NO. 656

(Purpose: To create jobs, provide opportunity, and restore prosperity)

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 656.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Mr. President, in this debate about creating jobs, we have a clear choice. The Republican bill, according to virtually all economic analyses, doesn't create jobs until the year 2004. What few jobs it does create this year are vastly outdone by the bill we have before us now. This bill creates 1 million jobs this year.

If this bill is about fiscal responsibility, we have a choice. The Republican bill will use $422 billion of Social Security trust funds. Our legislation has been scored at $152 billion. There is a dramatic difference between this bill and our bill when it comes to fiscal responsibility.

We are talking about providing meaningful help to the vast majority of American taxpayers who need help now, who can be spurred with economic incentive. This bill does it by providing a wage credit of $300 per person. A family of four would be entitled to $1,600 when the child tax credit and marriage penalty provisions are added.

There is a clear choice. This bill is fiscally responsible. This bill provides the kind of broad-based relief we want. This bill provides the kind of jobs this country so badly needs.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, 1 minute does not give justice to saying what is wrong with this amendment, so I will just give two or three points.

First, in regard to the marriage penalty relief, it provides for acceleration of the standard deduction of married couples but doesn't do anything regarding the expansion of the 15-percent individual income tax bracket. And that is a major part of marriage penalty relief. It doesn't help hard-working, middle-class families the way it should.

Second, in regard to the child tax credit, this proposal only increases the child tax credit to $700 in 2003 and $800 in 2004. The mark accelerates it to the full $1,000 in 2003.

Again, for real relief for working families, the wage credit is a key component of this proposal.

This would send $300 checks to anyone, regardless of whether they paid any income tax, and even if they didn't file an income tax return.

There is a point of order on this amendment. I raise that point of order: That it increases mandatory spending and, if agreed to, it would cause the underlying bill to exceed the committee's section 302(a) allocation. Therefore, a point of order lies against the amendment pursuant to 302(f) of the Congressional Budget Act.

Mr. DASCHLE. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of that act and budget resolution for consideration of the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—46

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

NAYS—54

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Kyl	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the next amendment in order be that offered by the Senator from Minnesota, Mr. DAYTON.

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

Under the order, the Senator from Minnesota is recognized.

AMENDMENT NO. 615

Mr. DAYTON. Mr. President, I salute the Senator from Montana and the Senator from Iowa and their colleagues for their resolve in making the House legislation into a responsible bill.

My amendment would make it a better bill. It would take the money that would go to millionaire taxpayers and give it, instead, to middle-income taxpayers. We do so by tripling the amount of income that is taxed at the 10-percent rate.

We keep the committee's increases in the child tax credit, its elimination of the marriage penalty and the alternative minimum tax, and its offsets would extend unemployment benefits for those who have currently run through them. It would also freeze the top rate at its present level.

In my amendment, a family of four with an income of $40,000 a year would receive a $2,232 tax cut in 2003, which is more than double the amount in the committee bill. A single taxpayer with an annual income of $40,000 would receive a $600 tax cut compared with $282 under the tax bill. And that is with the same cost—$350 billion—over 10 years, with tax relief evenly distributed and a much better economic stimulus.

I urge my colleagues to support this amendment.

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

Mr. GRASSLEY. Mr. President, once again, we have a substitute that would basically eliminate all the growth we have in our growth package. We have a well-balanced package before us between short-term investment, long-term investment, between consumer spending and investment.

This amendment is not about investment; it is all about spending.

I hope we will defeat the amendment. This language happens to not be germane to the measure now before us. Therefore, I raise a point of order under section 305(b)(2) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. On behalf of the Senator from Minnesota, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of that act, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment has not been sent to the desk.

The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 615.

Mr. BAUCUS. Mr. President, I think the clerk should read the entire amendment. That is a pretty hefty amendment.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of May 14, 2003 under ''Text of Amendments.'')

The PRESIDING OFFICER. A point of order has been raised against the amendment. A motion to waive has also been made.

Is there a sufficient second?

There appears to be. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 44, nays 56, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—44

Akaka	Durbin	Leahy
Bayh	Edwards	Levin
Biden	Feingold	Lieberman
Bingaman	Feinstein	Mikulski
Boxer	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Jeffords	Reid
Conrad	Johnson	Rockefeller
Corzine	Kennedy	Sarbanes
Daschle	Kerry	Schumer
Dayton	Kohl	Stabenow
Dodd	Landrieu	Wyden
Dorgan	Lautenberg	

NAYS—56

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chafee	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Kyl	Talent
Collins	Lincoln	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. BAUCUS. Mr. President, as we await the scoring for the Nickles amendment, I ask unanimous consent that the Senator from Maryland be recognized for the purpose of offering her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland is recognized.

AMENDMENT NO. 605

Ms. MIKULSKI. Mr. President, I call up my amendment No. 605.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. KENNEDY, Mr. SARBANES, Mr. JOHNSON, Mrs. CLINTON, and Mr. DURBIN, proposes an amendment numbered 605.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of May 14, 2003 under ''Text of Amendments.'')

Ms. MIKULSKI. Mr. President, my amendment is the family caregiver relief amendment. It gives help to those who practice self-help. It will provide tax relief for family caregivers who face the crushing consequence of caring for a chronically ill family member.

Some of our families are facing extraordinary challenges, such as caring for a loved one with special needs, a child with autism or cerebral palsy, a parent with Alzheimer's or Parkinson's, or a spouse with multiple sclerosis. I want to give help to those families who are practicing family responsibility.

My amendment would provide a tax credit up to $5,000 for family caregivers. This tax credit would help people pay for prescription drugs, home health care, specialized daycare, and respite care. One in five Americans has a multiple chronic condition requiring some type of medical intervention. That means over 26 million people were supported by many organizations.

I urge my colleagues to vote for my family caregiver relief tax amendment.

Mr. GRASSLEY. Mr. President, once again, albeit good intentions on the part of people offering these amendments, what they are doing in the process of offering their very favorable new program—one on which I have legislation, in fact—they are destroying the growth in our growth package by taking money from the growth portions and the investment portions of our bill to do other good things.

Right now, we are concerned about the economy. We have a balanced bill and want to keep it balanced. We don't want to destroy portions of our bill to create a new program. However, the Senator knows I am very interested in long-term care, and I hope she will work with me and the Senator from Florida, Mr. GRAHAM, in the hopes that she can join us in advancing long-term care insurance for senior citizens but doing it in a context that doesn't destroy other very important pieces of legislation.

This language is not germane to the measure before us. Therefore, I raise a point of order under section 305(b)(2) of the Budget Act.

Ms. MIKULSKI. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The yeas and nays are ordered and the clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Alabama (Mr. SHELBY) is necessarily absent.

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

The yeas and nays resulted—yeas 48, nays 51, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—48

Akaka	Boxer	Clinton
Baucus	Breaux	Conrad
Bayh	Byrd	Corzine
Biden	Cantwell	Daschle
Bingaman	Carper	Dayton
Dodd	Johnson	Murray
Dorgan	Kennedy	Nelson (FL)
Durbin	Kerry	Nelson (NE)
Edwards	Kohl	Pryor
Feingold	Landrieu	Reed
Feinstein	Lautenberg	Reid
Graham (FL)	Leahy	Rockefeller
Harkin	Levin	Sarbanes
Hollings	Lieberman	Schumer
Inouye	Lincoln	Stabenow
Jeffords	Mikulski	Wyden

NAYS—51

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Ensign	Murkowski
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—1

Shelby

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

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

Mr. BAUCUS. I ask unanimous consent that the next amendment be that from Senator SESSIONS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

AMENDMENT NO. 639

Mr. SESSIONS. Mr. President, I call up amendment No. 639.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 639.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To apply the sunset provision to the revenue increase provisions)

Strike subsection (b) of section 601 and insert the following:

(b) EXCEPTIONS.—(1) Subsection (a) shall not apply to the provisions of, and amendments made by, title I (other than section 107).

(2) Subsection (a) shall not apply to Title III (other than section 362) however the provisions within Title III shall not apply to taxable years beginning after December 31, 2015.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Under the agreed framework of this legislation, the tax reduction part of the growth package, those tax reductions will terminate in 2012. As an attempt to build the kind of growth package this Congress wanted to do, I believe a majority wants to do, we have added some tax increases. Those tax increases are permanent. In order not to affect the agreement and impact the budget in any way, I have proposed that those tax increases be terminated on 12–31–2015. It would have absolutely no budgetary impact in any way.

So I believe we made an agreement to bring this package together. The tax growth package will terminate in 2012. So should the tax increases in 2015.

The PRESIDING OFFICER. The time of the Senator has expired. Who seeks time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment sunsets offsets not in this decade but in the next decade. Many of the provisions in this bill should be permanent; that is, corporate inversion legislation, shelters, provisions that should change the law. That is good public policy. Not all of the provisions in this bill are offsets just to make the budget numbers work. Rather, they are provisions which make good public policy and should continue.

Also, it violates the Byrd rule because it raises an extraneous matter in a reconciliation bill.

I make a point of order that the amendment violates section 313 of the Budget Act.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Pursuant to section 904(c) of the Congressional Budget Act of 1974, I move to waive the entire Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—S. 1050

Mr. FRIST. Mr. President, I ask unanimous consent that at 2:30 on Monday, May 19, the Senate proceed to the consideration of Calendar No. 96, S. 1050, the Department of Defense authorization bill; provided that all first-degree amendments be relevant; that any second-degree amendments be relevant to the first-degree to which it is offered; finally, provided that on Monday there be debate only on the bill until 5:30 p.m., with the time equally divided until 5:30.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, we have conferred with the ranking member, Senator LEVIN. We have no objection to the unanimous consent request.

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

The majority leader.

Mr. FRIST. Mr. President, we are making progress on the underlying bill. Again, we are going to keep the votes at 10 minutes, but we are going to cut them off at 15 minutes sharp. So, again, everybody stay in the Chamber.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 49, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—51

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Chambliss	Hagel	Smith
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

NAYS—49

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

The PRESIDING OFFICER. On this question, the yeas are 51, the nays are 49. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SESSIONS. I ask that Senator ALLEN be made a cosponsor to that amendment.

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

AMENDMENT NO. 664

Mr. NICKLES. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. MILLER, Mr. KYL, Mr. LOTT, Mr. BUNNING, Mr. CRAPO, Mr. GRAHAM of South Carolina, Mr. BENNETT, Mr. FRIST, Mr. MCCONNELL, Mr. SANTORUM, Mr. ENSIGN, Mr. SMITH, and Mr. THOMAS, proposes an amendment numbered 664.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the dividend exclusion provision, and for other purposes)

Beginning on page 9, line 16, strike all through page 12, line 9, and insert:

SEC. 104. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (7) of section 63(c) (relating to standard deduction) is amended to read as follows:

''(7) APPLICABLE PERCENTAGE.—For purposes of paragraph (2), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2003	195
2004	200
2005	174
2006	184
2007	187
2008	190
2009 and thereafter	200.''.

(b) CONFORMING AMENDMENT.—Section 301(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 105. ACCELERATION OF 15-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET EXPANSION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Subparagraph (B) of section 1(f)(8) (relating to phaseout of marriage penalty in 15-percent bracket) is amended to read as follows:

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2003	195
2004	200
2005	180
2006	187
2007	193
2008 and thereafter	200.''.

(b) CONFORMING AMENDMENT.—Section 302(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

Beginning on page 15, line 12, strike all through page 18, line 11, and insert:

SEC. 107. INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

''(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008).''.

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) (relating to reduction in limitation) is amended by inserting ''($400,000 in the case of taxable years beginning after 2002 and before 2008)'' after ''$200,000''.

(c) OFF-THE-SHELF COMPUTER SOFTWARE.—Paragraph (1) of section 179(d) (defining section 179 property) is amended to read as follows:

''(1) SECTION 179 PROPERTY.—For purposes of this section, the term 'section 179 property' means property—

''(A) which is—

''(i) tangible property (to which section 168 applies), or

''(ii) computer software (as defined in section 197(e)(3)(B)) which is described in section 197(e)(3)(A)(i), to which section 167 applies, and which is placed in service in a taxable year beginning after 2002 and before 2008,

''(B) which is section 1245 property (as defined in section 1245(a)(3)), and

''(C) which is acquired by purchase for use in the active conduct of a trade or business.

Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(d) ADJUSTMENT OF DOLLAR LIMIT AND PHASEOUT THRESHOLD FOR INFLATION.—Subsection (b) of section 179 (relating to limitations) is amended by adding at the end the following new paragraph:

''(5) INFLATION ADJUSTMENTS.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2003 and before 2008, the $100,000 and $400,000 amounts in paragraphs (1) and (2) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—

''(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000.

''(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(e) REVOCATION OF ELECTION.—Paragraph (2) of section 179(c) (relating to election irrevocable) is amended to read as follows:

''(2) REVOCATION OF ELECTION.—An election under paragraph (1) with respect to any taxable year beginning after 2002 and before 2008, and any specification contained in any such election, may be revoked by the taxpayer with respect to any property. Such revocation, once made, shall be irrevocable.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

On page 19, line 5, insert ''the applicable percentage of'' before ''qualified''.

On page 19, strike lines 7 through 15, and insert:

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage is—

''(A) 50 percent in the case of taxable years beginning in 2003,

''(B) 100 percent in the case of taxable years beginning in 2004, 2005, and 2006, and

''(C) zero percent in the case of any other taxable year.

On page 21, beginning with line 21, strike all through page 22, line 2, and redesignate accordingly.

On page 26, strike lines 17 through 22, and insert:

(4) Section 531 is amended—

(A) by inserting ''the taxable percentage of'' after ''equal to'', and

(B) by adding at the end the following: ''For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).''

(5) Section 541 is amended—

(A) by inserting ''the taxable percentage of'' after ''equal to'', and

(B) by adding at the end the following: ''For purposes of this section, the taxable percentage is 100 percent minus the applicable percentage (as defined in section 116(a)(2)).''

On page 27, between lines 16 and 17, insert:

(9)(A) Section 1059(a) is amended by striking ''corporation'' each place it appears and inserting ''taxpayer''.

(B)(i) The heading for section 1059 is amended by striking ''**CORPORATE**''.

(ii) The item relating to section 1059 in the table of sections for part IV of subchapter O of chapter 1 is amended by striking ''Corporate shareholder's'' and inserting ''Shareholder's''.

On page 27, line 19, strike ''2003'' and insert ''2002''.

Mr. BAUCUS. If the Senator will yield, this is probably the most important amendment of the night. I ask consent each side be allowed 2 minutes instead of the customary 1 minute.

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

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. NICKLES. The amendment I sent to the desk on behalf of myself, Senator MILLER from Georgia, Senator KYL, Senator LOTT, Senator FRIST, and others, would do several things. It would make this dividend package and make the growth package a lot more robust. It would accomplish the President's objective of eliminating double taxation of dividends. We tax dividends higher than any other country in the world. We are tied with Japan. We would eliminate double taxing.

We would have 50-percent exclusion on dividend income in 2003, and 100 percent in 2004, 2005, and 2006. This would have a very significant, positive impact on the stock market, on individuals' 401(k)'s, on people who have teacher retirement accounts, and others. It would help them dramatically. Some estimate 5 percent, some say 10 percent, some say 20 percent, some say more. I encourage my colleagues to vote for it.

We also would adopt the House provision dealing with expensing. This is a much more accelerated and more upfront accelerated expensing provision than what we had in the Senate bill and certainly over present law. Current law is $25,000. This goes to $100,000 of expensing and would last for 5 years. The Senate bill we have before the Senate has $75,000 and goes over 10 years. This encourages a lot of companies, and bigger companies, companies that have an annual investment of $400,000, would get to be able to deduct in 1 year $100,000. It is more robust in the expensing provision and more robust in the dividend provision.

It would encourage investment; it would encourage jobs; it would encourage growth. I encourage our colleagues to vote in favor of this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, let me read a quote of American Enterprise Institute, conservative economist, commenting on this amendment:

> Clearly, this proposal is one of the most patently absurd tax policies ever proposed.

That is AEI, Republican economist, commenting on this amendment. Why say that? First, this amendment goes far beyond any other attempt to eliminate double taxation of dividends. What is the effect of this amendment? The effect of this amendment is in many cases to not only eliminate double taxation of dividends but to also eliminate single taxation of dividends.

In many cases, as a consequence of the way this amendment is written—which we saw just for the first time half an hour ago—is to say there is no taxation on many dividends offered by corporation shareholders, not the shareholder paying any tax, and not the corporation paying any tax.

Second, who subsidizes this if that is the nontaxation of dividends under this proposal? Americans are subsidizing this. Who? Americans today who otherwise would receive the relief under the marriage penalty contained in this bill are going to be subsidizing and paying for, in effect, these tax-free dividends. That is because that is the pay-for in this bill.

In addition, this bill increases the budget deficit so our children will be paying for many of those tax-free dividends contained in this bill.

Next, this is a huge yo-yo tax provision. Now you see it, now you don't; 50 percent 1 year, 100 percent the next year, 100 percent another year, then zero. Tell me if any corporation will be able to plan on whether or not to pay dividends with a tax policy like that. Clearly, they will wait for the 100 percent and they will not know if it will be continued in law.

This is absurd and irresponsible to enact tax legislation like this. I strongly urge Senators to consider what they are doing tonight if they support this amendment. This is an outrage.

Mr. NICKLES. Mr. President, I urge our colleagues to vote in favor of this amendment. It is much more robust than in the underlying bill, and it is what the President wants. I think it will grow the economy and create jobs. I urge my colleagues to vote in favor of the amendment.

The PRESIDING OFFICER. Time is expired.

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—50

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McConnell	

NAYS—50

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

The VICE PRESIDENT. The Senate will be in order, please.

On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative.

The amendment of the Senator from Oklahoma is agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. NICKLES. I ask unanimous consent to add Senator DOMENICI and Senator ALLARD as original cosponsors.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent the Reid amendment be temporarily laid aside to occur after the Santorum amendment. Is the next amendment in order the Breaux amendment? Is that the next amendment?

The VICE PRESIDENT. The Senator is correct.

Mr. BAUCUS. I ask 4 minutes total, 2 minutes on each side, on the Breaux amendment.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 663

Mr. BREAUX. Mr. President, I ask my amendment No. 663, which is at the desk, be reported.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 663.

Mr. BREAUX. I ask unanimous consent the reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

Strike Sec. 350.

On page 19, line 11, strike ''100'' and insert ''65.''

Mr. BREAUX. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order, please.

The Senator from Louisiana.

Mr. BREAUX. Mr. President, most people think we are debating a tax cut bill. There are some tax cuts in the bill. But there is also a $35 billion tax increase—a $35 billion tax increase on schoolteachers who work overseas, ministers who work overseas, Catholic relief workers, charitable workers, and technicians who work overseas, earn income overseas, and pay taxes overseas. We are now changing the law to eliminate the exemption they have always traditionally enjoyed. They do not live in this country and don't get the benefits of living in this country, and therefore we give them a tax exemption. That has been eliminated in the amendment that has been offered by the Senator from Oklahoma. It is a $35 billion tax increase to pay for the dividend provisions of the legislation.

We just voted, incidentally, for overseas corporations, if they bring their profits back to the United States—guess what we did. We voted to tax them at 5 percent for 1 year. But if an individual works overseas and makes money, we are now saying that your tax exemption has been eliminated; you will pay taxes in the country where you are getting a credit against your income tax, but you will pay taxes as if you lived—resided—and worked in United States. It is a $35 billion tax increase on people making $50,000 to $75,000 a year in order to pay for a dividend tax cut from which most people are not going to benefit.

My amendment is paid for by reducing 3 years of the dividend reduction from 100 percent down to 65 percent elimination of the dividend tax. That is substantially more than we passed in the Finance Committee. You still get a major dividend tax cut, much larger than the Finance Committee passed and eliminate the taxes on individuals working overseas—middle-income and moderate-income people. We are robbing Peter to pay for Paul. Unfortunately, we are taking it from middle-income people.

Mr. GRASSLEY. Mr. President, let us set the record straight. This is not a tax increase. This is a loophole closure for people who live overseas. Taxpayer dollars should, in fact, not be subsidizing an employer's cost of sending an employee overseas. This subsidy equals $98,000 of taxes for each employee each year. Repeal will not cause people to be double taxed because of the fact that the foreign tax credit can be used against American taxes owed. A vote for the Breaux amendment will in fact gut the dividend exclusion we just passed.

The bottom line is, let us weight the advantage of the dividend exclusion of the 234 million people who will benefit from that against only 358,000 people who benefit from section 911.

I think it is pretty clear that this amendment should be defeated. It will destroy the well-balanced provisions we put together between investment and consumer spending, a well-balanced bill between helping investment and helping people of lower income with the refundables that are in the bill.

I yield the floor.

The VICE PRESIDENT. All time has expired. The question is on agreeing to the amendment.

Mr. BREAUX. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—49

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

NAYS—51

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lugar	Thomas
Crapo	McCain	Voinovich
DeWine	McConnell	Warner

Mr. CRAIG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that it now be in order to go to the amendment offered

by the Senator from California, Mrs. BOXER.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from California.

AMENDMENT NO. 667

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 667.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a parent who is chronically delinquent in child support to include the amount of the unpaid obligation in gross income)

At the end of subtitle C of title V, add the following:

SEC. ___. CHILD SUPPORT ENFORCEMENT.

(a) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end the following new subsection:

''(h) UNPAID CHILD SUPPORT.—

''(1) IN GENERAL.—For purposes of this chapter, any unpaid child support of a delinquent debtor for any taxable year shall be treated as amounts includible in gross income of the delinquent debtor for the taxable year.

''(2) DEFINITIONS.—For the purposes of this subsection—

''(A) CHILD SUPPORT.—The term 'child support' means—

''(i) any periodic payment of a fixed amount, or

''(ii) any payment of a medical expense, education expense, insurance premium, or other similar item,

which is required to be paid to a custodial parent by an individual under a support instrument for the support of any qualifying child of such individual. 'Child support' does not include any amount which is described in section 408(a)(3) of the Social Security Act and which has been assigned to a State.

''(B) CUSTODIAL PARENT.—The term 'custodial parent' means an individual who is entitled to receive child support and who has registered with the appropriate State office of child support enforcement charged with implementing section 454 of the Social Security Act.

''(C) DELINQUENT DEBTOR.—The term 'delinquent debtor' means a taxpayer who owes unpaid child support to a custodial parent.

''(D) QUALIFYING CHILD.—The term 'qualifying child' means a child of a custodial parent with respect to whom a dependent deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)).

''(E) SUPPORT INSTRUMENT.—The term 'support instrument' means—

''(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

''(ii) a written separation agreement, or

''(iii) a decree (not described in clause (i)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent.

''(F) UNPAID CHILD SUPPORT.—The term 'unpaid child support' means child support that is payable for months during a custodial parent's taxable year and unpaid as of the last day of such taxable year, provided that such unpaid amount as of such day equals or exceeds one-half of the total amount of child support due to the custodial parent for such year.

''(3) COORDINATION WITH OTHER LAWS.—Amounts treated as income by paragraph (1) shall not be treated as income by reason of paragraph (1) for the purposes of any provision of law which is not an internal revenue law.''.

(b) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by is section shall apply to taxable years beginning after December 31, 2002. The Secretary of the Treasury shall publish Form 1099–CS (or such other form that may be prescribed to comply with the amendment made by subsection (b)(1)) and regulations, if any, that may be deemed necessary to carry out the purposes of this Act, not later than 90 days after the date of enactment of this Act.

Mrs. BOXER. Mr. President, I will only take about a minute of the Senate's time to explain this amendment, which I am very happy has been cleared on both sides.

This amendment is based on a bill that Congressman CHRIS COX and I wrote, and it is a money raiser. It actually raises, over the 10-year period, in excess of $400 million.

What it does, in essence, is say this: If a parent who is ordered to pay child support fails to pay that child support, and fails to pay at least 50 percent of that child support then that delinquent parent would have to add the amount that he or she was supposed to pay to child support to his or her gross income.

Each year, nearly 60 percent of the 20 million children who are owed child support receive less than the amount they are due, and more than 30 percent receive no payment at all.

This amendment will bring much-needed relief to the millions of families who are not receiving the child support they desperately need.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator's time has expired.

Mrs. BOXER. I thank the Chair.

I am very pleased this amendment has been signed off on by both sides.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, before the majority leader addresses the Senate, could we dispose of the Boxer amendment?

Mrs. BOXER. Just by voice vote.

The PRESIDING OFFICER. If time is yielded back in opposition, the Senate can dispose of the amendment.

Mr. THOMAS. We have no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 667) was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we have had tremendous progress. It has been a long day. Most of us have been actually here on the floor for almost 11 hours. We have made great progress. We have completed 25 votes. Yet in conversations with the assistant Democratic leader, it is very clear we have a number of other amendments that people have expressed an interest in. We have dealt with most of the major amendments that have been discussed over today and yesterday and the day before. I know there are a number of other amendments people would like to talk about, would like to vote on, but I encourage Senators, due to the late hour, that we try to get that list as small as possible, and that Members talk to the chairman and ranking member and condense that list as narrowly as possible.

So our colleagues will know, as I said 2 days ago, and as I said yesterday, and as I said today, we are going to finish this bill tonight, and we are going to go to the global HIV/AIDS bill with the intention of completing that tonight. And that means if it is 10 o'clock, if it is 11 o'clock, if it is 12 o'clock, if it is 1 o'clock, we will be having rollcall votes.

Thus, I encourage everybody to focus, to use common sense, to be reasonable in terms of the amendments they put on the floor at this juncture. But I repeat, we will continue having rollcall votes until we finish the jobs and growth bill, as well as the global HIV/AIDS bill, tonight.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Democratic leader has asked me to announce that he has joined with the majority leader in recognizing this bill needs to be finished tonight. As the majority leader has indicated, following this bill, we are going to complete the global HIV/AIDS bill, which has a number of amendments we will have to dispose of.

Right now I have here about 14 amendments. There are a couple on the other side. The rest of them are on this side. We know how strongly people feel about their issues, but I would like to say Senator DORGAN and I have been waiting for a long time to offer an amendment on concurrent receipts. We are not going to offer that amendment tonight because we have an opportunity to offer that at a later time on another piece of legislation. When the defense bill comes through here—both the defense bill and the defense appropriations bill—we can do that. I know I will find another place at a later time to offer the notch-baby amendment.

I feel strongly about both of these issues, but I had one amendment yesterday. It was a good debate. I would hope that people who have the opportunity to offer an amendment—and we

recognize that—would look to see if we have debated these issues before. We have voted on some issues several times already, and if they must offer an amendment, maybe we could dispose of it by voice vote. Although I have not agreed with most of the votes that have occurred here in the last couple days, I have a pretty good indication how the votes are going to turn out tonight on the rest of these amendments. So I would rather that we were not finishing the bill tonight. The two leaders have said we are finishing the bill tonight or in the morning—and that does not mean we are going to have a break before morning comes.

So I hope everyone will work with us and do what they can to get rid of these amendments in a way that they feel is appropriate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DOMENICI. Mr. President, I have a question.

Mr. BAUCUS. Mr. President, I think sometimes discretion is the better part of valor. We have been on this bill for 2 full days. I have amendments which I would like to offer. I am willing to forego those amendments.

As the Senator from Nevada said, there are about 14 amendments left. That means in 5 more hours we will be here on this bill, before we get to the global HIV/AIDS bill.

I urge Senators on both sides of the aisle—and I guess I particularly appeal to Senators on my side of the aisle—that there are a couple here that probably could and should be voted on but some of them probably not.

There will be another day. There will be another tax bill. There will be other opportunities for us to offer amendments. I think, frankly, after a couple, three or four or five more amendments, it is about time to wrap up this bill. We know what the conclusion is going to be on all the amendments. As the Senator has said, some of the subjects have already been addressed. Some have not, but some of the subjects already have been addressed. I have been working with the chairman of the committee throughout this bill to try to work out a good process. My judgment is that we should whittle down the list.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Have we already agreed on a list or are people still able to add to it?

Mr. BAUCUS. The answer to the question is, we have not agreed to a list. Technically people are still able to add.

Mr. DOMENICI. Do you have a list?

Mr. BAUCUS. We do have a list. We have 14—12 on our side at least.

Mr. DOMENICI. I ask unanimous consent that no other amendments be in order this evening on this bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I think in fairness to everyone I should read what the amendments are. We have a Kennedy amendment on drugs; Gregg amendment on pension interest rates; Dodd amendment on higher education; Dorgan amendment on debt collection, with Senator BYRD; DORGAN, to protect Social Security, on which he will take a voice vote; HOLLINGS has an amendment on striking out the tax cuts—he will take a voice vote on that; Senator LEVIN, on inversion; Senator ROCKEFELLER, school construction; Senator DURBIN, on health coverage for caregivers; Senator KENNEDY, on No Child Left Behind; in addition to the managers' amendment; and those on the previous list which we have three on the previous list; and an Edwards amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, on our side we have just three, a Gregg amendment, and possibly two Santorum amendments.

Mr. DOMENICI. I ask unanimous consent that there be no further amendments in order.

Mr. REID. Mr. President, on the Santorum amendments, we would like to know the subject of them.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, am I on the list? I was not read off.

Mr. REID. You are on the previous list.

Mr. BINGAMAN. I have no objection.

The PRESIDING OFFICER. Who seeks time?

Mr. DOMENICI. I renew my request.

The PRESIDING OFFICER. Is the Senator from New Mexico making a unanimous consent request?

Mr. DOMENICI. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Reserving the right to object, have Members been given notice that a motion of this sort was to be offered? Have Members been given notice that a motion of this sort is to be offered?

Mr. DOMENICI. You have had it in mind most of the day. But, no, they have not. I am just kidding the Senator.

Mr. BAUCUS. If I might respond, the answer is no, not formally. I suggest that after about 15 minutes or so, we put the request again. At least we can go through a couple amendments now, then renew the request in 15 minutes.

The PRESIDING OFFICER. The Senator from New Mexico has made a request. Is there objection?

Mr. REID. Mr. President, Senator HARKIN wishes to be added to that list. I would add to the request of the Senator from New Mexico, that we handle second-degree amendments as we have handled amendments on the bill up to this point.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Reserving the right to object, I have an amendment that I believe is technical, although important, with no revenues. It was approved by this side and is awaiting approval by the other side. I ask that it be added to the list, and I don't think we will have to debate it. But I can't forgo the opportunity to bring it up.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. While we are coming to an agreement, could we move forward. Senator GREGG is prepared with his amendment.

Mr. SARBANES. Mr. President, I object to the request. I think it should be worked out with the chairman.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. I withdraw the request.

Mr. SARBANES. So everyone can have a fair opportunity.

Mr. THOMAS. I yield to Senator GREGG.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I am not going to call up the amendment. I will withdraw the amendment. I do wish to speak for 1 minute on the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GREGG. My amendment addresses a problem that faces a large number of our largest employers in the country and that's the funding of pension plans. Because there is no longer a 30-year Treasury bond issued in this country, the values of pension plans are being artificially underaccounted. As a result, many companies are going to have to take money which they might spend on employees or money they might spend on plants and equipment and put it into funding in order to cover what is an artificial shortfall.

This amendment is supported by the AFL–CIO and by the business community. This includes the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the ERISA Industry Committee, the American Benefits Council, the American Society of Pension Actuaries, the Committee on Investment of Employment Benefit Assets, and Financial Executives International, and other major business groups.

My amendment is an attempt to address what we all understand to be a problem that is created through the fact that there is no longer a 30-year Treasury bond being issued. The amendment extends a fix put in place last year and uses a composite of high quality corporate bonds as a new standard during that extension period. Then the amendment sets up a commission, the purpose of which is to come up with a new standard for the purpose of valuing what the pension funding mechanism should be and how much should be put into pension plans.

So it is an appropriate action. The problem is it has to be taken before the middle of the summer.

I will withdraw the amendment at this time in order to move the process along.

The PRESIDING OFFICER. Who seeks time?

Mr. BAUCUS. I ask unanimous consent that the next amendment in order be the amendment offered by the Senator from Massachusetts, Mr. KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts.

AMENDMENT NO. 545

Mr. KENNEDY. Mr. President, I call up amendment 545 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 545.

Mr. KENNEDY. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To eliminate the dividend and upper bracket tax cuts, which primarily benefit the wealthy, to provide the additional funds necessary for an adequate medicare prescription drug benefit, including assuring that the benefit is comprehensive, with no gaps or excessive cost-sharing, covers all medicare beneficiaries, provides special help for beneficiaries with low income, and does not undermine employer retirement coverage)

At the end of subtitle C of title V, add the following:

SEC. ___. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS AND ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS.—Section 201 of this Act, and the amendments made by such section, are repealed.

(b) ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX RATES.—Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004 and 2005, 37.6%.

(c) EFFECTIVE DATE.—Subsection (a) and (b) shall take effect on the date of enactment of this Act.

Mr. KENNEDY. Mr. President, this amendment substitutes the funds that have been allocated for the dividend tax, the $120 million, plus the accelerated funds that come from accelerating the lowering of the upper tax rates, which is another $30 billion, which is $150 billion, and adds that into a prescription drug benefit program. That is effectively what this amendment does.

Effectively we are making judgments. We are making decisions and priorities this evening. It does seem to me that there is a greater need to make sure we are going to have a solid prescription drug program that is going to be the third leg of the Medicare system. The Medicare system provides for hospitalization and physician services. It does not provide for a prescription drug program. This will ensure that we have adequate funds for a prescription drug program that hopefully we will enact by the end of this session.

The PRESIDING OFFICER. Who seeks time in opposition? The Senator from Wyoming.

Mr. THOMAS. Mr. President, on behalf of the chairman, I oppose this amendment. It is not germane to the underlying bill. It takes money away from our job creation package, and it is premature. The amendment is premature because the Finance Committee will shortly take up a comprehensive Medicare prescription drug and Medicare improvement bill. We are on target to do so before the Fourth of July recess. The committee has been working to reach out to both Democrats and Republicans on a policy that makes sense and can work, and most of all we are here to help seniors get access to prescription drugs. The budget resolution contains the reserve fund of $400 billion that we intend to spend in a bipartisan way on behalf of seniors who have lacked affordable drug coverage for too long.

The President deserves credit for kick-starting the debate on Medicare this year by dedicating $400 billion in this budget to make Medicare stronger. We have come a long way toward accomplishing that goal. The chairman continues to work with colleagues on both sides of the aisle.

The PRESIDING OFFICER. Time has expired.

Mr. THOMAS. Mr. President, this amendment is not germane and I raise a point of order.

Mr. KENNEDY. Parliamentary inquiry: Since the amendment only changes the figures, is it not then germane? Since it only adjusts and changes the figures that are in the underlying bill, therefore is it not germane?

Mr. THOMAS. I raise the point that it is not germane.

The PRESIDING OFFICER. If it deals with figures that are not contained in the underlying bill, it would not be germane.

Mr. KENNEDY. They are included. They are included, Mr. President. They are changing the figures which are in the underlying bill and, therefore, this amendment is germane just for these provisions in the bill.

Mr. THOMAS. Mr. President, after looking at it, it is our opinion that these numbers have nothing to do with it. It just guts the numbers and, therefore, it is not germane, and we raise the point of order.

Mr. KENNEDY. Mr. President, it is germane. It is a simple striking. It conforms to the rules of the Senate.

Mr. THOMAS. It has nothing to do with prescription drugs.

Mr. KENNEDY. We are talking about relevancy of the amendment, and it does just strike the relevant provisions. It is germane. The text of the amendment does not speak to prescription drugs.

The PRESIDING OFFICER. It is the opinion of the Chair that the amendment does address numbers which are addressed in the underlying bill and, therefore, the amendment is germane.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

Mr. KENNEDY. Mr. President, point of order, I make a point of order, there is obviously a quorum present. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair has no authority to note the presence of a quorum. The quorum call is appropriate. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, we believe it is legitimate and we want to move forward. All this does is do away with dividends. Therefore, we are agreeable to having an up-or-down vote.

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

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

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

The legislative clerk called the roll.

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—48

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

NAYS—52

Alexander	Crapo	Kyl
Allard	DeWine	Lott
Allen	Dole	Lugar
Bennett	Domenici	McCain
Bond	Ensign	McConnell
Brownback	Enzi	Miller
Bunning	Fitzgerald	Murkowski
Burns	Frist	Nelson (NE)
Campbell	Graham (SC)	Nickles
Chambliss	Grassley	Roberts
Cochran	Gregg	Santorum
Coleman	Hagel	Sessions
Collins	Hatch	Shelby
Cornyn	Hutchison	Smith
Craig	Inhofe	Snowe

Specter	Talent	Warner
Stevens	Thomas	
Sununu	Voinovich	

The amendment (No. 545) was rejected.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that we now proceed to the amendment offered by the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut is recognized.

AMENDMENT NO. 572

Mr. DODD. Mr. President, the purpose of this amendment is to improve access to higher education for middle- and low-income families by expanding the HOPE and lifetime learning tax credits and Pell grants, as well as deficit reduction. This is done by eliminating the 10 percent dividend exclusion for amounts greater than $500 and eliminating acceleration of the top tax rate reduction.

I have outlined in the amendment the purpose of this proposal. I do not think any of us would disagree that the long-term economic strength of our Nation will depend upon whether or not the next generation receives the higher education necessary to provide our Nation with the benefits of learning so the country can grow.

I am simply asking the question, as many Americans are, as we are talking about reducing Pell grants and doing nothing to expand the HOPE and lifetime learning proposals which are directly designed to assist middle-income families, can we not, on an evening when we are about to adopt a massive tax cut for the wealthiest Americans, set aside some of these funds to adequately provide for educational opportunities for people who would not otherwise be able to afford them? That is the purpose of the amendment.

The PRESIDING OFFICER. Will the Senator please send his amendment to the desk?

Mr. DODD. Mr. President, it is amendment No. 572. It is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mr. BINGAMAN, and Mr. BIDEN, proposes an amendment numbered 572.

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with.

The amendment is as follows:

(Purpose: To improve access to higher education for middle income families by making resources available to expand the Hope and Lifetime Learning Scholarship Credits and for lower-income families by making resources available to increase the maximum Pell Grant to $4500 and to provide an equal amount for deficit reduction by eliminating the 10 percent dividend tax exclusion for amounts above $500 and eliminating acceleration of the 38.6 percent income tax rate reduction)

On page 19, line 9, strike ''sum of'' and all that follows through line 15 and insert ''$500 ($250 in the case of a married individual filing a separate return).''.

On page 18, after line 17, insert the following:

SEC. 109. ELIMINATION OF ACCELERATION OF TOP RATE REDUCTION IN INDIVIDUAL INCOME TAX.

Notwithstanding the amendment made by section 102(a) of this Act, in lieu of the percent specified in the last column of the table in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986, as amended by such section 102(a), for taxable years beginning during calendar years 2003, 2004, and 2005, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%

(2) For 2004 and 2005, 37.6%

Mr. THOMAS. Mr. President, this amendment, like the last one, ought to be verified and categorized as violating the truth-in-advertising law. This amendment has nothing to do with education. It does not mention education other than in the title. All it does is eliminate the top rate reduction which hurts small businesses. It cuts the dividend provision. This is an amendment that will actually increase taxes. It has nothing to do with education, and it should be defeated.

Mr. DODD. Mr. President, if I may, the purpose I have outlined in the amendment says what it is for. Some may want to interpret it otherwise, but this is a vote on whether we value higher education enough to ensure that all Americans have access to it.

Mr. THOMAS. If we are going to debate this, it says nothing about it in the text of the bill.

Mr. DODD. The purpose states it clearly.

The PRESIDING OFFICER. Does anyone seek the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 572. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Alabama (Mr. SHELBY) is necessarily absent.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—49

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

NAYS—50

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Brownback	Frist	Santorum
Bunning	Graham (SC)	Sessions
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chambliss	Hagel	Specter
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

NOT VOTING—1

Shelby

The amendment (No. 572) was rejected.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be set aside so we can consider the Hollings amendment.

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

AMENDMENT NO. 607

Mr. HOLLINGS. Mr. President, I call up my amendment 607 on behalf of myself and Senator CHAFEE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. CHAFEE, proposes an amendment numbered 607.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike titles I, II, IV, and V.

Strike section 601 and insert the following:

SEC. 601. SUNSET

Except as otherwise provided, the provisions of, and amendments made, by section 362 shall not apply to taxable years, beginning after December 31, 2012, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such amendments had never been enacted.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. HOLLINGS. Mr. President, the distinguished majority leader admonished that we act with common sense and be reasonable. So in acting with common sense and being reasonable, this amendment eliminates the tax cuts from this measure because the country cannot afford it.

At the very moment we are running at a $500 billion or more deficit—which is a $500 billion stimulus, incidentally—we have just adopted a budget that calls for a $600 billion deficit stimulus each year for 10 years. What we are really engaged in is a pollster charade whereby the pollsters admonish tax cuts have to be voted for in order to get reelected.

This country cannot afford the tax cuts, and it is time we looked upon the

needs of the country rather than the needs of the campaign.

I yield what time I have remaining to my distinguished colleague, Senator CHAFEE.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we are debating a bill called the Jobs and Growth Tax Relief Reconciliation Tax Act of 2003. Two years ago this same month, we debated and passed a bill called the Economic Growth and Tax Relief Reconciliation Act of 2001. Whatever these bills are called, they add to the deficits.

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

Mr. CHAFEE. There is not an elected official in the United States who does not want to cut taxes. The good ones only do it responsibly.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I at least want to compliment the sponsors of this amendment for not having a gimmicky amendment. This is a flat out, straight assault. It simply abolishes all the tax cuts in the bill. So I do compliment my colleagues on their very straightforward approach. However, that makes the vote pretty easy. I urge my colleagues to vote this amendment down.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 607) was rejected.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be set aside so we can consider the Dorgan amendment that Senator REID of Nevada will call up.

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

The Senator from Nevada.

AMENDMENT NO. 668

Mr. REID. I call up amendment No. 668.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, proposes an amendment numbered 668.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. ENSURING DEFICIT REDUCTION.

(a) TRIGGER.—Notwithstanding any other provision of this Act, the provisions as described in subsection (b) shall take effect only as provided in subsection (c).

(b) PROVISION DESCRIBED.—A provision of this Act described in this subsection is—

(1) a provision of this Act that accelerates the scheduled phase down of the top tax rate of 38.6 percent to 37.6 percent in 2004 and to 35 percent in 2006; and

(2) a provision of this Act that provides a 50 percent dividends exclusion between December 31, 2002, and December 31, 2003, and a 100 percent dividends exclusion between December 31, 2003 and December 31, 2006.

(c) DELAY.—

(1) IN GENERAL.—Each year when the final monthly Treasury report for the most recently ended fiscal year is released, the Secretary of the Treasury shall certify whether the on-budget deficit exceeds $300,000,000,000 for such year.

(2) EFFECTIVE DATE.—The provisions described in subsection (b) shall become effective on January 1 in the calendar year following the issuance of the final Treasury report only if the Secretary has determined that the on-budget deficit is $300,000,000,000 or less for the recently ended fiscal year.

(d) DISCRETIONARY SPENDING LIMITATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in any fiscal year subject to the delay provisions of subsection (c)—

(A) the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year minus 5 percent; and

(B) with respect to a second or subsequent consecutive fiscal year subject to this subsection, the amount of budget authority for discretionary spending for Federal agency administrative overhead expenses shall be limited to the level in the preceding fiscal year.

(2) DEFINITION.—In this subsection, the term ''administrative overhead expenses'' mean costs of resources that are jointly or commonly used to produce 2 or more types of outputs but are not specifically identifiable with any of the outputs. Administrative overhead expenses include general administrative services, general research and technology support, rent, employee health and recreation facilities, and operating and maintenance costs for buildings, equipment, and utilities.

Mr. REID. Mr. President, this amendment would cut Federal agency administrative overhead expenses by 5 percent and delay the acceleration of the top income tax rate reduction and availability of the dividend tax exclusion relief in the reconciliation bill if the Secretary of the Treasury certifies that the on-budget deficit, excluding Social Security surpluses, for the most recently ended fiscal year is over $300 billion.

The PRESIDING OFFICER. Is there anyone in opposition to the amendment?

The Senator from Arizona.

Mr. KYL. Mr. President, this is another amendment where we essentially voted on this concept several times, of taking money from the reduction in the tax package, in this case the top rate. Again, I would urge my colleagues to vote no.

The PRESIDING OFFICER. Is there any further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 668) was rejected.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be set aside so we can consider the Durbin amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute to introduce his amendment.

AMENDMENT NO. 669

(Purpose: To provide health care coverage for qualified caregivers)

Mr. DURBIN. Mr. President, I ask the clerk to read amendment No. 669.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 669.

Mr. DURBIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. DURBIN. Mr. President, we live in a nation that pays people more to watch its pets than it pays to watch its parents in nursing homes. We live in a nation where we pay more to parking lot attendants than to those who attend our children in daycare centers. These underpaid caregivers of America have no health insurance.

This amendment provides resources to States to provide health insurance to caregivers, such as child care workers, personal attendants for the disabled, nursing home aides, and home health aides.

This amendment will give us a choice between helping a limited group of wealthy people or helping those who care for our children, our grandchildren, our parents, and our grandparents.

I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KYL. Mr. President, again, this is another amendment which eliminates the reduction of the top income tax bracket acceleration. Therefore, I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 669) was rejected.

AMENDMENT NO. 618, AS MODIFIED

(Purpose: To expand the incentives for the construction and renovation of public schools)

Mr. BAUCUS. Mr. President, I ask consent that the pending amendments be set aside so we can consider the Rockefeller amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I call up my amendment numbered 618, which is the modification at the desk. Senators REID, MIKULSKI, BINGAMAN, and others are cosponsoring it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] for himself and Mr. DASCHLE,

Mr. BINGAMAN, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mrs. MURRAY, Mr. KERRY, Mr. REID, Mr. JOHNSON, and Mr. LEVIN, proposes an amendment numbered 618, as modified.

Mr. ROCKEFELLER. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The amendment is printed in Today's RECORD under ''Text of Amendments.'')

Mr. ROCKEFELLER. The average public school in this country is 42 years old. Last week, I visited two in West Virginia; one was 88 years old, and the other was built the year the Titanic was sunk. It is a disgrace.

This amendment will provide $25 billion which, because of interest-free payments, would actually only cost the Federal Treasury less than $8 billion over a period of 2 years and create 500,000 jobs, build new schools, and create opportunities for our young people.

I hope my amendment will pass. I ask for a vote on my amendment. A voice vote is acceptable.

Mr. KYL. For my colleagues, this is another amendment which takes tax cuts from the tax cut bill; therefore, I urge my colleagues to vote no.

The PRESIDING OFFICER. Does the Senator from West Virginia ask for the yeas and nays?

Mr. ROCKEFELLER. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 618), as modified, was rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. I ask unanimous consent that the pending amendments be set aside so the Senator from Michigan and I can enter into a colloquy——

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

Mr. BAUCUS. Concerning the amendment he might otherwise have.

Mr. LEVIN. Mr. President, I thank my good friend from Montana. Some U.S. companies have opened sham offices in Bermuda and pretended that the sham offices are the parent corporation, and thereby avoided taxes which the rest of us have to pay and which, indeed, their competitors have to pay. It is called inversion. It is not only a sham, it is shameful.

This bill takes some steps in addressing future inversions, but in terms of people who have already inverted, there is a lot of additional work to do. The ill-gotten gains which some companies have obtained through these sham moves to Bermuda should be confronted. It is not only unpatriotic, it is costing American taxpayers about $2 billion over the next 10 years.

My amendment would have addressed the future tax avoidance of people who have already gone through these sham moves to Bermuda.

Rather than offering the amendment at this time—it is a somewhat complicated amendment—I ask the Senator from Montana whether he might be able to support an effort along this line in the future.

Mr. BAUCUS. Mr. President, the Senator from Michigan raised a very good point. There are provisions in the bill which address corporations that invert—that is, 100 percent invert—in tax shelters in Bermuda or other tax havens. That was shut down in March of this year. The next category is of companies with 50-percent or 80-percent ownership that also are inverted overseas. The Senator from Michigan makes a very good point that this, too, should be addressed.

I will work with the Senator in the committee to address this windfall that these companies get from existing inversions. I will work with the Senator to try to shut that down.

Mr. LEVIN. I thank my friend and I will not be calling up my amendment.

AMENDMENT NO. 616

Mr. BAUCUS. I ask unanimous consent the pending amendment be set aside to consider the Dayton amendment.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. I call up amendment numbered 616.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 616.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. DAYTON. This amendment would end the phony practice of making tax cuts phase in, phase out, appear, and reappear like popups on a computer screen and say any new tax provision must take full effect 1 year after enactment and remain in effect until changed by a subsequent Congress.

The revolving sunset makes a mockery of tax policy and of the Senate. Businesses and individual taxpayers cannot make prudent decisions when the Tax Code changes with every new year or new budget resolution.

This gimmickry is fictional and farcical, and it makes the Senate look foolish and foolhardy. We owe the American people and we owe this great institution something better than that.

I urge my colleagues to support the amendment. I yield the floor.

Mr. KYL. We would all like to accomplish what the distinguished Senator proposed, but under the reconciliation procedures and the balanced budget amendment we do have sunsets that we have to contend with. Whether it is 10 years or 5 years or 3 years, it is not possible to permanently adopt many of these changes we are considering. It would be nice if we could, but under our rules, obviously, we cannot.

Secondly, there are times when it is important to be able to phase a program in because you cannot accomplish all of the changes within the very short period of time allotted for the first year. For example, the dividends proposal we approved earlier this evening falls into that category.

While what the Senator says is laudable, as a practical matter it cannot be accomplished.

I urge my colleagues to vote against his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 616) was rejected.

AMENDMENT NO. 670

(Purpose: To provide a dividend exclusion which eliminates the double taxation of corporate dividends)

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be set aside to consider the Santorum amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] for himself and Mr. NELSON of Nebraska, proposes an amendment numbered 670.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in Today's RECORD under ''Text of Amendments.'')

Mr. SANTORUM. Mr. President, I offer this amendment which deals with the issue of variable annuities and how they are dealt with under the dividend proposal which disadvantages long-term savings annuities, retirement annuities, and as a result puts them in a competitive disadvantage vis-a-vis other savings vehicles. This amendment is offered to correct that.

My understanding is the amendment as drafted, because it deals with variable annuities, is outside the window of the Byrd rule and outside of reconciliation and subject to the Byrd rule.

AMENDMENT NO. 670 WITHDRAWN

Therefore, I withdraw my amendment, but this is an issue that needs to be addressed. We need to encourage this, not disadvantage them. I hope the conferees consider this measure.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BAUCUS. Mr. President, the next amendment is that of the Senator from New Mexico.

AMENDMENT NO. 603 WITHDRAWN

Mr. BINGAMAN. Mr. President, I have amendment No. 603, which was a

follow-on to the amendment Senator SANTORUM of Pennsylvania was intending to offer. If we had extended the tax exclusion we are providing here for dividends to annuities as well, this would put small business retirement plans at a disadvantage. My amendment was trying to ensure that that not happen.

Since he has chosen to withdraw his amendment, I will not offer this amendment, No. 603. I withdraw it as well.

The PRESIDING OFFICER. The amendment, without objection, is withdrawn.

AMENDMENT NO. 662

Mr. BAUCUS. Mr. President, I ask unanimous consent that we now proceed to the Edwards amendment.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Carolina is recognized.

Mr. EDWARDS. I call up amendment No. 662.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. EDWARDS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. EDWARDS], for himself, Mr. MCCAIN, and Mr. GRAHAM of South Carolina, proposes an amendment numbered 662.

Mr. EDWARDS. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to close the ''janitors insurance'' tax loophole)

At the end of subtitle C of title V, insert the following:

SEC. ___. REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.

REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.—

(1) INCLUSION OF LIFE INSURANCE INVESTMENT GAINS.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by inserting after subsection (j) the following new subsection:

''(k) TREATMENT OF CERTAIN COMPANY-OWNED LIFE INSURANCE CONTRACTS.—In the case of a company-owned life insurance contract, the income on the contract (as determined under section 7702(g)) for any taxable year shall be includible in gross income for such year unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)).''.

(2) REPEAL OF EXCLUSION FOR DEATH BENEFITS.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

''(j) PROCEEDS OF CERTAIN COMPANY-OWNED LIFE INSURANCE.—Notwithstanding any other provision of this section, there shall be included in gross income of the beneficiary of a company-owned life insurance contract (unless the contract covers the life solely of individuals who are key persons (as defined in section 264(e)(3)))—

''(1) amounts received during the taxable year under such contract, less

''(2) the sum of amounts which the beneficiary establishes as investment in the contract plus premiums paid under the contract.

Amounts included in gross income under the preceding sentence shall be so included under section 72.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts entered into after the date of enactment of this section.

Mr. EDWARDS. Mr. President, this is a simple proposal from Senator MCCAIN, Senator GRAHAM of South Carolina, and myself. What we are trying to do is eliminate one of the worst tax scams in the Tax Code today. What we have is companies getting billions of dollars in tax breaks for buying life insurance policies on janitors, secretaries, and other working people. The companies get billions for this. They are also the beneficiaries of the policies when these working people die. So the janitors themselves, the secretaries themselves, the workers themselves get absolutely nothing—not a dime.

Officials in the Reagan administration tried to eliminate this tax scam. Officials in the Clinton administration tried to eliminate it. It is time for us to bring it to an end.

We have specifically excluded key employees from this amendment, so this amendment just eliminates the fraudulent portion of this tax break. I ask my colleagues to support it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. KYL. Mr. President, let me speak in opposition to this amendment. There are some problems, as the distinguished Senator from North Carolina has pointed out. But this is a very big deal that affects a lot of people. It is not something we should be dealing with without the proper debate that should attend it. As a result, in addition to the fact that it is not germane, I urge my colleagues to vote against it.

I make a point of order that under section 305(b)(2) of the Congressional Budget Act of 1974, the measure is not germane.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act and the budget resolution for purposes of the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The yeas and nays resulted—yeas 37, nays 63, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—37

Akaka	Feinstein	McCain
Biden	Graham (FL)	Mikulski
Bingaman	Graham (SC)	Murray
Boxer	Hollings	Nelson (FL)
Byrd	Inouye	Pryor
Cantwell	Kennedy	Reed
Clinton	Kerry	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Durbin	Leahy	Wyden
Edwards	Levin	
Feingold	Lincoln	

NAYS—63

Alexander	Crapo	Lott
Allard	DeWine	Lugar
Allen	Dodd	McConnell
Baucus	Dole	Miller
Bayh	Domenici	Murkowski
Bennett	Dorgan	Nelson (NE)
Bond	Ensign	Nickles
Breaux	Enzi	Reid
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Carper	Hagel	Smith
Chafee	Harkin	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Jeffords	Talent
Conrad	Johnson	Thomas
Cornyn	Kyl	Voinovich
Craig	Lieberman	Warner

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have conferred with the two leaders and the two managers of the bill. We have one amendment by Senator REED of Rhode Island that will be offered. That will be handled with no rollcall vote. We have a Dorgan-Byrd amendment which will require a rollcall vote, and we also have a Santorum amendment which will also be handled by voice. The other amendment that is pending is the Schumer amendment. We hope that will be resolved. Then there will be final passage.

Also, there is a Kerry colloquy that I failed to mention, for the information of Members.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that we now go to the amendment of the Senator from Rhode Island.

AMENDMENT NO. 672

Mr. REED. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself and Mr. CORZINE, Mr. KERRY, Ms. MIKULSKI, and Mr. ROCKEFELLER, proposes an amendment numbered 672.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To preserve the value of the low-income housing tax credit)

At the end of subtitle C of title V add the following:

SEC. ___. LOW-INCOME HOUSING TAX CREDIT.

(a) FINDINGS.—The Senate finds the following:

(1) The low-income housing tax credit is the Nation's primary program for producing affordable rental housing.

(2) Each year, the low-income housing tax credit produces over 115,000 affordable apartments.

(3) Since Congress created the low-income housing tax credit in 1986, the credit has created 1,500,000 units of affordable housing for about 3,500,000 Americans.

(4) Analyses have found that certain approaches to reducing or eliminating the taxation of dividends have the potential to reduce the value of the low-income housing tax credit and so reduce the amount of affordable housing available.

(5) As of 2001, over 7,000,000 American renter families (1 in 5) suffer severe housing affordability problems, meaning that the family spends more than half of its income on rent or lives in substandard housing.

(6) More than 150,000 apartments in the low-cost rental housing inventory are lost each year due to rent increases, abandonment, and deterioration.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any reduction or elimination of the taxation on dividends should include provisions to preserve the success of the low-income housing tax credit.

Mr. REED. Mr. President, I offer this amendment along with Senators CORZINE, MIKULSKI, KERRY, and ROCKEFELLER. It is a sense-of-the-Senate amendment.

It addresses the potential detrimental effect on the low-income housing tax credit by proposing to reduce or eliminate taxes on dividends. If those proposals with respect to dividends are passed, they could provide a disincentive for corporations to invest in the low-income tax credit, which is the major form of support for low-income and moderate-income housing, and rental housing in particular, in the United States.

I understand this amendment is acceptable to the other side. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, we support the amendment and urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. REED. Mr. President, I ask unanimous consent to include Senators LANDRIEU and SARBANES as cosponsors.

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

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 672) was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that we now go to the amendment by the Senator from Pennsylvania, Mr. SANTORUM.

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

AMENDMENT NO. 648

Mr. SANTORUM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 648.

Mr. SANTORUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the treatment of net operating loss in calculating tax attributes under section 108 of the Internal Revenue Code of 1986)

On page 281, between lines 2 and 3, insert the following:

SEC. ___. CLARIFICATION OF THE TREATMENT OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (A) of section 108(b)(2) (relating to tax attributes affected; order of reduction) is amended to read as follows:

''(A) NOL.—Any net operating loss (in the case of a taxpayer which is a member of an affiliated group of corporations which files a consolidated return under section 1501, any consolidated net operating loss, as defined in regulations prescribed by the Secretary) for the taxable year of the discharge, and any net operating loss carryover to such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness occurring after May 8, 2003, except that discharges of indebtedness under any plan of reorganization in a case under title 11, United States Code, shall be deemed to occur on the date such plan is confirmed.

Mr. SANTORUM. Mr. President, I ask unanimous consent to have this article written by David Henry in Business Week magazine printed in the RECORD.

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

WHY THIS TAX LOOPHOLE FOR LOSERS SHOULD END

Is there no end to the ugly superlatives that fallen telecom giant WorldCom Inc., is amassing? First, its top execs reigned over the greatest alleged accounting fraud in history. Then, the company filed the largest corporate bankruptcy. Now, it is lining up to collect what could be one of the biggest single corporate tax breaks of all time.

To the fury of its competitors, WorldCom is angling to share a $2.5 billion benefit from Uncle Sam. How? By exploiting a provision in the Internal Revenue Service code so it can hang onto previous losses of at least $6.6 billion and enjoy years of tax-free earnings. What's more, the ploy would protect new management against any takeover for at least two years. And, WorldCom could use the losses to offset even income it picks up by taking over other companies. ''WorldCom is in an enviable, position,'' says Robert Willens, tax accounting analyst at Lehman Brothers Inc. ''It will have copious tax losses and can be a powerful acquirer.''

WorldCom's new owners—the holders of its $41 billion of bad debt—are driving a truck through a loophole that needs to be closed pronto. It was left open by Congress when the lawmakers overhauled IRS rules to stamp out a notorious trade in corporate tax losses. At one time, owners of loss-making businesses could see their companies along with their accumulated tax loss—often their only asset—to profitable companies. Now, tax losses are snuffed out when company ownership changes hands.

So, WorldCom is going through hoops to avoid that fate. Pending a final vote by creditors later this year, the company is changing its bylaws to prohibit anyone from building a stake of more than 4.75% in the company. They have to keep bidders at bay for at least two years, otherwise the IRS would argue that control of WorldCom has changed hands and that the tax losses—which, assuming a 38% tax rate, could give a $2.5 billion boost to earnings—should be wiped out. ''It is the perfect poison pill,'' says Carl M. Jenks, tax expert at law firm Jones Day.

The perverse tactic is increasingly popular. The former Williams Communications Group put a similar 5% ownership limit in place last fall when it became WilTel Communications Group Inc. after a bankruptcy reorganization. The bankruptcy judge overseeing UAL Corp. agreed on Feb. 24 to similar restriction on UAL securities in order to preserve its $4 billion of tax losses. ''We will generally recommend that any company with net operating losses worth anything adopt these restrictions,'' says Douglas W. Killip, a tax lawyer at Akin Group Strauss Hauer & Feld.

For WorldCom's rivals, the tax break is salt on a wound. William P. Barr, a former U.S. attorney general and now general counsel of Verizon Communications, fumes that World-Com is trying to ''compound its fraud by escaping the payment of taxes.'' WorldCom's bankruptcy reorganization will eliminate the cost of servicing some $30 billion of debt. That, the company projects, will help it to make $2 billion before taxes next year. By using the tax losses, it will be able to keep about $780 million in cash it would otherwise owe the government. In fact, it won't be liable for any tax at least until the accumulated losses are worked through. And, because it racked up the $6.6 billion in losses just through 2001, WorldCom could have billions more to play with once the numbers for 2002 are finally worked out.

What's more, the poison pill is likely to deter any company from buying WorldCom and dumping some of the obsolete assets still clogging the telecom industry. That will slow any recovery in capital spending and hurt WorldCom's competitors. ''It is bad when business decisions are motivated by tax reasons and not based on sound economics,'' says Anthony Sabino, bankruptcy law professor at St. John's University.

Rivals are likely to push the IRS to find a way to stop WorldCom from utilizing the losses, observers say. But their chances of success are slim because the IRS never issued regulations that could have nullified the ploy. And the courts generally rule against the agency when it attempts to write rules retroactively, Willens says.

Still, it's time to close the stable door before any more horses bolt. Besides, Uncle Sam could use the money right now.

Mr. SANTORUM. Mr. President, this is an amendment that attempts to close a big loophole that may get huge. This is an amendment that deals with the problem that was identified in this Business Week article having to do with MCI-WorldCom now coming out of

bankruptcy. When you are coming out of bankruptcy, your debts are taken off but they are offset. By the way, you aren't taxed on the forgiveness of that debt but you offset that tax forgiveness, if you will, against attributes like net operating losses.

MCI has figured out a way to restructure coming out of bankruptcy so they can cheat these operating losses and will probably not pay taxes for the next 10 years.

This is a huge loophole. You have the biggest stock scandal in history. MCI comes out of bankruptcy, and they are setting a new accounting standard which is as scandalous as the first one.

This is something we need to deal with. I will not force a vote because I know this is a new thing and we have not had a hearing. But this is major problem that we need to address because other companies are going to take this loophole and run with it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I hope the Senator from Pennsylvania will withdraw his amendment. I have had a lot of discussion with him tonight on it. He makes a very strong case about something which I have not studied, nor am I convinced he is wrong. But based upon how I approach bankruptcy—that is, I see bankruptcy as an impartial person, a judge making a decision on whether a business ought to continue or go out of business or how it ought to be restructured—we are talking about tax legislation that has been on the books for an awfully long time.

But we are also aware, as the Senator has told me, of crafty people giving advice to corporations on how they can maybe restructure and become strong and avoid taxation such that other corporate entities that are competitors maybe would have a disadvantage. But I am not convinced of it. I would probably have to fight the amendment if it were offered tonight.

I can promise the Senator, first of all, we will go into depth on this matter with Treasury, with my own Finance Committee staff, and with the Joint Committee on Taxation staff, and it probably will lead to a hearing. I hate to promise with the workload of the committee on taxes, on welfare, and on prescription drugs this summer that we are going be able to have a hearing tomorrow. But I will give very serious consideration to the very strong position that the Senator from Pennsylvania has made.

The Senator is a member of my committee. He is a strong advocate for his position. I don't think it is going to get lost in the dust. I will do what I can to keep it paramount in my mind because I want to make sure we don't have crafty people advising people who are in bankruptcy any more than we have crafty people advising about corporate tax shelters who are not in bankruptcy. We will look into it with the same vigor that I pursued other corporate tax shelters and as I pursued other inversions and other attempts of corporations to avoid taxation.

AMENDMENT NO. 648 WITHDRAWN

Mr. SANTORUM. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 648) was withdrawn.

Mr. BAUCUS. Mr. President, we will next turn to the amendment of the Senator from North Dakota, Mr. DORGAN.

AMENDMENT NO. 666

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. BYRD, Mr. BAUCUS, Ms. MIKULSKI, and Mr. SARBANES, proposes an amendment numbered 666.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the section relating to qualified tax collection contracts)

On page 8, strike the matter preceding line 1, and insert:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted forthe following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003	25.0%	28.0%	33.0%	35.4%
2004 and thereafter	25.0%	28.0%	33.0%	35.0%".

Strike section 357.

Mr. DORGAN. Mr. President, very briefly, deep in this reconciliation bill is a provision that would eliminate the longstanding rule preventing the IRS from using private collection companies to collect IRS debt.

First of all, this provision has never had a hearing in the Senate. There was one hearing in the House last week, and it raised far more questions than it answered.

Let me make a point that we had a test of this some years ago—in 1996. This small test showed that we had people getting calls at 4 o'clock in the morning from private collection agencies.

The former IRS Commissioner said if Congress were to appropriate $296 million to hire additional IRS compliance employees to work on these accounts, the IRS would collect $9 billion.

This bill puts in more money than that and says it will collect $900 million, which is only one-tenth of the amount.

I don't think we ought to decide that we ought to provide private collection agencies the responsibility to collect this debt. This is a responsibility of the Federal Government. In any event, why would you want to spend money for something that is one-tenth as effective as what the Commissioner says can be done with the IRS?

I ask for a favorable vote on this amendment.

The amendment is cosponsored by Senators BYRD, BAUCUS, MIKULSKI, and SARBANES.

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

The Senator from Arizona.

Mr. KYL. Mr. President, this amendment will undermine our efforts to ensure that those who owe taxes will pay them. There is over $250 billion in uncollected debt. The IRS, obviously, has the primary responsibility. But over 40 States and the Department of Education use private collectors, and they must abide by the various rules that apply, including the Taxpayers' Bill of Rights and the Fair Debt Collections Act. Therefore, there is an opportunity to collect money that is owed the Treasury as a result of this provision.

So striking this provision would not only be bad policy but also would, unfortunately, lose about $1 billion in revenue from the underlying bill. As a result, the reduction in revenues in excess of the levels set out in section 202 of H. Con. Res. 95, the fiscal year 2004 concurrent resolution on the budget, would raise a point of order, and I do raise a point of order under section 202 of that resolution.

Mr. DORGAN. Mr. President, there should be no point of order. But let me say, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act and the budget resolution for the consideration of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 57, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—43

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Nelson (NE)
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Clinton	Kennedy	Rockefeller
Conrad	Kerry	Sarbanes
Corzine	Kohl	Schumer
Dayton	Landrieu	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

NAYS—57

Alexander	Chafee	Domenici
Allard	Chambliss	Ensign
Allen	Cochran	Enzi
Bayh	Coleman	Fitzgerald
Bennett	Collins	Frist
Bond	Cornyn	Graham (SC)
Brownback	Craig	Grassley
Bunning	Crapo	Gregg
Burns	Daschle	Hagel
Campbell	DeWine	Hatch
Carper	Dole	Hutchison

Inhofe	Murkowski	Snowe
Johnson	Nickles	Specter
Kyl	Reid	Stevens
Lott	Roberts	Sununu
Lugar	Santorum	Talent
McCain	Sessions	Thomas
McConnell	Shelby	Voinovich
Miller	Smith	Warner

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls. The point of order is not sustained, and the amendment does not fall.

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

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

The PRESIDING OFFICER. The Chair will clarify: The point of order was not sustained. The amendment is pending.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest that the Senate now vote by voice on this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 666.

In the opinion of the Chair, the noes have it.

Mr. BAUCUS. Mr. President, I suggest that the Chair put the question a second time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 666.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I now urge the Chair to recognize the Senator from Massachusetts for the purpose of a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have an amendment which I am not going to ask to vote on, after discussing it with both the chairman and the ranking member, and other colleagues. I thank Senator GRASSLEY and Senator BAUCUS and particularly Senator KENNEDY and Senator CLINTON, Senator SCHUMER, Senator GRAHAM, and Senator FEINSTEIN. This is an amendment that would have affected positively 37 States in the country. Among the top 10 States that would have been helped in a completely nonpartisan way would have been Mississippi, Georgia, North Carolina, Ohio, Louisiana, Pennsylvania, Texas, California, New York, and many others. This refers to the safety net hospitals in our country that are picking up the costs of those who are the most disadvantaged who need health care.

Unfortunately, in this amendment the funding under the Children's Health Insurance Program has been cut as an offset in this legislation by some $800 million. There are 2 million additional uninsured in this country. None of them have the ability to be able to get care unless we are providing the so-called disproportionate share allocation to those hospitals. I ask the chairman and the ranking member if they would agree that when the Medicare bill comes up in about a month that at that time it would be appropriate for the Finance Committee to try to rectify what is happening here because the increasing numbers of uninsured are literally flooding the hospitals and urban centers and rural communities where they don't have the capacity to be able to provide the care. It seems extraordinary that we can find the money for those who earn more than $315,000 a year at the expense of those who are the most vulnerable in our society.

I hope we will rectify it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I appreciate very much what Senator KERRY has stated to us. I want everybody to know that I share their concerns. I think I expressed and shared that in legislation on which I joined with Senator BAUCUS last fall, not reintroduced this year. But Senator BAUCUS and I reflected on this and accommodated this as one of many factors in a Medicare bill that we put together. The disproportionate share program, of course, is a primary source of support for safety net hospitals which serve vulnerable patients. I agree that the safety net hospitals are also under considerable financial strain and that the disproportionate share hospital cuts now in effect make it even harder. That has been compounded by a weaker economy. The number of uninsured has gone up.

Nationally, the 2003 disproportionate share hospital cliff represents an estimated reduction of $1.1 billion to total State allotments for fiscal year 2002 to 2003. I supported fixing this in the past, as I have stated.

In June, we will in fact be considering Medicare prescription drug legislation. I think it is very appropriate to deal with that at that particular time. I am committed to working with my colleagues on this important issue in the context of our work on the Medicare prescription drug bill.

Mr. KERRY. I thank the chairman.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I, too, pledge to work with the Senator from Massachusetts. Last year the Senator from Ohio and myself introduced legislation in the Medicare providers bill to address this very issue. It is called the DSH cliff, essentially. The Medicaid payments are scheduled to go off a cliff—that is, dramatically lowered—and we had extended the level of payments for a couple years last year to avoid the cliff, the point being that we are very cognizant of the problem facing the large public hospitals, particularly in urban areas that serve a disproportionate number of low-income people.

We will certainly work very hard to deal with this when we take up the Medicare legislation in the next couple of months.

Mr. KERRY. Mr. President, I thank the chairman and the ranking member. I know they will both work in good faith to try to address this issue.

I know the Senator from California wanted a moment to say something.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts.

Mr. President, this is a very important issue to virtually every urban community. For California, the cuts to Medicaid DSH payments means a loss of over $184 million a year. At Fresno Valley Hospital alone this cut is worth $6 million a year. We have had a number of our hospitals close, due in part to cuts to disproportionate share payments.

I want to particularly thank the Senator from Massachusetts, and the manager of the bill, the chairman of the committee, and the ranking member for their commitment to take this matter up on the Medicare bill. I look forward to working with them to fix this important program.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, we are quite late at night and, just for clarification, we will put forth a unanimous consent, but we are waiting for final passage. We are waiting for the managers' package to be completed. That will take about 20 to 25 minutes or so. What we will do is set the bill aside and go ahead with the global HIV/AIDS bill and plan on going straight to the first amendment. The plan is to spend approximately 10 minutes equally divided and then go directly to a vote, after which the managers' package will be ready, and we will go to final passage on the jobs and growth bill.

Let me turn to the Democratic leader to see if that is satisfactory, to make the best use of the time. We can't have final passage until we have the managers' package. That is going to be about 20 minutes. We will be able to dispense with the first amendment on the AIDS bill.

Mr. DASCHLE. Mr. President, we have been discussing this matter for the last hour or so. We understand there are no more amendments to be offered on the tax bill, so we are prepared now to go to the managers' amendment. In order to make the most efficient use of the time, we felt it might be helpful to go to the first

amendment. In fact, there will be additional amendments on that. We wanted to finish the bill tonight.

This is in keeping with our discussions. I would hope we could go ahead and offer the first amendment.

Mr. BIDEN. Will the minority leader yield?

Mr. DASCHLE. I am happy to yield.

Mr. BIDEN. We have a number of amendments on this side. And when I say ''a number,'' we have more than one. We are getting time agreements on all the amendments. For the benefit of the Senate, I might tell you quickly of the major amendments that we have and the time agreements: The Durbin-Kerry, et cetera, amendment on global AIDS funding is 10 minutes equally divided. Senator FEINSTEIN has an amendment; it is up to 30 minutes equally divided. Senator DORGAN has an amendment and has agreed to 10 minutes equally divided. Senator KENNEDY has an amendment, 30 minutes equally divided. Senator DODD has one, 20 minutes equally divided; Senator BOXER, 10 minutes equally divided.

The reason I bothered to tell you that is I think we can do this. I think we can meet the objective of the majority leader to get this bill passed. People are being very cooperative. If we move like this, I think we should do it quickly.

Mr. DASCHLE. I thank the Senator from Delaware.

I yield the floor.

Mr. FRIST. Mr. President, I ask unanimous consent that no other amendments be in order, other than a managers' amendment, which must be agreed to by both managers and the two leaders, and that the bill now be temporarily set aside and the Senate resume consideration of the global AIDS bill as under the previous order, and that the other provisions of the order with respect to S. 1054 remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. CORZINE. Reserving the right to object, I am in the midst of a negotiation on a colloquy we will put in so we can withdraw an amendment. I want to make sure that has been accepted.

Mr. FRIST. The Senator would be able to do that, Mr. President.

Mr. CORZINE. If there is no guarantee that we are going to have acceptance of the colloquy, then I cannot offer my amendment.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the request be amended to accommodate the colloquy offered by the Senator from New Jersey or an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, reserving the right to object, I also have an amendment being submitted that I would like to be included on the list.

Mr. FRIST. Is that request for the global HIV/AIDS bill? Just to clarify, on the global HIV/AIDS bill, people will still be able to propose amendments. The unanimous consent was for the underlying jobs and growth bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003—Continued

The PRESIDING OFFICER. The Senate will continue consideration of H.R. 1298, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1298) to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I misspoke. The Durbin-Kerry-Biden, et al, amendment is 20 minutes equally divided.

Mr. FRIST. Mr. President, I ask unanimous consent that there be 10 minutes equally divided in the usual form in relation to the Durbin global fund amendment; further, that following the debate, the Senate proceed to a vote in relation to the amendment, with no amendment in order prior to the vote.

Finally, I ask that following that vote, the Senate proceed to the final amendments to the jobs bill, if available, and passage of the jobs and growth legislation.

I will modify that to ask that there be 20 minutes equally divided in the usual form, with the remainder of the unanimous consent request as described.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois is recognized.

AMENDMENT NO. 676

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DASCHLE, and Mr. KERRY, proposes an amendment numbered 676.

Mr. DURBIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide alternate terms for the United States participation in the Global Fund to Fight AIDS, Tuberculosis and Marlaria)

Beginning on page 35, strike line 22, and all that follows through page 45, line 25, and insert the following section:

SEC. 202. PARTICIPATION IN THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA.

(a) AUTHORITY FOR UNITED STATES PARTICIPATION.—

(1) UNITED STATES PARTICIPATION.—The United States is authorized to(participate in the Global Fund.

(2) PRIVILEGES AND IMMUNITIES.—The Global Fund shall be considered a public international organization for purposes of section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

(b) PUBLIC DISSEMINATION.—Not later than 180 days after the date of the enactment of this Act, and regularly thereafter for the duration of the Global Fund, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally shall make available to the public, through electronic media and other publication mechanisms, the following documents:

(1) Any proposal approved for funding by the Global Fund.

(2) A list of all organizations that comprise each country coordinating mechanism, as such mechanism is recognized by the Global Fund.

(3) A list of all organizations that received funds from the Global Fund, including the amount of such funds received by each organization.

(c) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally shall submit to the appropriate congressional committees a report on the Global Fund. The report shall include, for the reporting period, the following elements:

(1) Contributions pledged to or received by the Global Fund (including donations from the private sector).

(2) Efforts made by the Global Fund to increase contributions from all sources other than the United States.

(3) Programs funded by the Global Fund.

(4) An evaluation of the effectiveness of such programs.

(5) Recommendations regarding the adequacy of such programs.

(d) UNITED STATES FINANCIAL PARTICIPATION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated under section 401, there are authorized to be appropriated for United States contributions to the Global Fund, in addition to any other amounts authorized to be appropriated under any other provision of law for such purpose, $1,000,000,000 for fiscal year 2004, $1,200,000,000 for fiscal year 2005, and such sums as may be necessary for fiscal years 2006 through 2008.

(2) AVAILABILITY OF FUNDS.—

(A) CERTAIN FISCAL YEAR 2004 FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for fiscal year 2004, the amount in excess of $500,000,000 shall be available only if the Global Fund receives, during the period beginning on April 1, 2003, and ending on March 31, 2004, pledges from all donors other than the United States for funding new grant proposals in an amount not less than $2,000,000,000.

(B) CERTAIN FISCAL YEAR 2005 FUNDS.—Of the amount authorized to be appropriated by paragraph (1) for fiscal year 2005, the amount in excess of $600,000,000 shall be available only if the Global Fund receives, during the period beginning on April 1, 2004, and ending on March 31, 2005, pledges from all donors other than the United States for funding new grant proposals in an amount not less than $2,400,000,000.

(C) RECEIPT OF PLEDGES BEFORE PERIOD END.—If the Global Fund receives in a period described in subparagraph (A) or (B) the pledges described in such subparagraph in the amount required by such subparagraph as of a date before the end of such period, the United States contribution specified in such