United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, MAY 15, 2003 No. 73—Book II

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AMENDMENTS NOS. 593 AND 612 WITHDRAWN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 President, I ask unanimous consent that the pending McCain and Burns amendments be withdrawn.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

subparagraph shall be available as of such date.

(D) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated by paragraph (1), and available under that paragraph or this paragraph, shall remain available until expended.

(3) PRIOR FISCAL YEAR FUNDS.—Any unobligated balances of funds made available for fiscal years 2001 and 2002 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 (22 U.S.C. 6841)—

(A) are authorized to remain available until expended; and

(B) shall be merged with, and made available for the same purposes as, the funds authorized to be appropriated by paragraph (1).

Mr. DURBIN. Mr. President, I know it is late at night, so I will abbreviate this debate. I hope it is no reflection on the seriousness of this issue. Everyone understands the global AIDS epidemic is a challenge facing our generation and our children's generation to which we need to respond.

As I said earlier today, there has been outstanding leadership on this issue on both sides of the aisle. The President of the United States, in the State of the Union Address, set a standard and goal for America that deserves the applause of both sides of the aisle—a $15 billion commitment to the global AIDS fight.

I have seen extraordinary efforts on both sides of the aisle, with Senator FRIST, our majority leader, on the Republican side, as the nominal and real leader on this issue, as well as Senator LUGAR; and on our side, Senator BIDEN, as well as Senator KERRY. The list goes on.

The reason I raise these points at this moment is this: I served for 14 years in the House before I came to the Senate. It is a very important Chamber. They make important decisions. But all wisdom doesn't reside on that side of the rotunda. What I am asking you to consider this evening as the initial amendment on this issue is what we have already voted for in the Senate on a bipartisan basis. What I am suggesting to you is not novel; it is not radical; it is not partisan; it is what the Senate agreed to do. I am asking us to stand behind our bipartisan position and say to our friends in the House this is not a wholesale change of your bill, but it is a modification that is critically important.

Let me tell you why I think it is critically important and why I hope we can stand together as the Senate and say to the House Members, please, let's work together for this modification, which is really to the benefit of all of us.

Here is what it does. It relates to our contribution to the global fund. It is what we have already voted for in the Senate. It says that in the next fiscal year, 2004, we will contribute $1 billion to the global fund under the following conditions: The first $500 million will go to the global fund, with no strings attached, no limitations. The second $500 million will go, as long as it is matched by other contributions—and not just matched but matched on a 2-to-1 basis.

In other words, the second tranche of $500 million will require $2 of foreign contributions from other nations for every $1 contributed by the United States. That is the approach that I believe is sensible. It says we are committed to the global fund and we understand that they need resources, but the United States cannot carry this alone. We will lead because we are the richest nation on Earth, and our President has committed us to this leadership. But then, once we have made the $500 million commitment, we will turn to the rest of the world to join us in this effort.

That is not a radical notion; it is a notion which, frankly, the House version of this bill considers as well. But there is an error in the language in the House bill. Some of you have said to me you just want to take this bill as passed by the House, pass it in the Senate, not change a word, and hand it to the President on Air Force One on his way to the G–8 conference.

If you will turn to page 38 of the House version, there is a serious error about the match. It suggests, when you read it, that we are not putting up a third of the money to be matched but 25 percent. It is just a drafting error. But as wise, as seasoned, and as experienced as the House Members may be, they made a mistake.

This amendment corrects that mistake and it says it is truly a 2-to-1 match. We will come up with one-third. They made a mistake in drafting. Why would we want the President to take that mistake with him on Air Force One?

I also tell you that this bill does something the House bill doesn't do. I think it is something they would readily agree to. We all know, at least, that the global fund has been recently reviewed by the GAO and it was found to be a good organization, committing money to good projects around the world. But we owe it to the taxpayers of this country to make sure that the dollars we put in the global fund are well spent.

So this amendment, offered by myself, Senator DASCHLE, Senator KERRY, and others, makes public and available all the approved proposals to the global fund—transparency—so we can see what they are funding.

It lists all the organizations that make up the country coordinating mechanism. It lists all the organizations receiving funding, and it calls for a report from the global fund that includes where the money is going to be spent.

That is the kind of accountability and transparency which does not violate the spirit of the House bill but merely adds provisions which I think protect taxpayers' dollars in a responsible way.

I withhold the remainder of my time and yield to the other side for their response. I hope my colleagues will favorably consider this amendment.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I urge my colleagues to vote against this amendment. I want to give everyone a bit of the philosophy developed in the House that my colleagues have not had the opportunity to observe. There are numbers very important in this debate.

The United States has had a tremendous commitment. The United States will continue to have a tremendous commitment. What we are trying to do is make sure the other countries also join in this commitment and that it does not become solely a U.S. fund.

This chart shows that the United States has maintained its commitment to the global fund. We have pledged $200 million a year. Here is what is happening with the other countries: They started at 275. By 2006, they dropped off to a little bit above zero. By 2008, they hit zero. That is what the commitment is at the present time.

This chart shows how the fund is shaping up at the moment. The United States is putting in 51 percent of the money, not 33 percent of the money—51 percent of the money.

Some of the numbers you have heard go back to 2001, 2002, and 2003 when we had a higher commitment, but the other countries had a higher commitment. They were almost at $150 million. That has been dropping off steadily.

When we get into the pledges, it drops off considerably faster. We have to do something to get the other countries energized to still be a part of this. This should not be, cannot be, and will not work if it is just U.S. funds.

This chart shows the way that it shapes up with the bill, the way the House brought it out. We will be providing 42 percent, then 60 percent, then 96 percent, then 99.5 percent, and then 100 percent of the fund if this amendment is not defeated. I do not think we ever intended to be 100 percent of the entire world solution to this problem, and we are not doing our job with the rest of the world if we become 100 percent of the solution. It is participation by the countries that is extremely important.

The global fund administrator supports the leveraging efforts. He recognizes what is happening with those pledges and what is happening with the rest of the world. He says:

> I hope and expect that the U.S. will continue to ensure that its contribution represents a ''fair share'' relative to the total commitments to the fund, potentially through a ''challenge grant''—

And that is the way it is written coming out of the House. It is saying that we will put up money to encourage others, and as they reach their goals on the pledges, we will increase ours. We are setting aside an extra $1 billion to do that.

> . . . potentially through a ''challenge grant'' mechanism as we await the new and renewed pledges of other donors.

We have the support of the administrator of the global fund. We at present are exceeding what we envisioned doing in that fund. We know it is extremely important. The only way that it works is if we have the involvement from all of the countries or at least more of the countries than we have at the present time.

The intent of the global fund was to be a global multilateral response to these epidemics. Thus far, the United States has clearly shown its commitment to this issue, and we are asking others to contribute to this necessary cause. The global fund cannot become an ''us'' or a U.S.-only fund. If it is to be successful, other countries have to be a part of the contributions.

I ask my colleagues to join in defeating this amendment so that we keep that challenge grant commitment there. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The sponsor has 4½ minutes. The opposition has 5 minutes 42 seconds.

Mr. BIDEN. I yield whatever time the Senator from Illinois needs on the remaining time.

Mr. DURBIN. Mr. President, I agree with everything the Senator from Wyoming said. This amendment agrees with everything the Senator from Wyoming said. There is no doubt about the fact that the United States should not carry this burden alone. The House was right to establish a standard that the United States would be contributing as long as other nations contributed as well. That is exactly what this amendment says.

I think we have passed the point of questioning whether the global fund is an important investment in fighting global AIDS. In fact, we were instrumental as a nation in setting up the global fund. Now I think we have to work with other countries around the world to ensure its success.

The global fund is operating now in 92 countries in the first two rounds. The grants are intended to respond to locally defined needs, and it has really shown successful pilot programs. But the fund is in a dire situation at this moment.

Those who have joined our global AIDS caucus know that when we met last week with Dr. Feecham, who heads up the fund, they are running out of money to deal with the global AIDS epidemic.

I am saying let's put $500 million into the global fund from the United States but no more money unless it is matched 2 to 1 from other sources than the United States. I am completely in agreement with the Senator from Wyoming. This should not be the United States alone. I ask you to merely stand by the position of the Senate which we voted for on a bipartisan basis last year.

I yield to the minority leader, Senator DASCHLE.

Mr. DASCHLE. Mr. President, the Senator from Illinois is exactly right. I do not disagree with anything the Senator from Wyoming said. We agree it should not be a commitment solely made by the United States, and that really is the whole purpose of this legislation. That is why we are trying to pass this legislation tonight so the President can take this authority with him to the conference and use it as leverage, use it for setting the example, use it as an opportunity to lay out our expectations for the rest of the world.

We are simply saying we are going to commit to 500, and you have to commit to a billion. You have to commit two times to the one unit we are committing. We want a 2-to-1 ratio internationally, and we are basically setting a floor. We say we will do the 500, and you come up with the rest. It has to be a 2-to-1 ratio accommodation to address directly the concerns legitimately raised by the Senator from Wyoming. So there is no disagreement. We just want world cooperation, world involvement, world commitment, and we believe this is an opportunity to achieve that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me try to describe what I believe is the lay of the land at this stage. We have had in the Foreign Relations Committee about 4 months of discussion about various ways that this issue might be approached. And that followed, as was pointed out earlier in the day in the debate, the remarkable bill that was offered by Senators FRIST and KERRY last year. It passed unanimously. It did not receive consideration in the House, and it did not become law.

The issue was revived in a big way when President Bush mentioned this prominently in his State of the Union Address. President Bush not only mentioned it then, but he has been mentioning it on almost every occasion when he has met with Senators. This is very important to us, it is very important to our President, and it is very important to the world that a bill pass this evening.

The situation comes down to this. In the Foreign Relations Committee, ultimately, the distinguished ranking member, Senator BIDEN, and I formulated a bill which we believed had a strong majority in our committee. We believed it had a strong majority potentially on the floor of the Senate.

The House of Representatives, in the meanwhile, under the leadership of Congressman HYDE and Congressman LANTOS, has passed an excellent bill, in our judgment. We believe we could have improved upon it. The amendments that are being offered tonight all suggest they might improve upon it.

As a matter of fact, some have foreign policy objectives that I would agree with wholeheartedly. But the issue tonight comes down to this: The President of the United States has visited with me, Senator BIDEN, and others, as late as last Thursday—and, in fact, in Indianapolis on Tuesday. He has indicated to me he believes the only chance that he will have a bill he can sign, that he can take to the G–8 meeting that commences June 1, is if the Senate adopts the House bill without amendments, without conference, without possible parliamentary strategies that stand between the President and a bill that he will take to the G–8.

Why does he want to do that? Because he wants money from the G–8. He wants commitments. He wants somebody besides the United States in this ball game. It is very important that he succeed. This is not a peripheral item for the President. It is up front. He has appealed in every way he knows.

I have told him I will support him, and I will do the best I can to manage a bill this evening that passes that has no amendments, however meritorious, because I believe that way he will have a bill, we will have success at the G–8 and, more importantly, the people who are going to be helped will be helped as opposed to our having an extended study in which people come from the left, from the right, from the center, perfecting this and that, but we do not have a bill and our President goes to the G–8 without that momentum of support he wants.

Now, that will be the issue in my remarks on each amendment. It finally comes down to the fact that I will ask my colleagues in the Senate to defeat amendments; to pass the bill; to do so promptly; to do so tonight, so that the issue is concluded, the President is supported, and he moves on.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. How much time is remaining?

The PRESIDING OFFICER. One minute 40 seconds for each side.

Mr. BIDEN. I ask unanimous consent that I have an additional 2 minutes—I will not ask that again tonight—to respond to or to reaffirm some of what the chairman said.

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

Mr. BIDEN. It is true we did go see the President. The Senator from Indiana and I have a slightly different take on what we told the President. My view is the President has incredible leverage with the Republican House. And my point to the President was: Mr. President, what we had in the Biden-Lugar bill and, prior to that, the bill of the leader, Senator KERRY, and Senator FEINGOLD, who have been the real leaders on this issue, you liked all of it; you said it was okay, and so, Mr. President, I do not know why you cannot pick up the phone, call Mr. DELAY and say, I, the most popular Republican in the Nation, want this.

He said he cannot do that, he will not be able to get a bill.

He also said he needs this bill. Why do we need this before the G–8? He says he needs this before the G–8 to demonstrate to the G–8 we are doing something and we expect them to do more.

I take the President at his word that that is why he wants it, but the reason why the Durbin amendment is so important is everybody knows the House does not really care about this bill. The House bill says up to a billion dollars—up to, meaning zero to a billion. My argument to the President is, if we have $500 million at the front end, everybody in the G–8 will believe it and he will really have leverage.

The problem I have is, I do not understand why the President of the United States is unwilling to exercise his leverage on the House leadership. So I really think we are helping him in spite of what he wants. Let's help him.

Sometimes, as my dear mother used to say: This is for your own good, Joey.

This is for his own good. We give him a bottom line of $500 million to go to the G–8. Then Chirac will look and say, they mean it. If you go with zero to a billion, knowing that Mr. HASTERT, who does not like this bill, Mr. DELAY, who does not like this bill, the same House that killed this bill before, they will say, we do not have to do anything. We know those guys are not going to do anything. Their reputations are well earned and well known.

I do not say that in a pejorative way. They do not like this bill. Everybody knows they do not like this bill. They do not even like their own bill.

Because the President, to his credit, said in the State of the Union, I want one, they had to pass something. So let's help the President. Let's give him some leverage.

I would be willing to bet that if this passes, I will be dumbfounded if the President does not pick up the phone and say, Denny, I need a little help—meaning Speaker HASTERT—and, Mr. DELAY, we are both from Texas; me, President, you No. 2. Maybe we can get this done.

I have confidence in the President's leadership. So let us help him out. Give him some leverage. Let him get the job done.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, to get away from the rhetoric about what the President can and cannot do, let's go back to the amendment. The purpose of the bill we are looking at now is to make sure we are providing a challenge grant for the world. That is what we have been asked to do. That is what the President wants to take to the G–8. That is what we need to do right now. We do not need to put out a promise that we are going to have $500 million immediately. The up to $1 billion—that is still a big number for me. I have trouble saying it. The promise of up to $1 billion is if there is a match by the others. If they match, we give. The House agreed to that. We will agree to it. But to put in another number there to show we are willing to go even further than any other country in the world and maybe even be willing to fund the fund 100 percent is not a good idea at this point.

What we need to do is follow what the House did, make sure there is an assurance there that the President can take. We do not need to try and outbid the rest of the world when they are not even bidding. When you go to an auction sale, you do not drive up your own bid. That is what we are doing, is an auction sale. We are trying to provide a little bit of psychology to get everybody to participate so they will have more concern even in their own country. So let's not bid against ourselves. Let's defeat this amendment.

Mr. FEINGOLD. Mr. President, I rise in support of the Durbin amendment, which strikes an important balance between supporting the Global Fund for AIDS, TB, and Malaria and demanding accountability and appropriate burdensharing.

The Global Fund holds tremendous promise for leveraging donations to ensure maximum impact, helping us all to get the most for our money. It not only deserves U.S. support—it needs it to survive, because our leadership sends a critical signal to the rest of the donor community. Today we are being urged to strengthen the President's hand with other donors at the next G–8 meeting. Well Mr. President, I want to strengthen his hand. Making a strong commitment to the fund—and conditioning part of that commitment on a significant effort from other donors, definitely fits the bill.

The President's historic commitment in his State of the Union Address raised expectations around the world. But the United States cannot possibly tackle this pandemic alone. We must throw down the gauntlet, and signal our substantial support for the fund and our respect for its mission. This is the kind of leadership that can make the President's vision a reality, making a real difference in the lives of millions around the world.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, the Senator from Wyoming must be arguing with himself, because there is no argument on this side of the aisle. We agree with him. The United States should lead, but we should also ask other countries to join us, and the formula we have come up with is not a partisan response. It is the formula that came out of the Foreign Relations Committee, chaired by a great Republican Senator from Indiana named LUGAR.

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

Mr. DURBIN. I ask my colleagues to join in supporting the Biden-Lugar approach.

The PRESIDING OFFICER. The opposition has 9 seconds.

The Senator from Indiana.

Mr. LUGAR. The President of the United States needs an opportunity to forward our cause. Please give him that opportunity. Pass a clean bill this evening. Please vote against this amendment.

The PRESIDING OFFICER. The time has expired. The question is on agreeing to amendment No. 676.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

[Rollcall Vote No. 177 Leg.]

YEAS—48

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

NAYS—52

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

The amendment (No. 676) was rejected.

Mr. LUGAR. 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. REID. 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. LUGAR. 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. LUGAR. Mr. President, it is my understanding that the distinguished Senator from North Dakota has an amendment.

I ask the Chair what the time agreement is on the Dorgan amendment.

The PRESIDING OFFICER. There is no time agreement.

Mr. REID. Mr. President, I ask unanimous consent that the time on the Dorgan amendment be evenly divided with 5 minutes on each side.

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

The Senator from North Dakota.

AMENDMENT NO. 678

Mr. DORGAN. 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 North Dakota [Mr. DORGAN proposes an amendment numbered 678.

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 provide emergency funding for food aid to HIV/AIDS affected populations in sub-Saharan Africa)

At the appropriate place insert the following:

SEC. ___. EMERGENCY FOOD AID FOR HIV/AIDS VICTIMS.

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

(1) Whereas the Centers for Disease Control and Prevention found that ''For persons living with HIV/AIDS, practicing sound nutrition can play a key role in preventing malnutrition and wasting syndrome, which can weaken an already compromised immune system.''.

(2) Whereas there are immediate needs for additional food aid in sub-Saharan Africa where the World Food Program has estimated that more than 40,000,000 people are at risk of starvation.

(3) Whereas prices of certain staple commodities have increased by 30 percent over the past year, which was not anticipated by the President's fiscal year 2004 budget request.

(4) The Commodity Credit Corporation has the legal authority to finance up to $30,000,000,000 for ongoing agriculture programs and $250,000,000 represents a use of less than 1 percent of such authority to combat the worst public health crisis in 500 years.

(b) COMMODITY CREDIT CORPORATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall immediately use the funds, facilities, and authorities of the Commodity Credit Corporation to provide an additional $250,000,000 in fiscal year 2003 to carry out programs authorized under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) to assist in mitigating the effects of HIV/AIDS on affected populations in sub-Saharan Africa and other developing nations, and by September 30, 2003, the Administrator of the United States Agency for International Development shall enter into agreements with private voluntary organizations, non-governmental organizations, and other appropriate organizations for the provision of such agricultural commodities through programs that—

(A) provide nutritional assistance to individuals with HIV/AIDS and to children, households, and communities affected by HIV/AIDS; and

(B) generate funds from the sale of such commodities for activities related to the prevention and treatment of HIV/AIDS, support services and care for HIV/AIDS infected individuals and affected households, and the creation of sustainable livelihoods among individuals in HIV/AIDS affected communities, including income-generating and business activities.

(2) REQUIREMENT.—The food aid provided under this subsection shall be in addition to any other food aid acquired and provided by the Commodity Credit Corporation prior to the date of enactment of this Act. Agricultural commodities made available under this subsection may, notwithstanding any other provision of law, be shipped in fiscal years 2003 and 2004.

Mr. DORGAN. Mr. President, this amendment provides $250 million in food aid through the Commodity Credit Corporation to those who are suffering from AIDS/HIV infections in sub-Saharan Africa. The Senate is already on record in supporting this level of food aid. During the consideration of the fiscal year 2003 omnibus appropriations bill, the Senate approved a bipartisan amendment that would have provided $500 million for this type of food aid. That was reduced to $250 million in the conference. This amendment would simply add back the amount which was cut in conference.

In 1984, 8 million people were in need of food aid. In sub-Saharan Africa today, that number is 11 million. Some are predicting that it will go up to 20 million. Yet there is little attention in 2003 to this crisis.

The United Nations reports that 29.4 million adults and children are infected with the HIV virus in sub-Saharan Africa, and 11 million orphans currently living in Africa are facing the risk of malnutrition as a result of the AIDS crisis.

The relationship between these two crises is very strong. The World Food Program Director, James Morris, testified before the Senate on February 25 of this year and stated that HIV and AIDS was the central cause of famine in that part of Africa. Poverty in that part of the world contributes to the AIDS epidemic. Not only are the health systems inundated but poverty and hunger lead many women to be commercial sex workers. Devastation in the rural areas causes many men to become migrant workers in urban areas which leads to multiple partners. In addition, once a person is infected with the HIV virus, for those who are lucky enough to get medical treatment, good nutrition is crucial in helping ward off infections. Malnutrition complicates and accelerates the problems associated with this HIV infection. The body is unable to fight the disease when it is starving for food.

This is a crisis that calls out for a dramatic response. Anyone in this Senate who has held a child in his or her arms who is dying of malnutrition and starvation—and some of us have—will never forget that experience. The fact is that tonight in sub-Saharan Africa, there are hundreds of thousands—millions—of people at risk, especially children.

This Senate has already made the decision that it would support $500 million. That was cut to $250 million in conference on the omnibus. I propose that we restore that $250 million, and do what we should do—do what a generous and good country must do at this point.

I ask that my amendment be supported by my colleagues.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I rise today in support of the Dorgan-Leahy amendment. This amendment tries to get at the heart of two interconnected problems that are literally wiping out countries in sub-Saharan Africa. Famine and AIDS.

This amendment directs the Secretary of Agriculture to use the authorities of the Commodity Credit Corporation (CCC) to provide $250 million in desperately needed food aid to HIV/AIDS victims in sub-Saharan Africa and other developing countries. Moreover, it allows the administration to sell this food aid and use the money to purchase drugs, medical equipment, and other supplies to help combat HIV/AIDS in sub-Saharan Africa.

In other words, this amendment takes a small step in addressing two of the most critical problems on the African continent.

We have all seen the pictures and heard the statistics about AIDS in Africa. But, let me take just a moment to reiterate a couple of points. According to the Congressional Research Service, about 30 million adults and children are infected with the HIV virus in Africa. As of 2001, an estimated 21.5 million Africans had died of AIDS, including 2.2 million who died in that year. AIDS is now the leading cause of death in Africa.

At the same time AIDS is ravaging the continent, a famine has placed more than 40 million Africans at risk of starvation. Men, women, and children of all ages of all religions are dying, because they cannot get enough to eat.

There is a direct connection between HIV/AIDS and malnourishment. The House bill recognizes that fact. Let me read to you one section—and I am quoting: ''Healthy and nutritious foods for individuals infected or living with HIV/AIDS are an important complement in HIV/AIDS medicines for such individuals.'' The bill goes on to say: ''Individuals infected with HIV have higher nutritional requirements than individuals who are not infected with HIV . . . Also, there is evidence to suggest that the full benefit of therapy to treat HIV/AIDS may not be achieved in individuals who are malnourished . . .''

There are plenty of statistics, medical studies, and reports. But, it is common sense. When people are starving, its harder for their bodies to fight the HIV/AIDS virus.

We know that HIV/AIDS is the worst public health crisis in human history. We see 40 million people at risk of starvation in Africa. We need to do something about it right now.

To be sure, H.R. 1298 is an important bill and it is a good start at taking action. But there is a gaping hole in this bill—resources. This bill does not appropriate one dime of money to address this problem. Let me repeat that. This bill does not appropriate one dime of money to address AIDS or famine in Africa.

As I have said over and over, we can have the best policies in the world, but

if we don't have the money to back them up, our policies simply will not be effective.

I am a member of the Appropriations Committee. I have seen the President's budget request for P.L. 480 food aid. Is there an increase to effectively deal with this problem? No. The President's budget decreases food aid by $574 million. That is a 32 percent cut from last year's level.

More importantly, the funds we do provide in the fiscal year 2004 budget won't be available for months. We don't have months. By then, the problem will have gotten worse. More people will have died. We need to break this cycle. That is exactly what this amendment does. It tells the Secretary of Agriculture to use existing authorities to provide $250 million in food aid for HIV/AIDS affected populations in sub-Saharan Africa.

We are not giving the Secretary of Agriculture any new authority. The CCC can already provide $30 billion to support agricultural programs—both here and abroad. This amendment simply says that we should use less than 1 percent of this authority to combat the worst public health crisis in human history.

We all know that we need to act for humanitarian reasons. But, we should not forget that there are important national security reasons for taking action to address AIDS and famine in Africa. For example, CIA Director Tenent testified that ''[t]he chronic problems of sub-Saharan Africa make it, too, fertile ground for direct and indirect threats to United States interests. Governments without accountability and natural disasters have left Africa with the highest concentration of human misery in the world''.

This should not be a hard amendment to support. Each and every Senator has already essentially expressed his or her support for this amendment. Let me explain.

During Senate consideration of the fiscal year 2003 Omnibus Appropriations bill, Senator BILL NELSON and I offered a bipartisan amendment to add $500 million in emergency food aid to sub-Saharan Africa. The amendment was accepted by the Senate, but was reduced by the House to $250 million in the conference committee.

My amendment simply directs to Secretary of Agriculture to use the authorities of the Credit Commodity Corporation to restore this $250 million that the Senate supported but the House eliminated in conference.

I want to remind people that this $500 million figure was not picked out of the air. It was based on an assessment by humanitarian organizations with field operations in Africa. More importantly, this figure represents the U.S. share of what is needed to combat this problem. In other words, it doesn't let other donors off the hook.

I would point out that the Dorgan-Leahy amendment has a wide range of support from international relief organizations—from Catholic Relief Services to Oxfam to the International Rescue Committee. In addition, agricultural organizations, as represented by the Coalition for Food Aid, supports this amendment.

This is not a partisan issue. One has to look no further than Republican Representative FRANK WOLF's op-ed in Sunday's Washington Post on this very issue. It is, however, a security issue. It is a humanitarian issue. It is a moral issue.

The AIDS pandemic in Africa is out of control. A famine threatens the lives of 40 million people. We need to act. We need to act now. We need to provide real resources. This amendment does all of these things.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield myself as much time as required.

The argument against the Dorgan amendment, which I will make, is that a budget point of order clearly is applicable against this particular amendment, and at the appropriate time I will raise that budget point of order.

I say simply that the bill we are considering, which came through the House of Representatives and is the basis for our debate today, does mention food assistance, and does so generously, as a prevention technique. It is mentioned at several points throughout the legislation. So it has not been overlooked. But the amendment that is being offered by my distinguished colleague clearly approaches appropriations language, as opposed to authorization language, and clearly is in violation of the budget we have adopted. At the appropriate time, I will seek recognition to raise the budget point or order.

In addition, the fact is that once again it amends the basic bill we are attempting to pass tonight, which is very important for Members to consider.

Mr. DORGAN. Mr. President, there is indeed a point of order. But I hope someone in this Chamber will take it upon themselves to explain to those who are sick and to the hungry children who are dying that this can't be done because there was a point of order in the Senate at 11 o'clock at night in consideration of this bill. The fact is we have already made this decision. This is not a partisan issue. We have made this decision previously.

The Senate said we will provide $500 million to try to provide assistance to those who are devastated by HIV and devastated by malnutrition and hunger. We have already made that decision in the Senate. It was cut to $250 million in conference.

Let us again decide that this emergency problem cries out for our response and not for a claim of a point of order. This is talking about feeding hungry people who are devastated by famine and who are ravaged by HIV and AIDS. This deserves our support, and deserves it tonight.

I yield the floor.

Mr. LUGAR. Mr. President, as each one of us discussed amendments tonight, there are ways in which this bill could be perfected. There will be an opportunity in a humanitarian way to try to perfect our work. Our work tonight, however, is to pass this legislation so that our President has a bill at the G–8. In furtherance of that, I note that the pending amendment offered by the distinguished Senator from North Dakota increases mandatory spending, and, if adopted, would cause the underlying bill to exceed the committee section 302(a) allocations. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Congressional Budget Act of 1974.

Mr. DORGAN. Mr. President, pursuant to section 904 of the Congressional Budget Act, 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 clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 48, nays 52, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—48

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

NAYS—52

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

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 52.

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.

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

The motion to lay on the table was agreed to.

JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, is it in order to continue now on the growth package?

The PRESIDING OFFICER. The regular order is the growth package.

AMENDMENTS NOS. 567, 571, 580, 593, 613, 625, 626, 627, 644 AS MODIFIED, 646, 649, 651, 654, 657, 659 AS MODIFIED, 661, 665, 673, AND 680, EN BLOC

Mr. GRASSLEY. Mr. President, I have a series of amendments that both sides have cleared. I send the amendments to the desk, ask that they be considered, as modified, ask that they be agreed to en bloc, and that the motion to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 567

(Purpose: To require group health plans to provide coverage for reconstructive surgery following mastectomy, consistent with the Women's Health and Cancer Rights Act of 1998)

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

SEC. ___. CONFORMING THE INTERNAL REVENUE CODE OF 1986 TO REQUIREMENTS IMPOSED BY THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998.

(a) IN GENERAL.—Subchapter B of chapter 100 (relating to other requirements) is amended by inserting after section 9812 the following new section:

"SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

''(a) IN GENERAL.—A group health plan that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed,

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and

''(3) prostheses and physical complications of mastectomy, including lymphedemas,

in a manner determined in consultation with the attending physician and the patient. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

''(b) PROHIBITIONS.—A group health plan may not—

''(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section, and

''(2) penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 100 of such Code is amended inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Required coverage for reconstructive surgery following mastectomies.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

AMENDMENT NO. 571

(Purpose: To amend the Internal Revenue Code of 1986 to expand the combat zone income tax exclusion to include income for the period of transit to the combat zone and to remove the limitation on such exclusion for commissioned officers, and for other purposes)

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

SEC. ___. EXPANSION OF INCOME TAX EXCLUSION FOR COMBAT ZONE SERVICE.

(a) COMBAT ZONE SERVICE TO INCLUDE TRANSIT TO ZONE.—Section 112(c)(3) of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new sentence: ''Such service shall include any period (not to exceed 14 days) of direct transit to the combat zone.''.

(b) REMOVAL OF LIMITATION ON EXCLUSION FOR COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Subsection (b) of section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Forces) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 112(a) of such Code is amended—

(i) by striking ''below the grade of commissioned officer'', and

(ii) by striking ''ENLISTED PERSONNEL'' in the heading and inserting ''IN GENERAL''.

(B) Section 112(c) of such Code is amended by striking paragraphs (1) and (5) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

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

SEC. ___. AVAILABILITY OF CERTAIN TAX BENEFITS FOR MEMBERS OF THE ARMED FORCES PERFORMING SERVICES AT GUANTANAMO BAY NAVAL STATION, CUBA, AND ON THE ISLAND OF DIEGO GARCIA.

(a) GENERAL RULE.—In the case of a member of the Armed Forces of the United States who is entitled to special pay under section 305 of title 37, United States Code (relating to special pay: hardship duty pay), for services performed as a member of the Joint Task Force Guantanamo at Guantanamo Bay Naval Station, Cuba, or for services performed on the Island of Diego Garcia as part of Operation Iraqi Freedom, such member shall be treated in the same manner as if such services were in a combat zone (as determined under section 112 of the Internal Revenue Code of 1986) for purposes of the following provisions of such Code:

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces on death).

(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on January 1, 2003.

(2) WITHHOLDING.—Subsection (a)(5) shall apply to remuneration paid after December 31, 2002.

AMENDMENT NO. 580

(Purpose: To amend the Internal Revenue Code of 1986 to allow employees in renewal communities to qualify for the renewal community employment credit by employing residents of certain other communities)

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

SEC. ___. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.''.

(b) REDUCTION 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 year 2003, 35.1% shall be substituted for such year.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

(2) Subsection (b) shall take effect on the date of enactment of this Act.

AMENDMENT NO. 593

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

AMENDMENT NO. 613

(Purpose: To clarify that water and sewerage service laterals qualify as contribution in aid of construction)

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

SEC. ___. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION FOR WATER AND SEWERAGE DISPOSAL UTILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

''(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's water service line or sewer lateral line to the utility's distribution or collection system or extend a main water or sewer line to provide service to a customer), and

''(ii) shall not include amounts paid as service charges for starting or stopping services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

AMENDMENT NO. 625

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

AMENDMENT NO. 626

(Purpose: To amend the Internal Revenue Code to simplify certain provisions applicable to real estate investment trusts)

At the approprite place, add the following:

TITLE I—REIT CORRECTIONS

SEC. 101. REVISIONS TO REIT ASSET TEST.

(a) EXPANSION OF STRAIGHT DEBT SAFE HARBOR.—Section 856 (defining real estate investment trust) is amended—

(1) in subsection (c) by striking paragraph (7), and

(2) by adding at the end the following new subsection:

''(m) SAFE HARBOR IN APPLYING SUBSECTION (c)(4)—

''(1) IN GENERAL.—In applying subclause (III) of subsection (c)(4)(B)(iii), except as otherwise determined by the Secretary in regulations, the following shall not be considered securities held by the trust:

''(A) Straight debt securities of an issuer which meet the requirements of paragraph (2).

''(B) Any loan to an individual or an estate.

''(C) Any section 467 rental agreement (as defined in section 467(d)), other than with a person described in subsection (d)(2)(B).

''(D) Any obligation to pay rents from real property (as defined in subsection (d)(1)).

''(E) Any security issued by a State or any political subdivision thereof, the District of Columbia, a foreign government or any political subdivision thereof, or the Commonwealth of Puerto Rico, but only if the determination of any payment received or accrued under such security does not depend in whole or in part on the profits of any entity not described in this subparagraph or payments on any obligation issued by such an entity,

''(F) Any security issued by a real estate investment trust.

''(G) Any other arrangement as determined by the Secretary.

''(2) SPECIAL RULES RELATING TO STRAIGHT DEBT SECURITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), securities meet the requirements of this paragraph if such securities are straight debt, as defined in section 1361(c)(5) (without regard to subparagraph (B)(iii) thereof).

(B) SPECIAL RULES RELATING TO CERTAIN CONTINGENCIES.—For purposes of subparagraph (A), any interest or principal shall not be treated as failing to satisfy section 1361(c)(5)(B)(i) solely by reason of the fact that the time of payment of such interest or principal is subject to a contingency, but only if—

''(i) any such contingency does not have the effect of changing the effective yield to maturity, as determined under section 1272, other than a change in the annual yield to maturity which either—

''(I) does not exceed the greater of ¼ of 1 percent or 5 percent of the annual yield to maturity, or

''(II) results solely from a default or the exercise of a prepayment right by the issuer of the debt, or

''(ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt instruments held by the trust exceeds $1,000,000 and not more than 12 months of unaccrued interest can be required to be prepaid thereunder.

''(C) SPECIAL RULES RELATING TO CORPORATE OR PARTNERSHIP ISSUERS.—In the case of an issuer which is a corporation or a partnership, securities that otherwise would be described in paragraph (1)(A) shall be considered not to be so described if the trust holding such securities and any of its controlled taxable REIT subsidiaries (as defined in subsection (d)(8)(A)(iv)) hold any securities of the issuer which—

''(i) are not described in paragraph (1) (prior to the application of paragraph (1)(C)), and

''(ii) have an aggregate value greater than 1 percent of the issuer's outstanding securities.

''(3) LOOK-THROUGH RULE FOR PARTNERSHIP SECURITIES.—

''(A) IN GENERAL.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

''(i) a trust's interest as a partner in a partnership (as defined in section 7701(a)(2)) shall not be considered a security, and

''(ii) the trust shall be deemed to own its proportionate share of each of the assets of the partnership.

''(B) DETERMINATION OF TRUST'S INTEREST IN PARTNERSHIP ASSETS.—For purposes of subparagraph (A), with respect to any taxable year beginning after the date of the enactment of this subparagraph—

''(i) the trust's interest in the partnership assets shall be the trust's proportionate interest in any securities issued by the partnership (determined without regard to subparagraph (A)(i) and paragraph (4), but not including securities described in paragraph (1)), and

''(ii) the value of any debt instrument shall be the adjusted issue price thereof, as defined in section 1272(a)(4).

''(4) CERTAIN PARTNERSHIP DEBT INSTRUMENTS NOT TREATED AS A SECURITY.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

''(A) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security to the extent of the trust's interest as a partner in the partnership, and

''(B) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security if at least 75 percent of the partnership's gross income (excluding gross income from prohibited transactions) is derived from sources referred to in subsection (c)(3).

''(5) SECRETARIAL GUIDANCE.—The Secretary is authorized to provide guidance (including through the issuance of a written determination, as defined in section 6110(b)) that an arrangement shall not be considered a security held by the trust for purposes of applying subclause (III) of subsection (c)(4)(B)(iii) notwithstanding that such arrangement otherwise could be considered a security under subparagraph (F) of subsection (c)(5).''

SEC. 102. CLARIFICATION OF APPLICATION OF LIMITED RENTAL EXCEPTION.

Subparagraph (A) of section 856(d)(8) (relating to special rules for taxable REIT subsidiaries) is amended to read as follows:

''(A) LIMITED RENTAL EXCEPTION.—

(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in paragraph (2)(B).

(ii) RENTS MUST BE SUBSTANTIALLY COMPARABLE.—Clause (i) shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents paid by the other tenants of the trust's property for comparable space.

''(iii) TIMES FOR TESTING RENT COMPARABILITY.—The substantial comparability requirement of clause (ii) shall be treated as met with respect to a lease to a taxable REIT subsidiary of the trust if such requirement is met under the terms of the lease—

''(I) at the time such lease is entered into,

''(II) at the time of each extension of the lease, including a failure to exercise a right to terminate, and

''(III) at the time of any modification of the lease between the trust and the taxable REIT subsidiary if the rent under such lease is effectively increased pursuant to such modification.

With respect to subclause (III), if the taxable REIT subsidiary of the trust is a controlled taxable REIT subsidiary of the trust, the term 'rents from real property' shall not in any event include rent under such lease to the extent of the increase in such rent on account of such modification.

''(iv) CONTROLLED TAXABLE REIT SUBSIDIARY.—For purposes of clause (iii), the term 'controlled taxable REIT subsidiary' means, with respect to any real estate investment trust, any taxable REIT subsidiary of such trust if such trust owns directly or indirectly—

''(I) stock possessing more than 50 percent of the total voting power of the outstanding stock of such subsidiary, or

''(11) stock having a value of more than 50 percent of the total value of the outstanding stock of such subsidiary.

''(v) CONTINUING QUALIFICATION BASED ON THIRD PARTY ACTIONS.—If the requirements of clause (i) are met at a time referred to in clause (iii), such requirements shall continue to be treated as met so long as there is no increase in the space leased to any taxable REIT subsidiary of such trust or to any person described in paragraph (2)(B).

''(vi) CORRECTION PERIOD.—If there is an increase referred to in clause (v) during any calendar quarter with respect to any property, the requirements of clause (iii) shall be treated as met during the quarter and the succeeding quarter if such requirements are met at the close of such succeeding quarter.''.

SEC. 103. DELETION OF CUSTOMARY SERVICES EXCEPTION.

Subparagraph (B) of section 857(b)(7) (relating to redetermined rents) is amended by striking clause (ii) and by redesignating

clauses (iii), (iv), (v), (vi), and (vii) as clauses (ii), (iii), (iv), (v), and (vi), respectively.

SEC. 104. CONFORMITY WITH GENERAL HEDGING DEFINITION.

(a) DEFINITION.—Subparagraph (G) of section 856(c)(5) (relating to treatment of certain hedging instruments) is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income under paragraph (2) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets.''.

SEC. 105. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''90 percent'' and inserting ''95 percent''.

SEC. 106. PROHIBITED TRANSACTIONS PROVISIONS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

''(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

''(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

''(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 50 percent of the net selling price of the property,

''(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

''(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

''(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

''(vi) the sales price of the property sold by the trust to its taxable REIT subsidiary is not based in whole or in part on the income or profits of the subsidiary or the income or profits that the subsidiary derives from the sale or operation of such property.''.

SEC. 107. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 2000.

(b) Sections 103 THROUGH 106.—The amendments made by sections 103, 104, 105 and 106 shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE III—REIT SAVINGS PROVISIONS

SEC. 301. REVISIONS TO REIT PROVISIONS.

(a) RULES OF APPLICATION FOR FAILURE TO SATISFY SECTION 856(c)(4).—Section 856(c) (relating to definition of real estate investment trust), as amended by section 101, is amended by inserting after paragraph (6) the following new paragraph:

''(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4).—

''(A) DE MINIMIS FAILURE.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the trust's assets at the end of the quarter for which such measurement is done, and

''(II) $10,000,000, and

''(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(B) FAILURES EXCEEDING DE MINIMIS AMOUNT.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure involves the ownership of assets the total value of which exceeds the de minimis standard described in subparagraph (A)(i) at the end of the quarter for which such measurement is done,

''(ii) following the corporation, trust, or association's identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

''(iii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect,

''(iv) the corporation, trust, or association pays a tax computed under subparagraph (C), and

''(v)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (ii) within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(C) TAX.—For purposes of subparagraph (B)(iv)—

''(i) TAX IMPOSED.—If a corporation, trust, or association elects the application of this subparagraph, there is hereby imposed a tax on the failure described in subparagraph (B) of such corporation, trust, or association. Such tax shall be paid by the corporation, trust, or association.

''(ii) TAX COMPUTED.—The amount of the tax imposed by clause (i) shall be the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (B)(ii) for the period specified in clause (iii) by the highest rate of tax specified in section 11.

''(iii) PERIOD.—For purposes of clause (ii)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

''(iv) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.''.

(b) MODIFICATION OF RULES OF APPLICATION FOR FAILURE TO SATISFY SECTIONS 856(C)(2) OR 856(C)(3).—Paragraph (6) of section 856(c) (relating to definition of real estate investment trust) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) following the corporation, trust, or association's identification of the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year, a description of each item of its gross income described in such paragraphs is set forth in a schedule for such taxable year filed in accordance with regulations prescribed by the Secretary, and''.

(c) REASONABLE CAUSE EXCEPTION TO LOSS OF REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS.—Subsection (g) of section 856 (relating to termination of election) is amended—

(1) in paragraph (1) by inserting before the period at the end of the first sentence the following: 'unless paragraph (5) applies', and

(2) by adding at the end the following new paragraph:

''(5) ENTITIES TO WHICH PARAGRAPH APPLIES.—This paragraph applies to a corporation, trust, or association—

''(A) which is not a real estate investment trust to which the provisions of this part apply for the taxable year due to one or more failures to comply with one or more of the provisions of this part (other than subsection (c)(6) or (c)(7) of section 856),

''(B) such failures are due to reasonable cause and not due to willful neglect, and

''(C) if such corporation, trust, or association pays (as prescribed by the Secretary in

regulations and in the same manner as tax) a penalty of $50,000 for each failure to satisfy a provision of this part due to reasonable cause and not willful neglect.''.

(d) DEDUCTION OF TAX PAID FROM AMOUNT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) is amended by striking ''(7)'' and inserting ''(7) of this subsection, section 856(c)(7)(B)(iii), and section 856(g)(1).''.

(e) EXPANSION OF DEFICIENCY DIVIDEND PROCEDURE.—Subsection (e) of section 860 is amended by striking ''or'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; or'', and by adding at the end the following new paragraph:

''(4) a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after date of enactment.

AMENDMENT 627

(Purpose: To exclude certain punitive damages received by the taxpayer from gross income)

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

SEC. ___. EXCLUSION OF CERTAIN PUNITIVE DAMAGE AWARDS.

(a) IN GENERAL.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

''(d) EXCLUSION OF PUNITIVE DAMAGES PAID TO A STATE UNDER A SPLIT-AWARD STATUTE.—

''(1) IN GENERAL.—The phrase '(other than punitive damages)' in subsection (a) shall not apply to—

''(A) any portion of an award of punitive damages in a civil action which is paid to a State under a split-award statute, or

''(B) any attorneys' fees or other costs incurred by the taxpayer in connection with obtaining an award of punitive damages to which subparagraph (A) is applicable.

''(2) SPLIT-AWARD STATUTE.—For purposes of this subsection, the term 'split-award statute' means a State law that requires a fixed portion of an award of punitive damages in a civil action to be paid to the State.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to awards made in taxable years ending after the date of the enactment of this Act.

AMENDMENT NO. 644, AS MODIFIED

(Purpose: To extend certain expiring provisions)

At the end, insert the following:

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions of Expiring Provisions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2002.

SEC. 702. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR 2000, 2001, 2002, 2003, AND 2004.—'', and

(2) by striking ''during 2000, 2001, 2002, or 2003,'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000, 2001, 2002, or 2003'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

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

SEC. 703. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2002.

SEC. 704. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 705. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 706. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 707. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, 2001, 2002, and 2003'' and inserting ''2000, 2001, 2002, 2003, and 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 708. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2002.

SEC. 709. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXTENSION OF DEDUCTION.—Section 170(e)(6)(G) (relating to termination) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2002.

SEC. 710. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively.

(2) in subsection (e), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) CONFORMING AMENDMENTS.—Clause (iii) of section 280F(a)(1)(C) is amended by striking ''2007'' and inserting ''2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002.

SEC. 711. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively, and

(2) in subsection (f), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2002.

SEC. 712. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''during 2002 or 2003'' and inserting ''during 2002, 2003, or 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 713. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, 2001, or 2002'' each place it appears and inserting ''1998, 1999, 2001, 2002, or 2003''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 714. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2002.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

AMENDMENT NO. 646

(Purpose: To allow a credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses against income tax for the cost of carrying Federal excise taxes prior to the sale of the product bearing the tax)

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

SEC. ___. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit

for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the distilled spirits credit determined under section 5011(a).''.

(2) Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.''.

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

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

AMENDMENT NO. 649

(Purpose: To provide tax relief to growers affected by citrus canker)

At the appropriate place insert the following:

SEC. . CITRUS CANKER TREE RELIEF.

(a) RATABLE INCLUSION.—

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

''SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

''(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10-year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Such election shall be made on the return of tax for such taxable year in such manner as the Secretary prescribes, and, once made shall be irrevocable.

''(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00–37–4).''

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after the item relating to section 1301 the following new item:

''SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.''.

(b) EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: '4 years after the close of the first taxable year in which any part of the gain upon conversion is realized, or such additional period after the close of such taxable year as determined appropriate by the Secretary on a regional basis if a State or Federal plant health authority determines with respect to such region that the land on which such trees grew is not free from the bacteria that causes citrus tree canker'.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

AMENDMENT NO. 651

(Purpose: To amend the Internal Revenue Code of 1986 to allow for the expansion of areas designated as renewal communities based on 2000 census data)

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

SEC. ___. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—

(1) IN GENERAL.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(g) EXPANSION OF DESIGNATED AREAS.—

''(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

''(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

''(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

''(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

''(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

''(B) AREA.—An area is described in this subparagraph if—

''(i) the area is adjacent to at least 1 other area designated as a renewal community,

''(ii) the area has a population less than the population required under subsection (c)(2)(C), and

''(a) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or (b) the area contains a population of less than 100 people.

''(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

(b) CHANGE OF TOP INCOME RATE.—

(1) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001), as amended by section 102 of this Act, is amended by striking ''35.0%'' in the last column and inserting ''37.6%''.

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

(3) APPLICATION OF EGTRRA.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

AMENDMENT NO. 654

(Purpose: To amend title XIX of the Social Security Act to temporarily increase the floor for treatment as an extremely low DSH State and to provide for an allotment adjustment for certain States)

At the end of subtitle F of title III, add the following:

SEC. ___. MEDICAID DSH ALLOTMENTS.

(a) TEMPORARY INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(A) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(B) by adding at the end the following:

''(B) TEMPORARY INCREASE IN FLOOR FOR FISCAL YEAR 2004.—During the period that begins on October 1, 2003, and ends on September 30, 2004, subparagraph (A) shall be applied—

''(i) by substituting 'fiscal year 2002' for 'fiscal year 1999';

''(iii) by substituting 'Centers for Medicare & Medicaid Services' for 'Health Care Financing Administration';

''(ii) by substituting 'August 31, 2003' for 'August 31, 2000';

''(iv) by substituting '3 percent' for '1 percent' each place it appears;

''(v) by substituting 'fiscal year 2004' for 'fiscal year 2001'; and

''(vi) without regard to the second sentence.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2003, and apply to DSH allotments under title XIX of the Social Security Act only with respect to fiscal year 2004.

(b) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

''(A) TENNESSEE.—Only with respect to fiscal year 2004, if the statewide waiver approved under section 1115 for the State of Tennessee with respect to the requirements of this title (as in effect on the date of enactment of this paragraph) is revoked or terminated, the Secretary shall—

''(i) permit the State of Tennessee to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

''(ii) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 that provides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

''(B) HAWAII.—The Secretary shall compute a DSH allotment for the State of Hawaii for each of fiscal year 2004 in the same manner as DSH allotments are determined with respect to those States to which paragraph (5) applies (but without regard to the requirement under such paragraph that total expenditures under the State plan for disproportionate share hospital adjustments for any fiscal year exceeds 0).''.

(2) TREATMENT OF INSTITUTIONS FOR MENTAL DISEASES.—Section 1923(h)(1) of the Social Security Act (42 U.S.C. 1396r–4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''Payment'' and inserting ''Subject to paragraph (3), payment''; and

(B) by adding at the end the following:

''(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of Tennessee with respect to fiscal year 2004 in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if enacted on October 1, 2002.

AMENDMENT NO. 657

(Purpose: To exempt certain sightseeing flights from taxes on air transportation.)

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

SEC. ___. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

AMENDMENT NO. 659, AS MODIFIED

(Purpose: To modify the involuntary conversion rules for businesses affected by the September 11, 2001, terrorist attacks)

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

SEC. ___. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) IN GENERAL.—Subsection (g) of section 1400L is amended to read as follows:

''(g) MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

''(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

''(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.''.

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

On page 19, line 13, strike ''2007'' and insert ''2008''.

AMENDMENT NO. 661

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

AMENDMENT NO. 665

(Purpose: To amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel)

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

SEC.___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3).(A)

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, and on or before December 31, 2004.

AMENDMENT NO. 673

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the treatment of certain imported recycled halons)

At the appropriate place insert the following:

SECTION 1. TREATMENT OF CERTAIN IMPORTED RECYCLED HALONS.

(a) IN GENERAL.—Section 1803(c) of the Small Business Job Protection Act of 1986 (Public Law 104–188) is amended by striking ''1997'' and ''1998'' and inserting ''1994''.

(b) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefore is filed before the close of such period.

AMENDMENT NO. 680

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to add Senator MURKOWSKI as a cosponsor to amendment No. 594 on rural equity, and amendment number 596, the Collins amendment.

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

LIMITATION ON TAX DEDUCTIONS

Mr. SANTORUM. Mr. President, I rise today to engage the distinguished chairman of the Finance Committee in a colloquy regarding subtitle E, section 364, of the Jobs and Growth Tax Reconciliation Act of 2003, S. 1054.

This section would limit the deduction for charitable contributions of patents and similar properties. It is my understanding that this provision would include a limitation on tax deductions for donation of the following items: any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property. The effective date of this limitation would apply to contributions made after May 7, 2003.

I have a specific concern about this provision.

I understand the intent behind this change is to eliminate abuses associated with deductions claimed under IRC 170(e)(1)(B). What has resulted, however, is the unintended consequence of capturing legitimate and pending contributions that were in the process of being formalized, but not enacted by the effective date.

Specifically, I am concerned about the impact of a pending transaction between two organizations in the Commonwealth of Pennsylvania. The process to formalize the referenced donation began in December 2002, with the targeted date of April 21, 2003, for a signed and completed transfer.

In an effort to clarify the impact of S. 1054 on this specific pending transaction, the involved organizations have

worked with your staff to provide adequate background and substantial documentation to verify the legitimacy of the concern.

I inquire of the chairman of the Finance Committee if he would comment on Section 364 of the bill, and my stated concern about a pending transaction?

Mr. GRASSLEY. Mr. President, I thank my colleague from Pennsylvania for raising this issue. He is correct that my staff has been working with these organizations to obtain a fuller understanding of their transaction. We have learned that there is widespread abuse involving donations of patents and similar property. We made this provision effective May 7, 2003, so that abusive donations could not be rushed to completion if a later effective date was chosen.

We will continue our discussion with these organizations, and will objectively consider their concerns and whether further clarifications are appropriate as the bill moves to conference.

Mr. SANTORUM. Thank you, Chairman GRASSLEY, for your willingness to work with me on this issue as the Jobs and Growth Tax Reconciliation Act of 2003 moves forward.

LIMITATION PROVISION

Mr. LEAHY. Mr. President, I see the distinguished majority leader, Senator FRIST, and wonder if I could ask him to address a concern I and other Senators have about a provision entitled ''Limitation'' which is located on page 62, line 13 of the bill.

Mr. FRIST. I would be happy to.

Mr. LEAHY. This provision says that no funds made available to carry out this act may be used to provide assistance to any group or organization that does not have a policy ''explicitly opposing'' prostitution and sex trafficking. On its face, this provision appears harmless. No one here supports prostitution or sex trafficking. In fact, we abhor these practices, which are demeaning and degrading towards women, and also extremely dangerous. The rate of HIV infection among prostitutes in Cambodia is estimated to be 40 percent. India is facing a similar catastrophe. It is no secret that commercial sex workers and sex trafficking are a major cause of HIV transmission in Asia and in parts of Africa. We all want to see these practices end.

But the reality is that they exist. Prostitution and sex trafficking are rampant, not only in parts of Africa and Asia, but in Eastern Europe and the former Soviet republics, the Caribbean, and parts of Latin America. Any effective strategy to combat HIV/AIDS must include programs to reduce its spread through prostitution and sex trafficking. As difficult as it is, this reality cannot be ignored.

There are organizations who work directly with commercial sex workers and women who have been the victims of trafficking, to educate them about HIV/AIDS, to counsel them to get tested, to help them escape if they are being held against their will, and to provide them with condoms to protect themselves from infection. This work is not easy. It can also be dangerous. It requires a relationship of trust between the organizations and the women who need protection.

I am concerned that this provision, which requires such organizations to explicitly oppose prostitution and sex trafficking, could impede their effectiveness. In fact, some or many of these organizations may refuse to condemn the behavior of the women who trust they need in order to convince them to protect themselves against HIV. I would ask the Majority Leader how we can avoid that result, because we need to be able to support these organizations.

Mr. FRIST. I thank the Senator from Vermont for his question. I agree that these organizations who work with prostitutes and women who are the victims of trafficking play an important role in preventing the spread of HIV/AIDS. We need to support these organizations, because HIV transmission through this type of behavior is widespread in many parts of the world. At the same time, we do not want to condone, either directly or indirectly, prostitution or sex trafficking. Both are abhorrent.

I believe the answer is to include a statement in the contract or grant agreement between the U.S. Government and such organization that the organization is opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women. Such a statement, as part of the contract or grant agreement, would satisfy the intent of this provision.

Mr. LEAHY. I thank the majority leader. I think that is important, because we do not want to impose requirements which have the unintended result of impeding the ability of these organizations to do their work, or interfering with our ability to support them.

SECTION 333

Mr. SHELBY. Mr. President, I would like to take this opportunity to ask the Chairman of the Finance Committee about the Committee's intent with respect to Section 333, the section entitled ''Denial of Deduction for Certain Fines, Penalties, and Other Amounts.'' As currently drafted, Section 333 eliminates tax deductions for amounts paid or incurred at the direction of a governmental entity in relation to the violation of any law or the investigation or inquiry into the potential violation of any law.

Although I appreciate the Chairman's intent, I am concerned that this provision is drafted too broadly and applies to fees and compliance expenses that are mandated by regulators and that depository institutions must pay. For example, banks and thrifts are subject to routine, as well as special, examinations as part of supervisory reviews by State regulators, the FDIC, the Office of Comptroller of the Currency, the Federal Reserve Board and the Office of Thrift Supervision. The purpose of these supervisory examinations is to ensure that depository institutions are operating in a safe and sound manner and in full compliance with regulations. Institutions are then required to correct any deficiencies.

Currently, Section 333 could be interpreted to eliminate the deductibility of these fees because they relate to examinations, which are, to some extent, inquiries into potential violations. Also, this Section could be interpreted to preclude tax deductions for remedial measures undertaken pursuant to a regulator's order, or to address concerns raised in an examination. As a result, we could be in a situation where the regulators are requiring audits or imposing other compliance-related costs, but the companies are prohibited from taking deductions for the required payments.

Mr. GRASSLEY. I appreciate the concern of the Senator from Alabama with respect to Section 333. It was not the Committee's intent to prohibit deductions for amounts paid by companies as a condition to their operation in a regulated industry.

Mr. SARBANES. Mr. President, I too am concerned that the language of Section 333 could have unintended consequences. It was my understanding that Section 333 was intended to exclude certain payments.

Mr. GRASSLEY. The Senator from Maryland is correct. The Committee addressed this issue in its publication entitled: ''Technical Explanation of Provisions Approved by the Committee on May 8, 2003.'' Footnote 164 of this publication states:

> The bill does not affect amounts paid or incurred in performing routine audits or reviews such as annual audits that are required of all organizations or individuals in a similar business sector, or profession, as a requirement for being allowed to conduct business. However, if the government or regulator raised an issue of compliance and a payment is required in settlement of such issue, the bill would affect that payment.

Mr. SHELBY. I would ask that the Chairman clarify the text of Section 333 in order to specifically exclude such payments.

Mr. GRASSLEY. It is my intention to amend and clarify Section 333 in the conference report in order to reflect the Senators' comments and to carve-out certain fees and expenses paid by companies operating in highly-regulated industries.

Mr. SHELBY. In addition we have received letters from Chairman Greenspan of the Federal Reserve Board, Director Gilleran of the Office of Thrift Supervision and Chairman Powell of the FDIC expressing their concern regarding the breadth of Section 333. At this time, I would like to incorporate these letters into the RECORD. Mr. Chairman, thank you for your attention to an issue that is of great importance to many companies in a variety

of industries. I look forward to working with the Chairman to amend the text of Section 333 in the conference report.

SYNDICATION

Mr. SMITH. Mr. President, I want to bring to the Chairman's attention a matter that has arisen regarding the bonus depreciation provision that was enacted last year in the Job Creation and Worker Assistance Act of 2002. When the House developed this provision, it wanted to ensure that the provision would stimulate the production of new, as opposed to ''used'', equipment and other products. Thus, the additional depreciation deduction was restricted to those taxpayers who first ''used'' the product. Inadvertently, the ''original use'' requirement of this provision excluded many of the transactions in heavy equipment that the provision was intended to stimulate. Specifically, the provision inadvertently excluded multi-unit sales of equipment that were placed in service by manufacturers over a period of time and then sold to the ultimate purchaser of the equipment.

Mr. GRASSLEY. That is correct. The Senator from Oregon refers to a common form of financing transportation and other equipment that involves the production of numerous units, all subject to a common lease. We refer to this form of financing as ''syndication''.

Mr. SMITH. I have language that would correct this oversight in the original 2002 Act. My language would ensure that sales of equipment which involve numerous units of the same good, subject to the same lease, would not inadvertently be excluded from the bonus depreciation benefits of the 2002 Act, simply because the manufacturer was placing the goods into service as they were being manufactured, prior to his ultimate sale of the goods, subject to the master lease, to the ultimate purchaser. My language would ensure that no abuse of the bonus depreciation could occur and that the final sale of the products occurs within a short period of time. I would ask the Chairman to reassure the many heavy manufacturers of the United States and the purchasers of new equipment that this oversight in the 2002 Act will be rectified when the House and Senate meet in conference to iron out the differences in our respective tax legislation.

Mr. GRASSLEY. I can assure the Senator from Oregon that I support the effort to clarify this situation in conference and ensure that the 2002 bonus depreciation provision is available to purchasers of equipment pursuant to this method of financing multi-unit sales of heavy equipment. I thank the Senator for bringing this inadvertent error in the original 2002 Act to my attention.

Mr. SMITH. I thank the Senator. I propose that the conference adopt language to clarify this unfortunate oversight.

Mr. GRASSLEY. I appreciate the Senator from Oregon providing me with this information. This is a serious oversight in the original language and I will work closely with the Senator to ensure that this is corrected in conference with the House.

Mr. SMITH. I sincerely appreciate the Chairman's support and the good work he is doing as Chairman of the Senate Finance Committee.

INCOME FORECAST METHOD

Mr. BREAUX. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman and ranking member of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, regarding a provision in the bill that provides needed clarification and helps to insure an accurate reflection of taxpayers' income.

The provision I refer to resolves certain uncertainties that have arisen recently regarding the proper application of the income forecast method, which is the predominant cost recovery method for films, videotapes, and sound recordings. The provision merely reinforces the continued efficacy of existing case law and longstanding industry practice. For example, the provision clarifies that, for purposes of the income forecast method, the anticipated costs of participations and residuals may be included in a property's cost basis at the beginning of the property's depreciable life. This was the holding of the Ninth Circuit in Transamerica Corporation v. U.S. (1993). The provision also clarifies that the Tax Court's holding in Associated Patentees v. Comm., 4 TC 979 (1945), remains valid law. Thus, taxpayers may elect to deduct participations and residuals as they are paid. Finally, the provision clarifies that the income forecast formula is calculated using gross income, without reduction for distribution costs.

I would like to confirm my understanding with Senator GRASSLEY and Senator BAUCUS that by providing these clarifications and eliminating uncertainty the provision was intended to put to rest needless and costly disputes.

Mr. GRASSLEY. I am happy to confirm the understanding of the distinguished Senator from Louisiana. The provision was adopted to provide needed clarifications in order to eliminate the uncertainties that have arisen regarding the proper application of the income forecast method. I believe the disputes that have arisen regarding the mechanics of the income forecast formula are extremely unproductive and an inefficient use of both taxpayer and limited tax administration resources. By adopting these clarifications, I believe the committee intended to end any disputes and prevent any further waste of both taxpayer and Government resources in resolving these disputes. Any existing disputes should be resolved expeditiously in a manner consistent with the clarifications included in the bill.

Mr. BAUCUS. I agree with the distinguished chairman of the Finance Committee, Senator GRASSLEY. The disputes resulting from any uncertainty regarding the proper application of the income forecast method are extremely unproductive and wasteful. To avoid further waste, resolution of any disputes must be resolved in a manner consistent with the clarifications contained in the bill.

Mr. BREAUX. I thank both of my distinguished colleagues for this important clarification. I hope this puts to rest any uncertainty and wasteful disputes regarding the proper application of the income forecast method.

DIVIDENDS

Ms. COLLINS. I would like to engage the distinguished chairmen of the Senate Budget and Finance Committees in a colloquy on the Budget Committee chairman's dividends amendment. As my colleagues are aware, no provision of the economic growth package is more important to me than my amendment providing $20 billion in short-term fiscal relief to States and localities. If we are to kick-start our economy through Federal tax relief, we must help our States avoid raising taxes and slashing spending. And in the process of passing this bill, the last thing we can afford is to exacerbate the States' fiscal woes.

I am therefore concerned that the language of the Budget Committee chairman's dividends amendment does not adequately protect States from revenue loss. As you know, I cannot vote for a dividends amendment that would lessen the benefits of my fiscal relief provision without an assurance that it would be fixed in conference. I therefore seek the assurances of the distinguished Budget and Finance Committee chairmen that they will do all they can in conference to protect States from revenue loss associated with any dividends provisions in the final bill.

Mr. NELSON of Nebraska. I, too, believe that there is no more important component of this bill than its fiscal relief provisions, and I have serious reservations over any dividends language that would further hurt the States that we are trying to help. I join my colleague from Maine in asking my colleagues, the distinguished chairmen of the Senate Budget and Finance Committees, for assurances that they will do all they can in conference to prevent States from losing revenue as a result of any dividends language.

Mr. NICKLES. I thank the distinguished Senators from Maine and Nebraska for raising this issue again. They have carried the torch for the States throughout the debates on the budget and an economic growth package.

I am pleased to provide the assurances that my colleagues seek. The intent behind my amendment is not to add to the fiscal plight of States, and I will do all I can to ensure that any dividends language that emerges from conference does not cause States to lose tax revenues.

Mr. GRASSLEY. I would echo the comments of my colleague from Oklahoma. I, too, will do all that I can in conference to ensure that States revenues are not reduced by any dividends provisions that are included in the final product.

Ms. COLLINS. I thank my distinguished colleagues, both for their assurances and for their leadership in putting together a growth package that can stimulate the economy and create new jobs.

Mr. NELSON of Nebraska. I, too, thank my colleagues for their assurances.

COLLOQUY BETWEEN SENATOR ENSIGN AND CHAIRMAN GRASSLEY ON THE DEPRECIATION TREATMENT OF HOSPITALITY BUSINESS

Mr. ENSIGN. Mr. President, I rise to engage in a colloquy with the distinguished Senator from Iowa, the Chairman of the Finance Committee.

First of all, I want to commend my distinguished colleague for his strong leadership in crafting the tax cut package before us today that is so critical to creating new jobs and building economic growth for the citizens of my State of Nevada and across the country.

I would say to my distinguished colleague that I am very concerned about recent efforts by the IRS to carve up integrated hotels, restaurants, and casino businesses into different pieces subject to different depreciation treatment.

Equipment, furniture, and similar personal property used in the hospitality business, and in the retail industry more generally, have long been depreciable over a 5-year period. However, the IRS is now asserting on audit that the tables, chairs, carpeting, and other furniture and equipment used in the gaming portion of such hospitality facilities must be depreciated over a longer 7-year period used for miniature golf courses and bowling alleys, while the same table, chair, and carpeting 10 feet away in the hotel portion of the facility continue to be depreciated over 5 years.

The IRS has promulgated no regulation on this point and is unable to cite any applicable statutory or judicial authority for its assertion on audit.

In the face of this uncertainty, I would ask the chairman of the Finance Committee to clarify whether these efforts by the IRS are consistent with the congressional intent of the depreciation provisions of the Internal Revenue Code.

Mr. GRASSLEY. If the Senator will yield, I would say to my distinguished colleague from Nevada that I share his concerns and that it may not properly reflect congressional intent for the IRS to separate an integrated hotel, restaurant, and casino business into different pieces subject to different depreciation treatment. Equipment, furniture, and similar personal property used in a such a business should be depreciable in accordance with the current law treatment of the hotel industry and the retail industry generally. I will be happy to work with the Senator to provide appropriate clarification for depreciation of assets used for gaming in the hospitality industry.

AMENDMENT NO. 545

Mr. KENNEDY. Mr. President, this Republican tax bill provides lavish support for the wealthy, but it gives only the back of its hand to America's senior citizens. This amendment changes those backward priorities. It eliminates the dividend tax cut and the cut in the top rate bracket, and uses the funds to pay for a Medicare prescription drug benefit for the elderly.

The two tax cuts my amendment eliminates will primarily benefit the rich. Prescription drug coverage under Medicare will benefit 40 million senior citizens and the disabled individuals, who are overwhelmingly of modest means and typically have high medical costs. These men and women have stood by our country through war and depression. Giving them the medical care they deserve is a higher priority than giving the wealthy even greater wealth. When Republicans side with the wealthy, they call it free enterprise. When senior citizens ask for fair treatment, Republicans call it class warfare.

Medicare is not class warfare. It's a solemn promise between government and the American people. It says, ''Play by the rules, contribute to the system during your working years, and you will have health security in your retirement years.'' Because of Medicare, the elderly have long had insurance for their hospital bills and their doctors bills. But the promise of health security at the core of Medicare is broken every day because Medicare does not cover the soaring price of prescription drugs.

Too many elderly citizens must choose between food on the table and the medicine they need. Too many elderly Americans are taking only half the drugs their doctor prescribes—or none at all—because they can't afford them. Today, the average senior citizen has an income of $14,000—and prescription drug bills of $1,500, and many senior citizens pay far more than that.

Every day, senior citizens face the harsh fact that prescription drug costs are going through the roof, while their incomes are stagnating. Over the last four years, prescription drug costs have gone up by 16 percent a year, while the Social Security benefits on which senior citizens depend have gone up only 2.3 percent a year. Hard-pressed employers are cutting back on retiree prescription drug coverage—and some retirees are losing their coverage altogether, because their former employers are now bankrupt.

While millionaires receive huge tax breaks they do not need under the Republican tax plan, the Republican budget shortchanges senior citizens who desperately need prescription drug coverage. Prescription drug spending for senior citizens will total $1.8 trillion over the next decade but the Republican budget allocates only $400 billion for Medicare.

Even worse, the Republican budget's $400 billion for Medicare isn't even reserved for prescription drug coverage. The President wants to spend tens of billions of this amount on so-called reforms to force senior citizens to give up Medicare and join HMOs or other private insurance plans. Relief for hard-pressed doctors, hospital, home health agencies, and nursing homes is also supposed to come out of this minimal allocation.

It is important for every Senator to understand who it is that Medicare protects—and who it is that the Bush administration would force into an HMO or other private insurance plan. The typical Medicare enrollee is a 75-year-old widow, living alone. Her total income is just $11,300 a year. She has at least one chronic condition and suffers from arthritis. In her younger years, she and her husband worked hard. They raised a family. They stood by this country through economic hard times, the Second World War, the Korean war, and the cold war. They sacrificed to protect and build a better country—not just for their children but for all of us.

This is the woman Republicans want to force to give up her doctor and join an HMO. This is the woman they say should give up her freedom to go to the physician and hospital of her choice, so that HMOs can profit. This is the woman who would be victimized if Congress allows the GOP plan for Medicare to become law.

Senior citizens deserve prescription drug coverage—no ifs, ands, or buts. Republicans say Medicare is a failed program—but millions of senior citizens know better. Republicans believe that the private sector does a better job of controlling costs than Medicare—but studies show the reserve is true. Republicans say senior citizens should be forced to give up the doctors they trust, so that HMOs and private insurance plans can enjoy higher profits—but the American people don't agree; and the U.S. Senate shouldn't agree either.

Senior citizens are faced with a deadly double whammy. Prescription drug costs are out of control, and private insurance coverage is drying up. Last year, prescription drug costs soared by a whopping 14 percent. They have shot up at double-digit rates in each of the last five years. Whether we are talking about employee retirement plans, Medigap coverage, or Medicare HMOs, prescription drug coverage is skyrocketing in cost, and becoming more and more out of reach by the elderly.

It used to be that the only seniors with reliable, adequate, affordable coverage were the very poor on Medicaid. Today, because of the state fiscal crisis created by the recession and the let-them-eat-cake attitude of the Republican party, even the poorest of the poor can no longer count on protection.

States are now facing the largest budget deficits in half a century—an estimated $26 billion this year, and $70 billion next year.

The result is that States are cutting back on prescription drug coverage for those least able to pay. Thirty-nine States expect to cut their Medicaid drug benefit this year. In Massachusetts, 80,000 senior citizens were about to lose their prescription drug coverage under the State's Senior Advantage program on July 1. Emergency action by the State legislature saved the program, but only after making substantial reductions in coverage.

Tax cuts in this Republican bill will make the States' fiscal situation even worse. Because State taxes are often pegged to the Federal system, the dividend tax cut alone will cost States $11 billion over the next 10 years.

Ten million of the elderly enjoy high quality, affordable retirement coverage through a former employer. But retiree coverage is plummeting too. In just 8 years—from 1994 to 2002—the number of firms offering retiree coverage fell by a massive 40 percent.

Medicare HMOs are also drastically cutting back. Since 1999, more than 2 million Medicare beneficiaries have been dropped by their Medicare HMOs. Of the HMOs that remain in the program, more than 70 percent limit drug coverage to a meager $500 a year or less, and more than half only pay for generic drugs. Medigap plans that offer drug coverage are priced out of reach for most seniors—and even the coverage offered is severely limited.

Thirteen million Medicare beneficiaries have no prescription drug coverage at all. Only half of all senior citizens have coverage throughout the year.

Previous Republican proposals have shown what happens to senior citizens when funds are inadequate. High deductibles, gaps in coverage, demeaning asset tests, and incentives for employers to drop retiree coverage are just some of the unacceptable features of programs that give crumbs to the elderly and plums to the wealthy.

This amendment strikes two provisions of the tax bill that primarily benefit the rich, in order to provide funds to give the elderly the prescription drug benefit they deserve. The first provision the amendment strikes speeds up the reduction of the top tax rate from 38.6 percent to 36 percent. Virtually all the benefits of this Republican tax rate reduction go to people earning more than $310,000 a year. People earning a million dollars a year or more will receive a tax cut of $60,000. I ask Members of the Senate: Do persons with a million dollars in income a year really need another $60,000 in tax cuts? Surely, our values and priorities have not become so warped that we think it is more important for millionaires to be richer than it is for senior citizens to have life-saving prescription drugs.

The second provision the amendment strikes is the dividend tax cut. That cut does virtually nothing for senior citizens and everything for the wealthy. The provision in the bill is only a partial elimination of the tax on dividends, but its intention is clearly to set the stage for full repeal of the tax. The full repeal would certainly be welcomed by millionaires. They will get an average tax break of $52,000. But a low-income elderly person with $8,600 in income will get a tax cut averaging $1. And the average elderly person with an income of $14,000 will get a tax cut of $26. Do the Members of the Senate really believe this is the right priority for our country?

The funds saved from this amendment—$115 billion over 10 years—will be used to provide a better prescription drug benefit than will be possible if this tax bill passes in its current form. Passing this amendment will be a clear statement by the Senate that mending the broken promise of Medicare is more important than lavishing unneeded and undeserved new tax breaks on millionaires.

Mrs. MURRAY. Mr. President, I rise in strong support of the amendment offered by Senator KENNEDY to extend unemployment benefits for millions of Americans. These fellow citizens are out of work through no fault of their own. They need our help, and by extending their benefits, we will also help stimulate our struggling economy.

In my own State of Washington, we have lost over 80,000 jobs since 9/11. The Kennedy amendment would help some 102,000 workers in my state who will exhaust their benefits over the next few months. It will help nearly 4 million workers nationwide.

These are people who want to work and who are looking for jobs but can't find them in our slow economy. It is not easy to find a job in this economy. Just listen to these statistics. The average number of jobs for which unemployed adults have applied is 29. The average for those who have been unemployed for 9 months or more is 39, and unemployed adults over 44 years old apply for an average of 42 jobs before they find work.

Despite these efforts, these workers are now being threatened with mortgage foreclosures and repossession of their vehicles. One in four unemployed workers has had to move to other housing or move in with friends or relatives.

They are facing problems in health care. For instance, one-third of the unemployed were once covered by health insurance, but now they have lost these benefits because they have lost their jobs.

They are spending less on food, medical care and clothing for their children.

I know these workers will help provide a real and immediate stimulus for our economy because they will buy groceries, pay their utility bills, make house payments and pay for other essential needs for their day to day existence. Nearly 80 percent of these workers say that unemployment benefits have been very important in helping their families meet their basic needs.

In fact, a recent study by Economy.com found that the single most effective stimulus measure would be an extension of unemployment compensation benefits. The study also found that each dollar dedicated to extending the program would boost the economy by $1.73, while each dollar connected to reducing the taxation of dividends would boost the economy by just nine cents.

So I urge my colleagues to extend unemployment benefits for these workers. They need and deserve our help, and helping them will directly help our economy.

AMENDMENT NO. 557

Ms. CANTWELL. Mr. President, I rise today in support of Senator SCHUMER's amendment to expand the higher education tax deduction. This amendment would make the higher education tax deduction permanent and increase the amount that taxpayers can claim for a deduction. The higher education tax deduction helps families afford a college education at a time when tuition increases are outpacing the cost of inflation. Families need help to be able to give their children the opportunities and support needed for a good solid education.

In our information-based economy, the value of a good education is the key to success. I know this from personal experience. When I left the House of Representatives, I went to work for a high technology company in Seattle, WA. I did not have any expertise or knowledge in this area, but because I had a solid education that gave me the foundation to learn on the job, I was able to learn quickly and thrive in my new environment. That is the value of a good education.

My experience is hardly unique. According to the Department of Labor, the typical worker will change jobs nine times during his or her career.

When workers change jobs, they will find that more and more employment opportunities require a college degree. Eight of the 10 fastest-growing occupations require at least a bachelor's degree. At the same time, jobs for people who have not attended college are quickly disappearing. Twenty-three of the 25 fastest-declining careers do not require a degree.

A college degree is no longer a luxury—it is an imperative.

There is a ''perfect storm'' brewing at colleges across this country that is making it increasingly difficult for families to afford a college education. First, endowment earnings are down, significantly reducing revenue for colleges and universities. Second, the economy has been sluggish for so long that corporate and individual charitable giving has been reduced across the country. Third, the sluggish economy has put State budgets across the country in crisis. All of these factors are contributing to the skyrocketing costs of college tuitions.

In Washington State, the legislature has significantly cut funding for higher education and that means tuition is going up. In just the last 2 years, tuition at 4-year universities and two-year colleges has increased by 12 percent each year. Over the past decade, tuition at the University of Washington has shot up an astounding 103 percent.

This trend is not limited to my State.

The vast majority of American families rely in part on federal aid to help finance their children's college education. A recent General Accounting Office report illustrated this point. It found that more than 75 percent of all undergraduate students receive some form of federal financial assistance. In addition, more than 40 percent of all undergraduate students benefit from a higher education tax credit.

With the cost of tuition on the rise, we can expect that even more families will require aid to send their kids to college.

We cannot let the opportunities of higher education slip out of reach. Expanding access to federal financial aid is a critical long-term investment in our workforce, and in our economy.

AMENDMENT NO. 575

Mr. SPECTER. I voted to sustain the point of order against the Kyl amendment because there needs to be more analysis as to its ultimate effects. The amendment is very complicated. I tried to determine the effects of the legislation in the absence of hearings, and could only begin to scratch the surface due to the many conflicting representations from various parties. We have not had the necessary foundation established as to the effects of this amendment.

There are many facts that should be developed before we embark on this course of action. Either the Finance Committee or the Judiciary Committee should hear from the parties involved, including the States, and develop a factual record as to what occurred during the course of the litigation. Senators should have access to the record on these issues through the hearing process. After the facts have been developed, then a determination should be made on the issue. It is not a timely decision absent the development of such a record.

I am prepared to participate in hearings, find the facts and make an informed judgment on whether sound public policy would be served by a mechanism, through the tax code or otherwise, to limit compensation for anyone in the marketplace.

AMENDMENT NO. 575

Mr. BIDEN. Mr. President, I rise to speak in opposition to the amendment of the Senator from Arizona. This amendment would retroactively breach the contracts entered into by States and their attorneys, and the settlement agreement reached in the tobacco-related Medicaid expenses litigation.

Let me remind my colleagues of the context in which this historic tobacco settlement came about. There were over 40 years of law suits brought against tobacco companies, occurring over three different time periods.

When these attorneys brought this litigation, cases against tobacco companies would go on for years and years, almost always with little or no favorable results. In order to catch the deception and subterfuge of these companies, these cases needed staying power. The attorneys bringing these cases needed the ability to withstand significant losses while they uncovered the facts needed to make the damning case that the tobacco companies had been hiding from the public.

The plaintiffs' attorneys undertook this riskiest of cases against daunting odds, with a high likelihood of never getting paid at all. In the first phase of tobacco litigation, no one was able to muster the resources needed to bring these cases. Then a group of attorneys in the public interest pooled over $100 million of their own money in order to withstand the onslaught put up by tobacco companies bent on hiding the truth from the public.

The tobacco companies spent approximately $700 million a year in legal fees to their lawyers during this period. Thanks to their tenacity, their legal skill, and the righteousness of their cause, in the end the attorneys who brought this action prevailed. They secured a settlement that returned $246 billion to the States. That is ''billion'' with a ''b.'' To put it in perspective, that is almost as large as our entire budget deficit.

Let me say that again the tobacco settlements resulted in a huge windfall for the States and for the American people. I daresay that, in this day and age when State budgets are more squeezed than ever as a result of Federal cuts and unfunded mandates, if the States were offered this deal again, including the attorney's fees, they would take the deal in a heartbeat. In a heartbeat.

And the money collected by the States under this settlement is only the beginning. The settlement funds a new public education program to reduce youth tobacco use; it provides money every year for tobacco-related research; it dissolves the organizations that have historically served as the tobacco companies' propaganda machines; and it prohibits tobacco advertising aimed at children, such as the use of cartoon characters.

Supporters of this amendment would have you believe that its provisions somehow make the existing system fairer. Nothing could be further from the truth.

The American way is to reward those who take a risk and succeed. We grant patents that protect inventions for 17 years. We give copyright owners exclusive rights to their works for their entire life, plus another 70 years. More importantly, we don't punish people who come up with a great idea and turn it into a success. To the contrary we let them keep the fruits of their labor. But under the logic of this amendment, we would seek to penalize Bill Gates' $40 billion net worth, simply because he started with little more than a great idea and a vision to make it happen, took the risk, and prevailed. Just like these attorneys who brought the tobacco cases.

Supporters of this bill would also have you believe that it is only the trial lawyers and their supporters who oppose this amendment. Nothing could be further from the truth. Among others, consumer advocates people who look out for the little guy strongly oppose this amendment.

I also find it ironic that this amendment, which would abrogate a settlement entered into by the States, is being offered by some of the very same Senators who have made a career of advocating for States rights. This amendment, which would abrogate the contractual rights of private parties, is being offered by some of the very same Senators who have made a career of upholding the right to enter into contracts without undue regulation.

Just to be clear my colleagues refuse to interfere in the right of States to send defendants to execution without competent counsel, but insist on interfering to undo an agreement where the States reap $246 billion from the tobacco companies. Quite simply, they have got their priorities backwards.

I might also remind my colleagues of one other historical fact: Some of the Senators who are pushing this amendment today are the same folks who, just a few years ago, were doing everything in their power to defeat Federal attempts to force the tobacco companies to pay for the huge damages they have inflicted on the American people. Fortunately for the American people, and for the 50 States, they failed. Now, however, they are trying to undo this successful settlement after the fact.

Ladies and gentlemen, this is America. We make deals and we stick to them. We do not go back on our word. I urge you to oppose this amendment.

AMENDMENT NO. 594

Mr. BINGAMAN. Mr. President, I am pleased to cosponsor and support amendment No. 594 being offered by the chairman of the Finance Committee with respect to the Medicare Program.

The amendment provides approximately $25 billion over 10 years to reduce the inequity in the Medicare Program between urban and rural areas and between the States that has so penalized health care providers in New Mexico and includes language from four bills that I have either introduced this year or introduced last year.

First, I am pleased the Grassley amendment includes the language from S. 379, the Medicare Incentive Payment Program Improvement Act of 2003, which I introduced with Senator THOMAS and makes automatic the 10 percent bonus payment intended to physicians

in rural, medically underserved areas. Under current law, physicians must go through a cumbersome application process, if they even know they are eligible and can apply, and subject themselves to increased scrutiny for audits if they do apply. Consequently, few doctors are receiving the payment intended to provide physicians incentives to treat Medicare patients in medically underserved areas and to retain those doctors already providing services in those areas.

Second, the Grassley amendment includes language that significantly reduces the geographic inequities that are a part of the current Medicare physician payment system and disadvantages New Mexico physicians. This language is similar to that in S. 881, the Rural Equity Payment Index Reform, REPaIR, Act of 2003, which I introduced with Senator COCHRAN and is a companion bill to H.R. 33, introduced in the House of Representatives by Representative BEREUTER. Reducing the inequity in just the work component of the physician payment schedule will increase payments to New Mexico physicians by an estimated $3 million annually.

Third, this amendment includes language from legislation I introduced late last year entitled the Medicare Hospital Outpatient Department Fair Payment Act with Senator SNOWE to extend the hold harmless for rural hospitals in outpatient departments, and adds a 5 percent add-on payment for clinics and emergency room visits in rural hospitals.

And fourth, the amendment lifts the rural cap in the Medicare disproportionate share hospital, DSH, program, which comes from the Medicare Safety Net Hospital Improvement Act that I introduced last year with Senator ROBERTS. This provision will add an estimated $4 million annually to New Mexico rural hospitals.

In addition, I would like to applaud the chairman for including language from legislation, S. 816, introduced by Senator CONRAD that I was an original cosponsor of and entitled the Health Care access and Rural Equity Act. Among other things, the language eliminates the disparity in hospital payments caused by the differential paid to rural and small urban hospitals compared to large urban hospitals and significantly reduces the disparity caused by the wage index in the hospital payment formula. Although rather arcane provisions in the hospital payment formula, they result in significant disparities in payments and the changes will have an important impact on hospitals throughout New Mexico.

Before closing, I would like to express profound concern with respect to the offsets used by the amendment, which include the addition of copayments for clinical services and the impact the change in payments for outpatient department prescription drugs will have on oncology physicians. However, Chairman GRASSLEY has committed to work to address the need for a revision in payments to oncology doctors and we will work to change the language with respect to copayments for clinical laboratory services as this language moves forward.

Mr. NELSON of Florida. Mr. President, I would like to take this opportunity to explain my vote against the Grassley amendment during consideration of the tax bill.

Since joining the Senate in 2001, I have been an avid and consistent supporter of rural health care and Medicare providers.

It was a hard decision to vote against this amendment. However, I could not in good conscience, support an amendment that as an offset would increase out-of-pocket expense for our Nation's seniors.

Medicare beneficiaries are already coping with having to choose to buy their medicines or put food on the table. They are struggling to pay for their share of health care costs, and even increased health plan premiums. It is unconscionable to think that we would ask them to meet deductibles and make copayments on outpatient lab services—something they have not had to pay for in the past. At this point, no concrete analysis is available showing the impact this would have on seniors and their out-of-pocket costs.

At a time when we are growing increasingly concerned about how much seniors are having to spend to access the care they need, how can we ask them to pay more? We have not even delivered the promise of a comprehensive outpatient prescription drug benefit.

I was prepared to support Senator HARKIN's amendment—which he withdrew. That amendment, which included many of the provisions in the Grassley amendment, would have resulted in over $870 million to Florida's hospitals over the next 10 years. That amendment, however, eliminated the dividend tax cut beyond the initial $500—an offset I could support.

Last year, I was a cosponsor of the Beneficiary Access to Care and Medicare Equity Act of 2002. This bill, by Senator BAUCUS, included a myriad of provisions benefiting rural health care providers, and as a result, beneficiaries residing in rural areas.

Furthermore, earlier this year, during consideration of the budget debate, I supported an amendment by Senator HARKIN to help rural health care providers and hospitals receive a fair reimbursement for services under Medicare. That amendment reduced tax cuts to the wealthiest income brackets—an offset I could support.

I am committed to improving the state of health care in our rural communities and will continue looking for ways to do so, but not on the backs of our Nation's seniors.

AMENDMENT NO. 596

Mr. CRAIG. Mr. President, I regret that I was detained in my effort to return to the floor, from another appointment, to vote on the Collins amendment, No. 596. Had I been present, I would have voted in favor of the amendment. I have been speaking again this week with our Governor of Idaho about the current fiscal difficulties faced by State and local governments. In both his role as Governor of our State and as the incoming chairman of the National Governors Association, Governor Kempthorne has eloquently argued the case for Congress to work with the States to address this situation. I am pleased that the Senate today could come to bipartisan agreement in its approach to temporary fiscal relief.

AMENDMENT NO. 654

Mr. GRASSLEY. Mr. President. I commend my colleagues for their work on this important amendment, which injects much needed flexibility and funding for safety net hospitals that treat especially vulnerable populations. This amendment alleviates pressure on those hospitals and allows ''extremely low-DSH States'' to increase Medicaid DSH allotments to 3 percent in Fiscal Year 2004. Currently, Federal law restricts Medicaid DSH allotments to ''extremely low-DSH States'' to only 1 percent of Medicaid Program costs.

I thank Senators BINGAMAN and DOMENICI for their work and for their dogged commitment to the cause. I have supported low DSH improvement legislation in the past, and I am thankful for their leadership on this important issue this year.

Mr. BINGAMAN. Mr. President, I would like to thank the chairman and ranking member of the Finance Committee, Senators GRASSLEY and BAUCUS, for agreeing to accept the language in the amendment being offered by me and Senators ENZI, LINCOLN, SMITH, and NELSON of Nebraska, that would increase the Federal allotment to States for Medicaid disproportionate share hospital, or DSH, payments to what are called ''extremely low-DSH States'' from 1 percent of overall Medicaid spending in each State to 3 percent. The language comes from legislation, S. 204, that I introduced with Senators ENZI, LINCOLN, BAUCUS, SMITH HARKIN, DOMENICI, JOHNSON, NELSON of NEBRASKA, and DAYTON, and was cosponsored by Senators PRYOR, DORGAN, and DASCHLE, entitled the Medicaid Safety Net Improvement Act of 2003.

This amendment is important to the continued survival of many of our Nation's safety net hospitals that provide critical health care access to a number of our Nation's 41.2 million uninsured citizens, including 373,000 in New Mexico, through the Medicaid disproportionate share hospital, or DSH, program.

At a time of growing numbers of uninsured and increased financial strain on our Nations' safety net, we need to increase the ability of ''extremely low-DSH States' to address the problems facing their safety net and to reduce

the current inequity in funding among the States. In fact, many hospitals have resorted to cutting services or eliminating jobs to deal with the growing uncompensated care problem, and it threatens the health care safety net across this country.

At Memorial Medical Center in Las Cruces, NM, the hospital recently announced the elimination of its maternity and mental health care services due to the rapidly growing burden of uncompensated care. While the elimination of those services has been temporarily forestalled, the uncompensated care burden and bottom line deficits at that hospital remain and the personnel layoffs of over 100 staff members in that community has already occurred.

Indeed, the stories about the growing burden on hospital emergency rooms across the country are well known. This is completely and directly related to the economic recession facing our country and makes this amendment directly relevant to this legislation.

It is also why the amendment has the support of the American Association, the National Association of Public Hospitals and Health Systems, the National Association of Children's Hospitals, the Federation of American Hospitals, the Association of American Medical Colleges, and the Catholic Health Association of the United States. As they write, ''Today, safety net hospitals face a confluence of challenges—including increased uncompensated care as more Americans find themselves without health insurance—that put critical pressure on hospitals' ability to serve their entire communities.''

The 20 States that would benefit from this amendment include: Alaska, Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Utah, Wisconsin, and Wyoming. I would add that the legislation does not impact the Federal DSH allotments in other States but only seeks to give ''extremely low-DSH States'' the ability to respond to the growing burdens of uncompensated care in their States.

I would note that Hawaii and Tennessee have been included in their amendment because their respective States currently do not have DSH programs and are prohibited from making such payments. The amendment provides them that authority under certain circumstances.

I would like to once again thank Senator GRASSLEY and his staff members, Ted Totman, Colan Roskey, Jennifer Bell, and Leah Kegler, Senator BAUCUS and his staff members, Bill Dauster, Liz Fowler, Kate Kirchgraber, and Andrea Cohen, for their help in getting this amendment passed. In addition, this would have never come to fruition without the strong support by Senators ENZI, LINCOLN, SMITH, NELSON of Nebraska, and the other cosponsors of S. 204.

AMENDMENT NO. 666

Mr. SARBANES. Mr. President, I am in support of the Dorgan amendment to the reconciliation tax cut bill that would strike a provision in the bill to privatize tax collection by the Internal Revenue Service.

The proposal to privatize tax collection is misguided. Privatizing tax collection will hurt both Federal employees, by contracting out Federal jobs, and taxpayers, who could be subject to the abuse and mismanagement of a private company. Privatization of tax collection has already been tried by the IRS in a 1996 pilot project. The pilot project was such an extraordinary failure that a further 1997 pilot project was cancelled. The contractors who conducted the project did not protect the sensitive information of taxpayers, and the project ultimately did not save the Federal Government any money.

The proposal would allow private companies to engage in collection activities without providing adequate safeguards for taxpayers against abusive activities. It is my understanding that the Fair Debt Collections Practices Act, known as FDCPA, which provides the most important protections for consumers from abusive or unfair actions by debt collectors, would not fully apply to the activities of the private tax collectors. I am particularly concerned that a taxpayer's ability to recover certain damages from an abusive private tax collector may be severely limited under this proposal.

In addition, the privatization of tax collection is a major change to the way our Government works. To make such a change without holding any hearings on the matter, and without considering all aspects of the proposal, particularly the failed pilot project and whether or not the plan will actually save money, is irresponsible.

Ms. SNOWE. Mr. President, I rise to speak to the critical issue of State fiscal relief, which I believe adds tremendous value to this economic growth package. As I have discussed on numerous occasions, I believe that one of the best stimulants for the economy is providing assistance to our State and local governments, which is why I have fought for its inclusion in this package.

Since December, when I first identified elements that I believed would stimulate the economy, I insisted on a State and local fiscal relief component. Today, I am pleased that the Senate is taking action through this floor amendment to further refine both the agreement and language that Senator SMITH and I insisted must be included in the growth package as passed by the Senate Finance Committee.

The growth package that the Senate Finance Committee reported establishes a $20 billion trust fund in S. 1054, the Jobs and Growth Tax Relief Reconciliation Act of 2003, to provide critical, flexible relief for both State and local governments. Also, I would like to thank Chairman GRASSLEY for his willingness to work with me to identify appropriate offsets that ensured this proposal would not increase the net cost of the growth package, and also that the relief provided was not only flexible, but helped to meet the challenges faced by our communities.

By securing support to include a $20 billion fiscal relief trust fund in this package, I was able to ensure that States and localities received the help they need in balancing their fiscal year 2004 budgets. Fiscal relief to State and local governments is vitally important to the health and strength of our economy, which is why I fought to ensure that half of the $20 billion would be modeled after my bill, S. 201, and would be flexible and divided between State and local governments with 40 percent going to localities and 60 percent to States.

The floor amendment under consideration will provide $20 billion in State and local aid to be distributed in fiscal years 2003 and 2004. Ten billion dollars in flexible funding will be distributed between state and local governments, with the remaining $10 billion provided to States through a temporary increase to the Federal Medical Assistance Percentage, known as FMAP, to help alleviate the short-term spike in Medicaid costs.

Because I thought it was important, we are providing $4 billion in flexible funding to local governments. While I know a number of my colleagues have questioned the necessity and importance of providing relief to local governments, I strongly believe that local governments have all the more pivotal and increasing responsibilities at a time such as this, when they face decreasing revenues. And a large percentage of this increased burden has come from unfunded federal mandates related to education, homeland security and election reform. By including $10 billion in flexible funding, distributed between state and local governments, we will ensure that essential government functions are performed.

As we all know, our states and local communities are struggling. For the past 3 years, while the economy has been in a downturn, they have worked to meet the needs of residents, while 49 out of 50 States including Maine are also required to balance their budgets. In fact, the National Conference of State Legislatures reports that since fiscal year 2001, the combined budget shortfall in states has totaled more than $200 billion. And the outlook for fiscal year 2004 is not proving different. In January, 36 states reported budget gaps totaling more than $68 billion for this year alone. In Maine, the Governor and Legislature were forced to trim $1.2 billion from their biennial budget in the wake of a $150 million shortfall in fiscal year 2003.

Some argue State budget shortfalls result from overspending—yet a report issued by the National Governors Association shows that State spending from 1995 to 2001 increased 6.5 percent per year, a rate identical to spending from

1979 to 2003. Rather, it has been a drop in the stock market and the economy concurrent with increased costs associated with necessities like elementary and secondary education, programs under the Individuals with Disabilities Education Act, or IDEA, homeland security, and Medicaid—that has been the real culprit in burdening State and local budgets.

The National Conference of State Legislatures has reported a substantial decline in projected revenue, including drops in income, sales and property tax receipts, and user fees. Indeed, data suggest that over three-fourths of the combined State budget shortfall is due to declines in State revenues. Again, unlike the Federal Government, States don't have the option of running deficits—and after 3 years, most practical belt-tightening measures have already taken effect.

On the spending side, the NCSL estimates that unfunded mandates for the policy areas I just mentioned account for up to $82 billion in increased expenses. And States rightly argue that the vast majority of their increased cost burden comes from the growing unfunded Federal mandate for providing care to the elderly and disabled. Medicaid provides access to health care for almost 43 million of America's poor, elderly and disabled citizens and it alone is a program for which costs have grown by 11.1 percent from 1990 to 2000.

Because of benefit shortfalls in the Medicare program—such as a prescription drug benefit—Medicaid ends up providing more vital services. Indeed, while seniors and the disabled represent only one-quarter of the Medicaid population, they account for almost three-fourths of all Medicaid expenses. For example, in fiscal year 2002 States provided $6.9 billion in prescription drug assistance to Medicare beneficiaries, and another $5.5 billion in copayment and premium assistance.

That is why providing fiscal relief is so critical—because while there is no question this population needs to be served, there should also be no doubt we can't leave States to be the last line of defense in footing the bill.

It is the same with issues like education—and that is why I also support providing flexible funding for States and localities to use as they see fit. In California 20,000 teachers are at risk of being laid off, in New York local districts are raising property taxes to offset the expected 4 percent cut in State education aid, and in Nebraska officials have told 1,000 students that their academic scholarships to state universities are being canceled and 431 college positions were eliminated. We are making such great advances in education—and we all know that education is the key to our future economic success. By providing fiscal relief, the Federal Government is continuing its commitment.

Of course, the level of assistance that Congress is providing would not eliminate any State or local governments' total budget shortfall. But it will provide vitally important assistance and has the support of the largest State and local associations that represent our country's local elected representatives and leaders. Moreover, providing this State and local fiscal assistance within the tax package is entirely in keeping with our efforts to stimulate the economy.

According to a recent Wall Street Journal article, ''Analysts at Goldman Sachs figure State and local belt-tightening will shave as much as a half-point from the economy's growth so that overall fiscal policy will be no more than neutral next year.'' After all, dollars spent on education, health care and transportation have an economic value today and tomorrow.

In fact, the U.S. Chamber of Commerce reports that for every $1 billion invested in transportation, 47,500 new jobs are created. And let us not forget that State and local governments account for more than 15 million jobs nationwide. As we take steps to put more money into the hands of consumers, we must also make sure that those who are employed by a State or local government, either directly or through a government service contract, are able to stay employed.

Providing short-term fiscal relief to help State and local governments balance their budgets is vitally important to the long-term viability of our economy. I thank Chairman GRASSLEY for his leadership on this issue, and I urge my colleagues to support this amendment.

Mr. REED. Mr. President, today I joined 49 of my colleagues in voting to waive the Congressional Budget Act in support of Senator DORGAN's amendment to restore the pre-1993 tax treatment of Social Security benefits.

In 1993, I joined a majority of Congress in voting for the Omnibus Budget Reconciliation Act, which combined with subsequent similar laws, eliminated the deficits of the early 1990s and the debt that had grown exponentially under Presidents Reagan and Bush. Included in this 1993 Act was a provision that changed the way Social Security benefits for individuals making over $25,000 and couples with income over $32,000 were taxed. Like many of my colleagues at that time, I believed there were more appropriate ways to eliminate the deficit, but budget procedures prevented them from being considered, and, while there were partisan amendments offered at later dates to reverse this policy, they did so by increasing the deficit, so I and a majority of my colleagues opposed these proposals.

Today's vote was different. It was different because the President and the Republican majority have brought about a striking reversal in our Nation's fiscal policies. In the span of less than 3 years, the government's fiscal situation has deteriorated from budget surpluses to near record budget deficits. We have gone from concerns that we would retire our mountains of public debt too quickly to considering the President's request to increase our debt limit to its highest level ever. And, today we are voting on a tax bill that will only exacerbate both of these problems. Indeed, it appears that the majority is resolutely determined to cut dividend taxes for the most affluent in our society. These actions are being taken without regard for fiscal soundness and without any consideration of the impact and the burden decisions we make today place on future generations.

In this environment, Senator DORGAN's amendment to aid senior citizens rather than the wealthiest 1 percent of Americans, is the appropriate policy because at the very least if we are going to deficit spend, we should direct those resources to those individuals who have already contributed in so many ways to this great Nation.

It would be my hope that we can find a way to address 1993 OBRA in a manner that aids deserving seniors while protecting the long term solvency of Social Security and restoring some sense of discipline to the Federal budget process.

Mr. JOHNSON. Mr. President, I rise today to share my thoughts on the tax measure before us. Few issues touch more Americans than the economy. Now that hostilities with Iraq are winding down, we need to focus on our own economy. Economic discussions tend to take on an unfortunate partisan tone, and I know that this bitterness is on display on the floor of the Senate today as we debate the President's latest tax cut proposal.

Regrettably, we often forget that we share a common goal: Every single member on this committee wants America to succeed. We all want Americans to find good jobs, to have access to affordable health care, to educate our children, and to retire with dignity and comfort. While we have sharp divisions on how to achieve that common goal, I hope we can remember at the end of the day that all of our intentions are good.

Despite all of our best intentions, we are facing nothing short of a budget crisis in America. CBO has revised its deficit projections upward yet again to reflect an end-of-year deficit of $300 billion. Federal revenues are on track to fall to the lowest level since 1959, even without more tax cuts, and we are about to vote on whether to raise the debt ceiling by almost another $1 trillion.

At the same time, we must make good on our commitments to the Iraqi people to help rebuild that country. We need to follow through on commitments here at home: to fund education and water projects and transportation and veterans' programs. Let's not forget that we will run right through the Social Security trust fund without setting aside so much as a dime for the young men and women who are paying into that system today, nor have we

taken any steps to address the imminent Medicare crisis.

Now, I admit that I went to college quite some time ago, and I understand that economic theories come and go, but I do not believe that basic math has changed. If you spend more than you have, you run up a deficit.

Yesterday in the Banking Committee we considered the nomination of Dr. Gregory Mankiw to become chairman of the Council of Economic Advisors. Given the health of this economy, we are certainly in need of some good advice. On reviewing some of Dr. Mankiw's work, I was especially interested in a passage from his 1998 book ''Principles of Economics,'' which talks about the dangers of short-term policies: ''People on fad diets put their health at risk but rarely achieve the permanent weight loss they desire. Similarly, when politicians rely on the advice of charlatans and cranks, they rarely get the desirable results they anticipate. After Reagan's election, Congress passed the cut in tax rates that Reagan advocated but the tax cut did not cause revenue to rise. Instead, tax revenue fell. . . and the U.S. federal government began a long period of deficit spending.''

On several occasions, I have expressed concern that this administration is sacrificing the long-term health of this Nation for a popular, short-term political measure. And the President's own nominee for the Council of Economic Advisors appears to share my concern.

I voted in 2001 for the President's tax cut plan. While I would have preferred to see more of that $1.3 trillion go to working Americans, I nevertheless agreed with a majority of my colleagues that a projected surplus of $5.6 trillion over 10 years was too high, and that we needed to refund some of that money. We face a starkly different picture today, and I simply do not understand how my distinguished colleagues can reverse course so completely with respect to their long-standing stated principles.

For example, the majority leader of this body, Senator BILL FRIST, said back in 1996 that ''we have a moral obligation to balance the budget.'' Senator SANTORUM, back in 1995, said that ''the American people are sick and tired of excuses for inaction to balance the budget. The public wants us to stay the course towards a balanced budget, and we take that obligation quite seriously.'' And Senator LOTT, just last year, said that ''the most important thing really does involve . . . keeping a balanced budget, not dipping into Social Security, and continuing to reduce the national debt.''

I would like to focus on Majority Leader FRIST's statement that running budget deficits is a moral issue. What he meant by that was that when we run a deficit, we defer the hard decisions for our children and grandchildren.

In February, a group of 10 Nobel Prize-winning economists spoke out against the President's latest plan: ''Passing these tax cuts will worsen the long-term budget outlook, adding to the nation's projected chronic deficits. This fiscal deterioration will reduce the capacity of the government to finance Social Security and Medicare benefits as well as investments in schools, health, infrastructure, and basic research. Moreover, the proposed tax cuts will generate further inequalities in after-tax income.''

And just a few weeks ago, Fed Chairman Greenspan appeared before the Banking Committee and said, in as many different ways as he possibly could, that tax cuts should only take place in the context of fiscal discipline. In other words, don't cut taxes if you can't pay for the cuts.

To quote once again from Dr. Mankiw: ''Prosperity tomorrow calls for sacrifice today. It is the rare politician that is willing to call for that.'' In a radio address on March 3, 2001, when we still had record surpluses and we were on a course to pay down the debt, President George W. Bush proclaimed, ''Future generations shouldn't be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.'' At the time, this was an easy statement to make. Now, however, fiscal discipline requires sacrifice, and we need President Bush to follow through on the promise of leadership through hard economic times. I call on President Bush to exercise leadership and put an end to this tax cut mania. No one likes to deliver hard messages, but that is the price of true leadership.

Every time I talk to someone from South Dakota, I hear the same thing: Our schools need more funding; our water projects need more funding; our veterans need more funding; the list goes on and on. But the simple fact is, we just don't have the money anymore. And we certainly won't have the money if we continue on this reckless course of tax cuts that will fill the pockets of those who already have more money than they can spend in a lifetime. I agree that we shouldn't let government grow too big. But we shouldn't destroy it either.

Mrs. BOXER. Mr. President, I am voting against this bill because I came to the Senate to represent California families and this tax cut for the wealthy elite is not in their interest. It contradicts the basic American values of fairness, responsibility, and opportunity.

We are now in the longest period of continued job losses since the Great Depression. In the first 3 months of this year alone, America lost another half a million jobs. As result, 8.8 million people are unemployed today. That is 2.8 million more than when President Bush took office. Most troubling, 1.9 million of those workers have been out of work for more than a year and a half. But instead of targeting the majority of the benefits to a majority of the people, this bill targets its benefits to the very top.

There is not a single responsible economist I know who thinks this tax package will get us out of the terrible economic condition we are in. In fact, 11 Nobel laureate economists and hundreds of others have published an open letter saying that passing these tax cuts ''will worsen the long-term budget outlook, adding to the Nation's projected chronic deficits. This fiscal deterioration will reduce the capacity of the Government to finance Social Security and Medicare benefits as well as investments in schools, health, infrastructure, and basic research.''

Those Nobel laureates also added that the tax cuts would generate further inequalities in after-tax income. The reason for that is that this package is skewed to those who do not need it.

That kind of windfall for the wealthy is bad policy. That is why I supported the Democratic alternative and other amendments that would have spread the benefits of the bill to more Americans.

The Democratic Plan for Jobs, Opportunity and Prosperity would put over 1 million people back to work by the end of 2004. The Democratic plan would provide three times more economic boost right now than the Republican plan. At the same time, the Democratic plan would put us back on the path to fiscal responsibility.

The Democratic plan would have cut taxes for every working American, providing an average benefit of $1,630 to a family of four making $50,000 a year. And it would have provided real assistance to the 8.8 million Americans who are currently unemployed. Our plan would have created a new credit for every working American, which will provide $300 for each adult in a family and $300 for the first two children. We wanted to accelerate the refundability of the child tax credit, accelerate the elimination of the marriage penalty, and extend and expand unemployment insurance for those looking for work, including the 1 million people who have already exhausted their benefits.

Also, the Democratic plan would have sparked growth by helping the States sustain vital services during the economic downturn and encouraging small businesses to invest. As part of the Democratic proposal, we proposed a 50 percent tax credit in 2003, worth $8 billion, to help small businesses pay their share of insurance premiums. And very important for California, our plan would have provided $40 billion in immediate aid to State and local governments. We also proposed tripling the amount of investments small businesses can write off immediately from $25,000 to $75,000 in 2003.

I was deeply troubled that my colleagues cared so much for the elite few that they voted against a number of amendments that would have helped working Americans. They rejected an effort to cut taxes on social security benefits for middle-income seniors. They rejected expanding the child tax

credit. They supported raising taxes on Americans working abroad. They fought efforts to increase tax benefits to help families pay for higher education. And they fought every effort to get more meaningful assistance to the States in this time of crisis.

There were two bright spots during the Senate consideration of this legislation. First, the Senate passed the Invest in the USA Act amendment that Senator ENSIGN and I introduced. It will create a one-time incentive for U.S. companies to bring $140 billion dollars in funds earned abroad back to the U.S. for job creation, investment in plants and equipment, and for other economically stimulative uses.

The Senate also adopted an amendment offered to crack down on delinquent parents who do not pay child support. My amendment, which is based on bipartisan legislation that I introduced, penalizes those who do not pay the child support that they owe.

Despite these two improvements, the bill—and some destructive amendments, such as an expansion of the dividend exclusion—is deeply flawed, unfair, and fiscally dangerous—creating massive deficits, which will hurt economic growth.

Mr. SARBANES. Mr. President, I rise today in opposition to the pending legislation, S. 1054.

Our economy today is in a precarious position. It was reported yesterday that retail sales in April fell. Initial unemployment claims remain well above 400,000, the level typically associated with a weak labor market. This morning we learned that industrial production decreased by one-half of 1 percent last month and that capacity utilization fell to 74.4 percent, and is now at the lowest level in 20 years. Our industrial base is producing less, we have more plants and equipment idle which has led to fewer jobs, reduced consumer spending and increased economic insecurity for the vast majority of Americans. The unemployment rate has risen to 6.0 percent, the highest level sine 1994 and our economy has grown only at rate of 1.5 percent over the past 6 months, far below its potential. This growth rate is far too slow to create enough jobs for the nearly 9 million unemployed American workers who want to find work but can not because there are not enough jobs to be had.

The facts indicate the serious nature of the problem facing the economy in the short run. Our economic growth is not strong enough to even maintain our job base, much less create the jobs needed for those who lost their jobs during the recession.

Unfortunately, the legislation before us today will not help solve these serious problems. The administration's proposal would create very little stimulus this year, when it is needed the most. Two economic consulting firms used by the administration reached this conclusion. One estimate, performed by Economy.com, calculated that the President's proposal will add only 0.4 percent to our gross domestic product this year. The President's proposal will not create enough jobs this year, when people are out of work and can not find a job because there are none to be had. Macroeconomic Advisers issued a report, entitled 'A Preliminary Analysis of the President's Jobs and Growth Proposals' which concluded that the plan would create only 242,000 jobs by the end of this year. That is less than half the 525,000 jobs that we have already lost this year alone.

The President's proposal falls far short of what the economy truly needs. Instead the administration proposal focuses on large permanent structural tax reduction aim at providing the maximum benefit to the wealthiest few. This will have very little stimulative effect while costing a great deal in both the present and the future. Far from stimulating the economy, the President's tax cut will create a large structural deficit which will slow future economic growth and result in fewer jobs. That is not just my conclusion. The Committee for Economic Development, CED, found that the President's proposal, ''would raise the cumulative 2004–2013 deficit by about $920 billion (including interest) and raise the annual deficit ten years from now by about $100 billion.

Large structural deficits have real consequences. They reduce national savings and investment, raise real interest rates and reduce economic growth. The costs of the President's plan over the long run are so substantial that the President's plan would actually reduce future economic growth. Macroeconomic Advisers concluded that ''as interest rates rise, the initial increase in the stock market and decline in the cost of capital are reversed. Weakening investments leads to a sustained decline in labor productivity and hence potential GDP.'' They found that the President's plan will reduce economic growth in the long run. Economy.com reached a similar conclusion. It estimated that the President's plan would actually shrink the economy over the next 10 years.

In his April 26 radio address, the President stated: ''Some Members of Congress support tax relief but say my proposal is too big. Since they already agree that tax relief creates jobs, it doesn't make sense to provide less tax relief and, therefore, create fewer jobs.'' In regard to that statement, the Washington Post reported, ''Asked to evaluate Bush's new argument, one Republican economist with close administration ties quipped, 'I suppose it matters whether you think economics matters.'''

I believe that economics matter. I also believe that when you pursue economic policies based on ideology instead of sound economic principles you end up hurting the lives of millions of Americans and threatening our economic future and prosperity. Look at the record of this administration: Since the President took office, the economy has lost 2.7 million private sector jobs. That is the largest job loss under any one President since we began keeping such statistics. This administration is on track to become the first administration since the Great Depression to witness a decrease in the number of jobs in America. When the President took office, what he, in effect, inherited was a 10-year surplus estimated at $5.6 trillion. That was a projection out for 10 years: a surplus of $5.6 trillion. Now with the policies that he has enacted and the policies that he is proposing, in particular, of course, this very heavily weighted tax cut for the benefit of upper income people, we will go from projecting a $5.6 trillion surplus over the 10-year period to projecting a $2.1 trillion deficit. That is a seismic shift in our position.

Many of my colleagues in the Senate as well as the President have argued that these deficit estimates are inaccurate because they fail to take into account the so-called dynamic effects from the President's proposed tax cuts. In a recent speech the President said that, ''in order to get rid of the deficit, you boost revenues coming into the Treasury by encouraging economic growth and vitality'' through his proposed tax cut. Yet when the Congressional Budget Office analyzed these dynamic effects under nine different models, it found that these dynamic effects made little difference on net and that under five of the nine models theses effects actually increased the deficit. That is under all of the various assumptions used by the CBO the so-called dynamic effects that the President has argued would help the tax cut pay for itself will not only fail to deliver on that promise but may actually increased the deficit. This is yet another example of engaging in a policy driven by political ideology instead of sound economics.

This bill is modeled on the failed economic policy that this administration has advanced: vast tax cuts for the extremely wealthy. The administration's proposal as estimated by the Brookings Institution creates a tax giveaway of over $89,000 to the average millionaire while providing only $482 to the average family with an income of $50,000. This truly represents the priorities of 'Leave No Millionaire Behind' instead of 'Leave No Child Behind.'

This does not have to be the case. The Congress could enact sensible, prudent policies which provide a real, substantial boost to our economy, create many more jobs now when they are needed, maintain our economic strength and security over the long run. Senator DASCHLE presented an alternative that would create real jobs, grow the economy, help unemployed workers, and assist State and local governments that are facing their worst fiscal crisis since WWII. Extending unemployment insurance benefits serves to stimulate the economy immediately as those receiving the benefits

are almost by definition sure to turn around and spend what they receive. Providing aid to State and local governments will allow them to forestall cuts to vital programs or tax increases, either of which would only exacerbate our current economic problems.

Comparing the Democratic alternative and the administration's proposal, the conclusions are the same using almost any economic model: The Democratic plan would create over 1 million jobs at by the end of this year, which is twice as many jobs as the administration's own estimate of their plan; the Democratic plan would provide more stimulus to the economy this year leading to higher economic growth; and the Democratic plan is temporary and far less costly than the President's proposal.

Mr. President, I oppose this legislation and I urge my fellow colleagues to vote no on this bill.

Mr. BIDEN. Mr. President, our economy is in a slump unlike any in recent memory. In fact, we are experiencing a downturn with features unseen since the days of the Great Depression.

In the last 2 years, we have lost over 2.6 million jobs in the private sector. That is the longest continous decline in the number of jobs in over 50 years. It has almost doubled the number of Americans who are stuck in long-term unemployment—out of a job for over half a year.

The unemployment rate has just risen to 6 percent, with 8.8 million Americans out of work.

The stock market has lost value by more than ten percent each of the last 3 years. The last time that happened was, again, the Great Depression of the 1930's. A drop of almost 30 percent in the value of the stock market has decimated the retirement savings of millions of Americans, and drained over $5 trillion in wealth from their net worth.

That is why we are here today, to debate how to respond to this crisis. This crisis is real, it is affecting millions of families directly and indirectly across this country. In addition to the thousands of jobs lost with every new report, millions more families are concerned about the security of their own jobs.

In fact, the situation is so precarious that the Federal Reserve, under the leadership of Alan Greenspan, has shifted its historical concern about inflation to a worry we haven't seen since the 1930's—deflation. Despite a series of 12 interest rate cuts in a row, that thave pushed interest rates to forty-year lows, the Federal Reserve's meetings are now focused on keeping us out of the kind of deflation trap that Japan has been stuck in for more than a decade.

When the Fed is more worried about deflation than inflation, you know you have a probiem.

And while we ended the last century with the Federal budget in balance for the first time in a generation, we now begin the new century facing deficits bigger that we have ever seen. The Congressional Budget Office has just raised its estimate of this year's deficit to $300 billion, and that doesn't even count this $350 billion tax cut before us today.

Wall Street analysts expected the actual deficit to be closer to $400 billion or even more for this year—the biggest dollar figure ever.

This kind of budget policy is the reason why we will soon be voting to raise the national debt ceiling—to allow us to borrow enough money to pay the bills we have already incurred.

This will be the single largest increase in the national debt in our history, adding almost a trillion dollars to the debt limit, raising it to over $6.7 trillion.

Just a few short years ago we were paying down the national debt.

We have gone from a projected surplus of $5.6 trillion to a $1.8 trillion deficit. This is a record of economic bad news that has not been equaled in most American's lifetimes.

Now we are piling up additional debt, and adding heavy new interest charges to the spiraling costs of this administration's irresponsible budget policy. Over the next 10 years, we will add an additional $1.7 trillion in interest costs on that Debt—$1.7 trillion that will not be available for homeland defense, for health care, for education, for law enforcement.

How well I remember. How the men and women in the business community would come to me in the decades of deficit and tell me, ''Balance the budget, stop borrowing money like nobody else needs it. Get the government out of the credit markets so we can invest and grow.''

Where are those voices we used to hear on the Senate floor, imploring us to reverse decades of borrowing and return to the straight and narrow of balanced budgets?

We need a strong dose of those principles now. We need an economic stimulus that works. And we need an economic policy that does not mortgage our future, that does not dump the bill on our children and grandchildren.

We need a plan that we can afford, that treats the very real, specific problems that average families in Delaware and around the country are facing today. Unfortunately, the bill before us is the wrong plan, at the wrong time, at the wrong price.

We need an economic policy that has an impact right now, in the very short term—an impact on consumer spending, on the demand side, to give employers a reason to bring those workers back.

That means tax cuts for the vast majority of American families who need some relief, and who can be counted on to go out and spend that money—to create demand for more products, create more jobs.

But in addition to the very real and very serious problems we are facing today, in the very near future, just around the corner, the retirement of the baby boom generation will stretch our Social Security system to the breaking point.

Just a decade from now, surpluses in the Social Security system—extra funds that help to cover some of our current deficits—those surpluses will disappear. Then the drain on our resources will accelerate until—according to the Social Security System's trustees—by 2030 Social Security and Medicare will be a third of every Federal income tax dollar, and by 2040, almost half of every Federal income tax dollar.

That is clearly an impossible situation that we cannot permit to occur. We must act now to makes sure that we have the resources to keep the promises we made to the millions of Americans who have paid their Social Security taxes over the years.

But every dime of the $350 billion tax cut before us today is borrowed from Social Security—it breaks our promise to those who depend on Social Security, and sends the bill to our children and grandchildren.

The solution we are seeking today, for the ongoing loss of millions of jobs, must not ignore the crisis in federal finances that is beginning now and crests just a decade away.

It is not just that it is unfair and irresponsible to put the burden of our choices off on our children. That should be reason enough to reject this policy out of hand.

But a moment's reflection tells us that if we borrow $350 billion, or $550 billion, or—if the President had his way, $726 billion—if we borrow that money from the same capital markets where our corporations and home buyers get their money, that policy is self-defeating.

It raises the cost of money, and slows the economy down, while handing out windfall tax breaks that people will get without any change in the behavior.

That policy is indeed unfair. It is irresponsible. And it is ineffective.

But a kick-start that gets people spending and businesses hiring—and that has a reasonable cost—that kind of policy can work.

First, we all know that the real price of this bill is not $350 billion. We have already heard that key members of the Republican leadership do not expect that the tax increases in this bill, that keep the cost of the tax cuts down, will survive a conference with the House. If those tax increases go, the cost of this bill goes up.

And key provisions in the bill—like the dividend exemption—phase in slowly and then are supposed to expire after ten years. Even if you buy the idea—which I don't—that giving a tax break to the small percentage of Americans who receive dividends can somehow turn the economy around, how can you expect that change to happen if businessmen know they should wait a few years until the exclusion is phased in?

And what kind of permanent change in corporate behavior can we expect

when we know that the door is going to slam shut on this deal 10 years out?

One answer is that they don't expect that door to close. They expect the dividend provision and others to be extended. Or more and more dividends could be excluded—that creeping expansion and acceleration has been the pattern since we passed the 2001 tax cuts.

Full exemption of dividends, if it were in place at the end of this decade, would cost $750 billion over the next 10 years.

For that and many other reasons, this tax cut, as big and irresponsible as it is, is just a place holder for even more reductions, and even more deficits, even more debt.

But designed this way, to get ten pounds of tax cuts into a five pound bag, so to speak, has resulted in a tax cut that even a conservative economist who supports the administration has called, and I quote from yesterday's Washington Post, ''one of the most patently absurd tax policies every proposed.''

But maybe if this bill offered the average American family some real tax relief, maybe if we could expect a little help for the millions of jobless men and women stuck in long-term unemployment, some of the cost would be worth it.

Tragically, there is no reason to expect this legislation to do anything to stimulate the economy this year or next. The way this tax cut is designed, there is no reason to expect any benefit to the economy, and every reason to believe that the deficits it creates will cause harm.

Estimates by Congressman HENRY WAXMAN, who examined corporate statements, show that the top three executives at Fortune's largest 100 companies would get a tax cut of $118 million if dividends were totally excluded from taxation, the goal that administration officials admit is the real aim of the partial exclusion in this bill. Under full exclusion, twenty one executives would get a tax cut of $1 million.

That is for doing nothing. Just for doing what they already do. That is not corporate tax reform, it is simply a windfall. I trust that those men and women earn every dime they already make. But no one can argue that a $118 million personal windfall into the already large pay packages of those executives is going to create a single new job.

I you really wanted to fix the problem of dividend taxation, even Republican economists—indeed, especially Republican economists—will tell you that you should eliminate the tax at the corporate level. That at least has the potential of changing the behavior of firms that now must choose between borrowing that is not taxed and dividends that are taxed.

That could be part of an honest debate about tax reform and job creation.

And when Alan Greenspan endorsed the idea of reforming dividend taxes, he said it should be done in a way that does not add to the national debt, and that it should be part of a bigger plan of reform. This proposal flunks all of those tests.

Only 13 percent of the impact of this bill will be felt in this year, Mr. President—and less than half in its first 2 years. And the vast majority of the revenue losses come in the future, as the crisis in Social Security approaches. This plan turns economic logic on its head.

This is not designed to stimulate the economy—if it were, it would provide a quick, short-term boost to family incomes, and would give businesses incentives to act right now to increase investment and create jobs.

Under this bill, the one-tenth of one percent of Americans who have an income of over $1 million will receive an average tax cut of $64,000. But those Americans in the middle 20 percent of the income spectrum would get an average tax cut of $233.

That's right, the average American gets a tax cut of $233, under this bill.

That is not fair. But it is not good economic policy either. Those good men and women fortunate and hard-working enough to make over a million dollars a year are not going to change their behavior, they aren't going to create any new jobs, just because they get an additional $64,000.

But getting money to the families who will go out tomorrow and spend it, getting money to those who are about to lose long-term unemployment benefits, getting money to the states to prevent further state tax increases or spending cuts—that has the best hope of giving the economy the stimulus it needs.

The tax cut program that makes sense and that I supported would provide a tax cut for every American taxpayer—for example, $300 for every adult, $300 for the first two children. It increases the child tax credit to $700 this year and $800 next year. And for middle class and working families, this tax cut plan that I supported accelerates relief from the marriage penalty.

Altogether, a middle class family of four would have gotten a tax cut of $1630 this year under the Democratic tax cut plan.

And if you add to that my proposal to allow parents to deduct the cost of college tuition a family with kids in college could get an additional $3000 tax break. That is real help, for real families, to deal with a real problem, and frees up real money to stimulate the economy.

Incredibly, this so-called ''Jobs'' bill makes no provision to extend the life of the long term unemployment program that expires in just two weeks. With the number of long-term unemployed at record levels and growing, this bill simply ignores their needs.

Equally astounding, the bill provides almost nothing for the states whose fiscal crisis is dragging the economy down. State budget cuts in education, health care, law enforcement—even homeland security—slow the economy as workers lose jobs and businesses lose customers.

While there appears to be $20 billion in aid to the states in this bill, in reality, the reductions in federal dividend and income taxation will cut as much as $11 billion from state taxes based on those sources.

Under the tax cut plan I support, small businesses would get three times the tax write off for investments—$75,000 worth—this year, and a tax deduction for 50 percent of the cost of new equipment, along with help getting health insurance for their employees.

The tax cut I support would get $20 billion in real help to the states to confront the fiscal crisis that is compounding the national economic slump.

And the tax cut program I voted for would extend unemployment benefits to help those looking for work sustain that search in a time of record job losses.

Finally, the plan I supported is affordable. Its effects take place immediately, and it would not leave a hole in our finances for our children to repair.

That's the plan I supported, and it is the plan our country needs. I cannot vote for this bill that is now before us because it fails to do so.

Mr. LEVIN. Mr. President, I cannot support this fiscally irresponsible and unfair tax cut package.

Our economy is struggling right now. Eight-and-a-half million Americans are out of work, and we now have about 2.7 million fewer private sector jobs than were in existence at the beginning of this administration. No President since the Great Depression has ended a term with fewer jobs than when his term began. Michigan has an unemployment rate of 6.7 percent, among the highest in the Nation. According to the Bureau of Labor Statistics, Michigan lost 17,700 jobs just last month, the most of any State in the country. That brings the total number of Michigan jobs lost since the Bush administration took office to over 178,000, and the total number of unemployed in Michigan to 344,000.

We are also back into a deep deficit ditch. As recently as January 2001, the Office of Management and Budget projected a 10-year surplus of $5.6 trillion. Now, under the recently passed budget resolution, we face an estimated deficit of $1.95 trillion over the same time period, including record deficits of over $300 billion for this year and the next. Federal Reserve Chairman Alan Greenspan recently reiterated that the bigger the deficits, the higher the long-term interest rates, which means higher home, car, college and credit card payments for us all.

Our economy needs a lift now. It needs real jobs and real growth now, not a rehash of the same policies that were tried and failed in the recent past.

Unfortunately, this bill only provides more of the same failed policies.

While the bill purports to cost $350 billion over 10 years—an amount which already is fiscally irresponsible given our current deficit—this number is arrived at by using a budget gimmick that masks the true cost of the bill, which in reality is upwards of $660 billion over 10 years. The bill would completely exclude dividend income from individual taxation in 2004 through 2006, a policy that is expensive, not very stimulative to our economy and sharply slanted towards upper income folks. But then the bill ''sunsets'' the dividend exclusion so that it disappears beginning in 2007. Not only is that bad policy, it is also disingenuous and deceptive to the American people.

This bill also is too generous to those who need it the least. The top 10 percent of taxpayers would receive well over 50 percent of the tax benefits, and in 2003, those with incomes above $1 million would receive an average tax cut of $64,400, while those in the middle of the income spectrum would receive an average tax cut of only $233. Providing large tax cuts to the wealthy in the hopes that the benefits will trickle down to everybody else hasn't worked before, and there is little reason to think that it will work now. Following the same approach that failed time and again just doesn't make sense.

This plan provides no unemployment benefits to any of our 8.7 million unemployed Americans. It is ironic that in a bill that is based on the President's so-called ''Jobs and Growth'' package, the Republican majority is not addressing the immediate need for job assistance for millions of Americans. It is elementary economics that providing additional unemployment benefits is an excellent way to jump start a stagnant economy. The money we are talking about is money that will be spent. According to a 1999 Department of Labor study, every $1 invested in unemployment insurance generates $2.15 in Gross Domestic Product. That is what our economy needs, not wildly expensive tax cuts that do little in the short term at a huge long-term cost.

While I am pleased that this bill contains funds to assist our struggling State and local governments, it does not do enough. Our States currently are facing their worst fiscal crisis in over 50 years, with many being forced to raise taxes or cut vital services like Medicaid in order to balance their budgets. Instead of doing all that we should to assist them, this bill includes a dividends exclusion provision that will actually strip States of revenues, something which will stimulate neither jobs nor growth.

I supported and voted for a tax package that was about creating jobs now, when we need it, in a way that did not mortgage our future.

The plan I supported was estimated to put more than 1 million people back to work by the end of 2004 at a fraction of this bill's costs. It would have cut taxes for every taxpaying American, providing a tax cut of $1,630 to a family of four through a wage credit, an acceleration of the child tax credit, and an elimination of the marriage penalty. It would have helped small businesses by providing them with a 50 percent tax credit to help employers maintain health coverage for their workers, and would have provided large and small companies with incentives to invest and create jobs by allowing small businesses to immediately write-off more investments and providing bonus depreciation to all companies. It also would have provided unemployment benefits for nearly 4 million laid-off workers, including those who have already exhausted their benefits. What our sagging economy needs right now is immediate jobs, growth, and stimulus, and that is what the plan I supported offered.

Instead, what passed is a package that is the wrong medicine for our ailing economy. It will create fewer jobs than what is needed. It will slight middle-class families in favor of the wealthy. And it will dramatically increase the deficit and national debt and drive up interest rates, which will make it more expensive to buy a house, pay for college, or pay off credit card debt. That is just not a plan that I can vote for.

Mr. KOHL. Mr. President, I rise today to express my deepest disappointment in the actions of the Senate today. Today, across the country, States face a fiscal crisis as State legislatures attempt to close an estimated $17.5 billion budget gap. Today, more than 2 million American workers have been unemployed for more then 6 months. Today, families across the county are struggling to make ends meet. Today, our country is seeing steadily increasing deficits, now projected at over $300 billion this year alone. And today, in the Senate, we passed a hugely expensive tax package that will overwhelmingly benefit the wealthy.

It is for that reason I voted against the Finance Committee's jobs and growth package. I have consistently argued that the best way to meet the needs of our Nation is to find a balance between cost and benefit, and the votes I have taken today are a reflection on this desire. I voted to double the amount of funding that would go to struggling State legislatures and local governments. I supported efforts to get more money into the hands of working families. I also supported amendments that would assist small businesses with the cost of health insurance and new equipment. These initiatives are the most effective, as well as the most cost effective, means of stimulating the economy.

I would like to take a moment to applaud the pieces of the Finance Committee's package that were actually beneficial to working families. Marriage penalty relief and accelerating the increase in the child tax credit are both worthy proposals that would benefit millions of families. In addition, the small business expensing provision is an excellent way of helping small businesses with startup costs thereby providing a significant boost to the economy. However, we could, and should, have done more—more help for the struggling economy and struggling families at less damage to our bottom line. I was disappointed to see proposals fail today that would have expanded on all of these provisions; proposals that would have gotten more money into the hands of families who would spend it and could have provided a larger, faster boost to our failing economy.

My greatest disappointment, however, was with an amendment that was able to pass. Since the administration announced its support for a complete elimination of the taxation on dividends, I have voiced my opposition to this proposal. Forty-two percent of the benefits under this proposal would go to the richest 1 percent of taxpayers. Those are inexcusable figures for a provision to be included under a so-called growth package. The dividend proposal will not spur the economy, will not help working families, and will not help States with their budget shortfalls. These are the goals we should be working towards, and I believe that we have fallen severely short in passing this legislation today.

Mr. BUNNING. Mr. President, I am pleased that the manager's of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Chairman GRASSLEY and ranking member BAUCUS, have agreed to included in their manager's amendment my provision, which is supported by many members in this body, that addresses the issue of the tax burden that is faced by wholesalers of domestic distilled spirits.

I want to take this opportunity to express my support for this legislation and also to share my broader concern about how the current Federal Excise Tax, FET, system places an undue burden on distillers that must, at a minimum, not be increased to fund this legislation or for any other reason.

I introduced this amendment because I believe that the existing FET system for domestically produced distilled spirits penalizes spirits wholesalers across the nation. These are mostly family businesses that create high wage jobs. Yet spirits wholesalers often find themselves in the position of, in essence, having to float Uncle Sam a loan when they purchase U.S. made spirits from their distillers.

Let me briefly explain how this situation comes about in the marketplace. Under Federal law, spirits produced in the United States may not leave the distillery premises until the FET is collected. Thus, the cost of the FET is factored into the price of the goods that is paid when the wholesaler accepts possession from the distiller. The wholesale, in turn, may wind up having to warehouse these products for a considerable time before they are sold to a

retailer. The fundamental issue here is the time value of the FET—valuable working capital for these businesses—while the wholesale warehouses products without realizing any income from their sale.

This amendment would create a tax credit available to the wholesalers in order to offset these FET carrying costs. I believe this is fundamentally fair and will help protect and create good jobs in the wine and spirits wholesale tier across the nation.

However, in introducing this amendment and supporting its inclusion in the Jobs and Growth Tax Relief Reconciliation Act of 2003, I want to make one thing perfectly clear. In supporting this bill, I want the Administration, and officials at the Treasury Department and the Bureau of Alcohol, Tobacco and Firearms to understand that by doing so I reject the connection that some have tried to make between this issue and Section 5010 of the tax code, the wine and flavors tax credit. In past years, the suggestion has been made that any revenue loss to the U.S. Treasury caused by the provisions of my amendment be offset by repealing Section 5010. I reject that notion because there is no logical link between the two issues.

Section 5010 is a component-based tax provision allowing distillers to claim a credit for wines and other flavoring components that are added to their products. Thus, a distiller will pay the full spirits FET for that portion of a product that is derived from distilled spirits. However, many products sold as spirits contain wine and other non-spirits flavorings, which are subject to tax at lower rates. Under Section 5010, the distiller is entitled to a credit for the difference between the wine and the spirits tax for that portion of the product that is not derived from spirits.

Section 5010 is important. It has the added policy virtues of being on the side of common sense, economic competitiveness and fundamental fairness. All of this is why I have fought hard to protect 5010 from several serious threats over the years.

I am pleased that, with the inclusion of my amendment in this bill, the Senate has once again shown its support for solving this problem which penalizes spirits wholesalers of domestically produced distilled spirits. I am also pleased that the Senate has seen fit to address this important issue without harming Section 5010 or otherwise increasing the tax burden on distillers.

Mr. DOMENICI. Mr. President, I rise today to thank my colleague from Iowa, Senator GRASSLEY, for his leadership in providing much needed assistance to our Nation's hospitals and doctors. Specifically, I would like to thank him for his support of the disproportionate share hospitals—DSH—program, and for his support of fair and equitable Medicare reimbursement for America's doctors.

The Medicaid DSH program is an essential program that provides relief to many of our Nation's safety net hospitals; hospitals that experience financial difficulty because they treat larger numbers of the uninsured, low-income, and Medicaid patients. By raising payment rates to these hospitals, the DSH program helps to alleviate the disadvantaged financial situation suffered by many of these hospitals, and helps to ensure that all who need access to hospital care are able to receive that care.

Under current rules, a state's DSH payments may not exceed an allotment amount that is set in law for that state. In my home state of New Mexico, DSH payment adjustments are set at less than 1 percent. This 1 percent is far less than the national average of 8 percent, thus classifying my state as an ''extremely low DSH state.'' This lack of funding has seriously threatened the viability of many New Mexico safety net hospitals, and it puts at risk the care of some of our neediest citizens.

Today however, as a result of the work done by this body, Medicaid DSH allotments for States like New Mexico that have extremely low payments will be raised from 1 percent to 3 percent. This additional funding will help to ensure that our hospitals can continue to treat Medicaid and other low income or uninsured patients, and it will help relieve some of the pressure on our State's budget.

In addition to the assistance provided to the DSH program, this Congress has also taken a proactive approach to resolving another issue of great importance to me, fair and equitable Medicare reimbursement for America's doctors.

In many Medicare payment localities, current Federal policy undermines a doctor's ability to see Medicare patients by establishing disparity in reimbursement levels. Rural physicians are among the lowest Medicare dollar reimbursement recipients in the country, and I submit that this is the reason these areas cannot effectively recruit and retain their physicians.

This practice is unfair and it is discriminatory. There is not reason doctors in Albuquerque, NM should be paid less for their time than doctors in New York City. Doctors should be valued equally, irrespective of geography.

Today, Congress has agreed to fix many of these inequities, and has provided for a more balanced reimbursement formula. By increasing Medicare physician reimbursement, we will improve patient access to care and increase the ability of states to recruit and retain physicians. When Medicare physician reimbursement rates are raised, patients are the ultimate beneficiaries.

I have enjoyed working with my colleagues, including Senator BINGAMAN, on these very important issues.

Mr. NICKLES. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, I submit for the RECORD a list of material in S. 1054, the Jobs and Growth Tax Relief Reconciliation Act of 2003 reported by the Finance Committee on May 13, 2003, considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The inclusion or exclusion of material on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

To the best of my knowledge, S. 1054, the Jobs and Growth Tax Relief Reconciliation Act of 2003, contains no material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313 of the Congressional Budget Act of 1974.

Ms. SNOWE. Mr. President, I rise today to speak regarding the jobs and growth package that was reported by the Senate Finance Committee and that has been considered on the Senate floor. It was a long and often arduous journey that brought the bill here for consideration, and I especially thank the majority leader and Finance Chairman GRASSLEY for their extraordinary and tireless efforts in ensuring we were able to pass a package in committee and consider this economic stimulus bill in the full Senate.

Let us remember, this debate began when the President rightfully and forcefully made the case that we have an obligation to help jump-start an economy that was already in the doldrums even before the tragedy of September 11. Over the past few months—as we worked to pass a budget for the first time in 2 years and as the tax cut package moved through the respective House and Senate committees—some said the reductions should be smaller—some said larger—and others even believe that no cuts were warranted. Last week, the House passed a very different tax bill than the one the Senate is considering today, further reflecting the diversity of deeply held beliefs as to our appropriate course of action in Congress.

I have believed since last fall that the American people must know we are serious about creating jobs with a plan that can be effective now. We have lost 2.3 million jobs since March 2001, and with 48,000 jobs lost in April alone, we have reached the highest level of unemployment in 8 years at 6 percent. In the last quarter of 2002, the economy was growing at a languid 1.4 percent annual rate, and the Commerce Department's latest report showed the economy was still at a weak growth rate of 1.6 percent. Consumer spending has increased more slowly than at any time since the 2001 recession, and capacity at the Nation's factories is at a low of 72 percent—meaning that demand can and must be increased.

So the President is absolutely right to make passage of a robust growth package central to his agenda, and I applaud his unflagging leadership in rejuvenating our economy. At the same time, I have also held throughout this debate that to deficit-finance too high

a level of tax cuts would be to risk condemning future generations to the corrosive economic effects of unsustainable deficits—and tying hands of future Congresses in addressing our most pressing domestic challenges.

With a net $350 billion for stimulus, the package reported by the Finance Committee is consistent with these principles, and those that are embodied in a letter I signed along with Senators VOINOVICH, BAUCUS, and BREAUX before consideration of the budget resolution. In that letter, we stated our belief that ''our nation would benefit from an economic growth package that would effectively and immediately create jobs and encourage investment.'' But we also expressed our belief that ''any growth package that is enacted through reconciliation this year must be limited to $350 billion in deficit financing over 10 years and any tax cuts beyond this level must be offset.''

So how did I arrive at 350? It was not by simply splitting the difference. It was by making a clear, bright-line distinction as to which measures were truly effective, short-term stimulus and which were not. The $350 billion package approved by the Finance Committee provides for all of the President's proposals that can truly have the immediate, stimulative effect our economy requires in their entirety. Indeed, as economist William Gale of the Brookings Institute has said, within that $350 billion figure, we would likely get most of the short-term job boost.

To pay for dividend tax cuts that could create long-term growth, the Finance Committee package employs genuine offsets. With all the provisions of the committee plan in effect for the full 10 years—accelerating policy that was already passed by the Congress in 2001—it creates the kind of continuity and stability for both markets and consumers that is critical in making investment and spending strategies.

While some undoubtedly believe we should pass a significantly larger tax cut, let us remember that $350 billion in net tax cuts is by no means inconsequential. In fact, if enacted it may be the third largest tax cut in history—and is being considered just 2 years following the largest tax cut in history. Moreover, the Finance Committee bill is a responsible bill that recognizes the lessons learned from past debates on economic stimulus—that boosting both consumer purchasing power and business investment is vitally important to economic growth.

For example, the package would cut the marginal tax rates across the board—impacting workers' paychecks by increasing their take-home pay this year. The bill also accelerates tax relief for families with children, including a provision not in either the President's plan or the House bill to accelerate the increase in the amount of the child tax credit that is refundable for working families with low incomes—building on my inclusion of refundability in the 2001 tax package. Married couples would also receive tax relief from the unfair marriage penalty through the expansion of the standard deduction and the 15 percent tax bracket.

To spur investment, the Finance Committee bill triples the amount a small business can write off for investments in new business assets—and with small businesses representing 99 percent of all employers—contributing to 51 percent of private-sector output—and providing about 75 percent of net new jobs, that is exactly the kind of policy that can help create jobs soon. It would also provide needed capital to small businesses by expanding the ability of pension plans and other tax-exempt entities to invest in the securities of Small Business Investment Companies. This provision alone is expected to create an additional 16,000 jobs due to the additional investment capital available for small businesses.

Furthermore, the State fiscal relief provision in the Finance Committee plan can provide additional economic stimulus. With States facing combined shortfalls of more than $68 billion in fiscal year 04, I thank Chairman GRASSLEY for working to include a ''trust fund'' in the package of $20 billion in relief for the States and local governments to use as they see fit to address increasing Medicaid costs, transportation needs, homeland security infrastructure, education, and other critical functions.

I know some have argued State budget shortfalls result from overspending. Yet, as a report issued by the National Governors Association shows, State spending from 1995 to 2001 increased 6.5 percent per year, a rate identical to spending from 1979 to 2003, and I would like unanimous consent to print that report in the Record.

I also have here a letter from the heads of the Conference of State Legislators, the Council of State Governments, the U.S. Conference of Mayors, the National Association of Counties, the National League of Cities and the International City/County Management Association documenting that States and localities are experiencing their worst fiscal conditions since World War II. I ask unanimous consent this letter also be printed in the Record along with my statement.

Moreover, according to a recent Wall Street Journal article, ''Analysts at Goldman Sachs figure state and local belt-tightening (in their budgets) will shave as much as a half-point from the economy's growth. . .'' By providing State fiscal relief, we have the opportunity to return that half-point of growth to our economy. And let us remember, dollars spent on education, health care, and transportation have an economic value today and tomorrow.,

Indeed, should State decide to use a portion of the assistance on transportation, it is worth nothing that, according to the U.S. Chamber of Commerce, for every $1 billion invested in transportation, 47,500 new jobs are created. And let us not forget that State and local governments account for more than 15 million jobs nationwide. As we take steps to put more money into the hands of consumers, we must also make sure that those who are employed by a State or local government, either directly or through a government service contract, are able to remain employed.

On that note, I am pleased an amendment was included here on the floor to further refine the agreement and language that Senator SMITH and I included in the growth package reported by the Senate Finance Committee.

After working to generate strong bipartisan support for this issue, the Senate Finance committee established a $20 billion trust fund in S. 1054, the Jobs and Growth Tax Relief Reconciliation Act of 2003, to provide critical, flexible relief for both State and local governments. I also want to thank Chairman GRASSLEY again for his willingness to work with me to identify appropriate offsets that enured this proposal would not increase the net cost of the growth package.

By securing support in committee to include a $20 billion fiscal relief trust fund, I was able to ensure that States and localities receive the help they need in balancing their fiscal year 2004 budgets. The subsequent amendment we passed on the floor, with my support included my proposal which requires half of the $20 billion to be distributed between State and local governments—with States receiving $6 billion and localities receiving $4 billion. The remaining $10 billion goes to States through a temporary increase to the Federal Medical Assistance Percentage, known as FMAP, to help alleviate the short-term spike in Medicaid costs. The assistance would be distributed in fiscal years 2003 and 2004.

So, again, the Finance Committee bill fully provides for the appropriate range of short-term stimulus measures. At the same time, for me—as I have stated—the net $350 billion cost of that package strikes a balance in keeping with the requirements imposed by my allegiance to the principles of fiscal responsibility. Because I came to this debate as one deeply rooted in the idea that perhaps the issue that best demonstrates our commitment to the generation of tomorrow is balancing the Federal budget. I have said time and again that there is not goal more critical to the economic future of our Nation—and that is not just my view.

As Chairman Greenspan recently testified, ''(The deficit) does affect long-term interest rates, and it does have an impact on the economy.'' And he has also warned that, ''If . . . you get significant increases in deficits which induce a rise in long-term interest rates, you will be significantly undercutting the benefits'' of tax cuts. If you consider that the two sectors that are keeping the economy afloat right

now—housing and automobiles—are also two of the most interest rate sensitive—just imagine where we would be in the future with high unemployment and high interest rates.

And it is not just our future economy at stake—if that by itself isn't reason enough for fiscal prudence. I will recall the years we fought to arrive at balanced budgets and surpluses—and reaching that fiscal ''holy grail'' in the late 1990s was supposed to open a window of opportunity to address the domestic challenges of the coming decade—most significantly, strengthening Social Security and Medicare.

Yes, even then, many of us were mindful that projections of future surpluses were just that—projections. That is why even as I supported the tax cuts in 2001—to provide, in Chairman Greenspan's words—an ''insurance policy'' against the effects of a recession, and to provide relief at a time when Americans were suffering under the highest tax burden since World War II—I proposed and I championed a trigger linking the level of spending and taxes to the level of surpluses actually realized.

Of course, none of us could have foreseen that so many challenges would soon arrive, as the President has said, ''In a single season.'' September 11, the war on terrorism, and the necessity of disarming the Iraqi regime, the costs of bolstering our homeland security—all those shook an already fragile economy and sparked a return to deficits. In fact, CBO attributes fully 68 percent of the evaporated $5.6 trillion in surpluses to the recession and economic downturn.

So here we are, with CBO having projected just this month that the deficit will be $300 billion—which is 22 percent higher than their projection from only 3 months ago and about 92 percent more than last year! Keep in mind that is without accounting for the approval of additional tax cuts or additional costs of pressing national priorities like the war in Iraq, homeland security costs, and passing a Medicare prescription drug benefit. And Citigroup economic forecasters have recently predicted that the 2003 deficit could be as high as $500 billion.

Even optimist projections that assume higher-then-expected productivity growth anticipate substantial long-term deficits. And if growth remains just ''average'', the Nation will fact unsustainable budget deficits. Just this month, economists with Goldman Sachs expressed alarm about projections that Federal debate will grow from 33 to 49 percent of gross domestic product—a circumstance they say will undermine the economy, instead of spurring economic growth. And as we face a true cumulative deficit through 2013 projected to be nearly $4.5 trillion—not counting the $2.7 trillion in surpluses from Social Security that are currently being sued to mask the size of the deficit—we cannot tolerate the confluence of burgeoning deficits in perpetuity with the retirement of 77 million baby boomers beginning in 2013.

That is why it was critical that—in establishing a policy on the taxation of dividends that could be built on as we assess the reaction of, and overall impact on, the financial and business sectors—the Finance Committee package pays for it with offsets. As Chairman Greenspan has said, cutting taxes on dividends will ''bolster the economy's long-term ability to grow''—but they should also be paid for.

As reported by the Finance Committee, the bill includes real offsets, scored by the Joint Committee on Taxation, to fully compensate the approximately $80 billion cost of the provision. Moreover, in providing a capped exclusion of $500 for the taxation of dividends, with an additional exclusion for dividend amounts above $500 that goes from 10 percent to 20 percent over 10 years, the proposal would benefit all taxpayers who receive dividends, eliminating the tax entirely for 84.7 percent of all taxpayers.

One of the arguments that proponents of eliminating the tax on dividends use to tout the proposal's benefits is that it will reduce the cost of capital for business over the long term. I agree. However, cutting taxes on dividends affects the financial markets as well.

I am concerned that enacting a shorter term provision with a sunset would have negative consequences and potentially harm the economy. Kevin Hassett, a scholar at the American Enterprise Institute, has commented on such a dividend plan, saying that, ''Since the eliminate of dividend taxes is only temporary, investors must evaluate the risk that dividend taxes will come back. If they do, then the cash flows to investors from owing stock will plummet, as will the value of shares. Under such circumstances, it is undeniable that government policy significantly increases the fundamental risk of stocks. It would be hard to imaging that this would be good for the stock market or the economy.''

Moreover, the benefits of cutting taxes on dividends cannot be viewed in isolation—the effect on the budget must be factored in the analysis. A key point is that, as the Federal budget goes further in the red, the associated mounting Federal debt will ''crowd out'' private capital in the marketplace—having a damaging impact on the economy. This will become more and more evident as we approach the end of this decade, with the pressures of the very large increase in baby boomer retirements.

The bottom line is that, while deficits have supplanted surpluses due to war costs and the lingering effects of recession, we have a fundamental responsibility to ensure they are a temporary phenomenon—not a perpetual cycle ''as far as the eye can see.'' The years of balanced budgets in the late 1990s should be no brief fiscal interlude, but rather the rule—so lowering taxes and containing deficits until we return to balanced budgets must not be mutually exclusive goals.

Again, the tax bill that was reported out by the Finance Committee provides the right balance of tax relief that would stimulate both consumption and investment. The fiscally responsible growth policies contained in that package meet the dual, critical challenges of immediate, stimulative economic growth without further inflating budget deficits and returning to a perpetuity of red ink. And, as I have said, the dividend plan in the Finance bill is a long-term policy that takes an important, but incremental step to eliminating that ax on dividends.

Regrettably, however, the temporary dividend proposals in the final bill, I believe, is not good long-term tax policy. If we assume a future Congress will extend this provision permanently, then the true cost would be over $300 billion—adding further to ballooning deficits well above the $350 billion net cost of the Finance Committee bill. On the other hand, if Congress does not extend the policy, it could have dire implications on the financial markets and companies.

Finally, it must be noted the way in which this provision is paid for dilutes the important benefits of the section 179 expensing by sunsetting its expansion and cutting short marriage penalty relief proposed by the President. Therefore, for the reasons I have just detailed, I regret I am unable to support the final package, as amended.

Mr. President, I ask unanimous consent that the letter I referred to earlier be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, March 13, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST AND MINORITY LEADER DASCHLE: With the international challenges our Nation faces, including a possible military engagement with Iraq, continuing tension on the Korean Peninsula, and the ongoing war on terrorism, coupled with sluggish economic growth, we believe it is critical a budget resolution for Fiscal Year 2004 (FY2004) be enacted this year. We are committed to working in a bipartisan manner to this end.

We believe that our nation would benefit from an economic growth package that would effectively and immediately create jobs and encourage investment. We appreciate President Bush's leadership in identifying this need and beginning this important debate with his economic growth proposal.

Given these international uncertainties and debt and deficit projections, we believe that any growth package that is enacted through reconciliation this year must be limited to $350 billion in deficit financing over 10 years and any tax cuts beyond this level must be offset. All signatories to this letter are committed to defeating floor amendments that would reduce or increase this $350 billion amount.

We look forward to working with you on a bipartisan budget.

Sincerley,

JOHN BREAUX.
MAX BAUCUS.
OLYMPIA SNOWE.
GEORGE V. VOINOVICH.

NATIONAL CONFERENCE OF STATE LEGISLATURES, COUNCIL OF STATE GOVERNMENTS, NATIONAL ASSOCIATION OF COUNTIES, U.S. CONFERENCE OF MAYORS, NATIONAL LEAGUE OF CITIES, INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION,

May 8, 2003.

Hon. CHARLES GRASSLEY,
Chairman Senate Finance Committee,
U.S. Senate Washington, DC.

Re Reconciliation, State and Local Fiscal Assistance.

DEAR SENATOR GRASSLEY: On behalf of state and local officials, we appreciate and support your proposal to provide $20 billion in fiscal assistance to state and local governments in reconciliation legislation pending before your committee.

The nation's economic recovery is essential. We believe a partnership among the federal, state and local governments and the private sector is necessary to expeditiously achieve this recovery. With state and local governments experiencing their worst fiscal conditions since World War II, we are not positioned to help stimulate the economy. Additionally, states and localities continue to deal with the excessive inflationary costs of certain state-federal partnerships, such as Medicaid. Finally, state and local governments continue to fill gaps in unfunded federal mandates and underfunded national expectations. Instead, state and local governments are reducing workforces, deferring capital projects, cutting programs and imposing fee increases and raising income, sales and property taxes. These activities work against economic recovery and the partnership we feel is critically needed.

We are very pleased with the Senate's past response to and action on our request for fiscal assistance and partnership in economic recovery. We are eager to work with you to develop reconciliation and economic recovery legislation. Thank you for your consideration of our concerns. Please have your staff contact each of our organizations for assistance and information.

Sincerely,

WILLIAM T. POUND,
Executive Director National Conference of state Legislatures.

LARRY E. NAAKE,
Executive Director National Association of Counties.

DONALD J. BORUT,
Executive Director National League of Cities.

DANIEL M. SPRAGUE,
Executive Director Council of State Governments.

J. THOMAS COCHRAN,
Executive Director U.S. Conference of Mayors.

ROBERT O'NEILL,
International City/County Management Association.

TABLE 2.—STATE NOMINAL AND REAL ANNUAL BUDGET INCREASES, FISCAL 1979 TO FISCAL 2003

[Amounts in percent]

Fiscal year	State General Fund	
	Nominal increase	Real increase
2003	1.3	0.4
2002	1.3	0.4
2001	8.3	4.0
2000	7.2	4.0
1999	7.7	5.2
1998	5.7	3.9
1997	5.0	2.3
1996	4.5	1.6
1995	6.3	3.2
1994	5.0	2.3
1993	3.3	0.6
1992	5.1	1.9
1991	4.5	0.7
1990	6.4	2.1
1989	8.7	4.3
1988	7.0	2.9
1987	6.3	2.6
1986	8.9	3.7
1985	10.2	4.6
1984	8.0	3.3
1983	−0.7	−6.3
1982	6.4	−1.1
1981	16.3	6.1
1980	10.0	−0.6
1979	10.1	1.5
1979–2003 average	6.5	2.1

Notes.—The state and local government implicit price deflator, as cited by the Bureau of Economic Analysis on October 2002, is used for state expenditures in determining real changes. Fiscal 2001 figures are based on the change from fiscal 2000 actuals to fiscal 2001 preliminary actuals. Fiscal 2002 figures are based on the change from fiscal 2001 preliminary actuals to fiscal 2002 appropriated.

Source: National Association of State Budget Officers.

Mr. CHAMBLISS. Mr. President, I rise today to speak on S. 1054, the Jobs and Growth Reconciliation Tax Act of 2003.

This debate on the tax reconciliation bill is necessary and long overdue. I think it is clear that Members on both sides of the aisle agree that our economy is struggling and a growth package is desperately needed. However, there are wide differences of opinion on the contents of the best package and the best way to implement it.

I am, and always have been, a proponent of the President's original growth package of $726 billion. Implementing the President's proposed bill would create millions of jobs, increase the gross domestic product, GDP, and personal income, and in the process, stimulate overall growth of our Nation's economy.

My home State of Georgia would reap overwhelming benefits from the President's proposal if enacted into law. For instance, between 2004 and 2008, 26,720 additional Georgia citizens would secure jobs; Georgia taxpayers would average $4.2 billion more in disposable income per year; and Georgia taxpayers would average $2.2 billion more in personal saving per year.

Between the President's proposal, the House-passed bill and the Senate bill, the Senate bill of $413 billion, which is loaded with tax hikes in the form of offsets, is by far the weakest of the three bills. This bill will do little to stimulate the economy and provide almost no tax relief to the millions of Americans who seek it. While many of the tax reducing provisions contained within this bill are worthwhile and sound, now may not be the best time to go forth with them given the state of our economy and the increasing budget deficit.

Tax cuts will significantly improve the American economy, but only if Congress makes wise decisions about which taxes to cut and how to cut them. Addressing the double tax on dividends is a big step in the right direction, but the economy will not reap major benefits unless the tax is reduced in an economically beneficial manner.

Several proposed amendments will strengthen this bill, but it has a long way to go for it to be in a form that will truly stimulate the economy and create jobs.

I will vote for the passage of this bill, but only for the sake of advancing the process and moving the bill to conference so that it can be improved. Should this bill come out of conference looking much like it does now, I will most likely oppose final passage of the growth and economic stimulus bill.

Mr. LEAHY. Mr. President, I rise today to oppose the tax reconciliation bill being considered by the Senate today. This tax cut bill is not fiscally responsible. When President Bush entered the White House our country enjoyed a record budget surplus. The fiscal irresponsibility of this administration quickly turned that surplus into record deficits. Now this bill will bring our country further into debt, cause more hard working Americans to lose their jobs, and put a greater share of the tax receipts in the pockets of our country's most privileged.

I have several concerns about the bill before us. First, these tax cuts are tilted even more heavily to the very wealthy than the tax cuts the President championed in 2001. Just look at the rate reductions. For three income brackets, rates would drop by 2 percentage points, but the top rate falls by 3.6 percentage points. While the 2001 bill calls for marriage penalty relief beginning in 2004, the Senate rejected an amendment offered by Senator JEFFORDS to provide immediate marriage penalty relief to those who qualify for the earned-income tax credit. Sadly, this administration has chosen to support tax policies where people making over $1 million will reap enormously, while working families will receive very little tax relief.

Second, these plans have taken tax gimmickry to a whole new level by pretending that most of the provisions will expire after just 3 years, at the end of 2005. By doing so, this bill attempts to jam in as much of the President's dividend tax proposal as they can into the Senate's $350 billion limit at the expense of more reasonable tax cut provisions aimed at low- and middle-income working families. It is obvious that proponents of these tax cuts have no intention of allowing any of these provisions to expire and in fact will come back to this floor again and again asking for them to be made permanent. Instead of acting in a fiscally responsible manner, they are masking from the American people the true, astronomical costs of this bill.

Third, these cuts will push our country deeper in debt. The nonpartisan

Congressional Budget Office has estimated that the President's full tax cut would add $2.7 trillion to the deficit through 2013. At the same time the administration is pushing for Congress to pass a $1 trillion increase in the Federal debt limit that does not account for additional tax cuts. I do not think we can afford another large tax cut at this time until we get our own fiscal house in order.

Clearly, this tax cut plan is not about growing the economy or creating jobs. It is about starving the Government and wooing some voters. In fact, leading economists have stated repeatedly that the elimination of taxes on dividends paid to investors—the centerpiece of the President's tax cut proposal—would do very little to spur economic growth or reduce the Nation's jobless rate.

In 2001, I voted against the Bush tax cut bill because it was too skewed toward the wealthiest Americans and too fiscally irresponsible. Since then, we have gone from record surpluses to record deficits, and the economy is still floundering. Passing another enormous tax cut this year will only continue this trend and increase the economic problems that our children and grandchildren will inherit.

Earlier this year, the President said we should not pass our fiscal problems onto future Presidents, Congresses, and generations. I agree with him. Unfortunately, this tax cut bill will drive us deeper into debt and will do exactly what the President says we should avoid, burden our children.

While the promise of another tax cut sounds great, I am not going to ask my children and grandchildren and everyone else's children and grandchildren to pay for it. It is not right. It is not fair. And it is not the American way.

Mr. GRASSLEY. Mr. President, it has come to my attention that certain provisions of S. 1054 have engendered concern in the equipment leasing industry. I recognize that assets used by vital American industries are often lease-financed. It is not the intention of the Senate or Committee on Finance to impede legitimate leasing transactions. I wish to assure the markets that in any final legislation, the tax incentives utilized in leases that are considered appropriate under current law will be maintained.

Mr. BAUCUS. Mr. President, earlier today my colleague on the Finance Committee, Chairman GRASSLEY, offered an amendment to S. 1054, the pending tax bill, to improve Medicare funding for rural patients and providers. I supported the amendment, which passed, 86–12.

Many of the Grassley amendment's provisions were taken from S. 3018, Medicare legislation Senator GRASSLEY and I introduced legislation last year. Many of those provisions were also included in the Senate Rural Health Caucus bill, which I support. And several of the provisions have been recommended by the Medicare Payment Advisory Commission (MedPAC), which advises Congress on Medicare payment policy.

Taken together, these changes—including an equalization of the hospital base payment amount, changes to the Critical Access Hospital program, and language to improve access to physician care in rural areas—will go a long way toward ensuring greater geographic equity in Medicare reimbursement.

That said, I believe the way in which the Senate passed these provisions—as an amendment to tax legislation—is far from perfect. A Medicare bill, debated in the Finance Committee, is the proper vehicle for changes to the Medicare law, and I would have preferred that these provisions be considered in that manner.

A full debate in the Finance Committee will allow senators to exchange views and advocate changes they believe are important for Medicare. A debate in the Finance Committee will allow Medicare stakeholders an opportunity to share their views as well. Whether with respect to spending or offsets, the Committee should have the opportunity to consider all of those views fully.

For example, while the provisions in the Grassley amendment are important, they do not represent a full list of Medicare changes I would like to see. Most notably, the amendment does not address Medicare's most severe inadequacy: the lack of an outpatient drug benefit. Further, the amendment does not address many concerns facing Medicare's various payment systems, including payments for physicians, nursing homes, teaching hospitals and hospital outpatient departments, to name a few.

As for offsets, the Grassley amendment included three: a freeze in Medicare DME payments; establishment of copayments and deductibles for Medicare outpatient laboratory services; and reductions in payment for Medicare Part B-covered drugs. These offsets are not without controversy.

For example, while independent experts agree that Medicare overpays providers for Part B drugs, agreement is less apparent on the proper payment providers should receive for the administration of these drugs. And while it is true that lab services are nearly unique in not requiring coinsurance under Medicare, it's also true that lab services are less discretionary than many other Medicare-covered services.

Debate in the committee—as we recently had on the tax bill—is important to the legislative process. I urge Chairman GRASSLEY to hold a markup on Medicare legislation, so that changes to Medicare—including enactment of a Medicare drug benefit—can be considered in the appropriate manner.

The PRESIDING OFFICER. Under the previous order, the clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1054, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

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

[Rollcall Vote No. 179 Leg.]

YEAS—51

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bayh	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

NAYS—49

Akaka	Durbin	Lieberman
Baucus	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	
Dorgan	Levin	

The bill (H.R. 2), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. GRASSLEY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order with respect to S. 1054 be modified to allow for the following conferees: Senators GRASSLEY, HATCH, NICKLES, LOTT, BAUCUS, ROCKEFELLER, and BREAUX.

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

Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints conferees as specified on the part of the Senate.

Thereupon, the Vice President appointed Mr. GRASSLEY, Mr. HATCH, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, Mr. ROCKEFELLER, and Mr. BREAUX conferees on the part of the Senate.

CHANGE OF VOTE

Mr. BIDEN. Mr. President, on rollcall vote No. 162, I voted nay. It was my intention to vote yea. I ask unanimous consent that I be permitted to change my vote to yea, which was the Landrieu amendment, since it will not affect the outcome of the vote.

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

(The tally has been changed to reflect the above order.)

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

Mr. REID. Mr. President, what is the regular order?

The PRESIDING OFFICER (Mr. COLEMAN). H.R. 1298.

Mr. REID. Is that the global AIDS bill?

The PRESIDING OFFICER. Yes, it is.

Mr. REID. I ask unanimous consent that the Feinstein amendment be next in order and there be 20 minutes equally divided in the usual form.

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

The Senator from West Virginia.

Mr. BYRD. Mr. President, may I inquire of the leadership how much longer the leadership expects to keep us in session today?

I inquire of the leadership as to how much longer the Senate will be in session today. It is now 22 minutes until the hour of midnight.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I respectfully respond to my colleague that clearly we can pass the bill now, and that would end the session. I would hope we would do that. If Members wish to continue offering amendments, I will do the best I can to encourage each amendment be defeated so we will have a clean bill.

In any event, I hope it will not be long, and with the cooperation of all Members we can expedite it.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I reiterate what the chairman of the Foreign Relations Committee said. As I said at the outset of this week and through this week, the intent is to finish this bill this week. A number of Members on both sides of the aisle have requested that we continue. If we are going to finish this bill, which we will, we will finish it tonight. The plans are to finish the bill tonight. I know there are a number of amendments. As my colleagues can see from the amendments so far, the expectations are that we will be able to defeat each amendment as it comes forward.

I encourage the other side of the aisle to look at the amendments. I do not believe we have any amendments on our side of the aisle. I encourage the other side to look at their amendments. This is the first step, at least from my standpoint, in addressing this complex issue. We are taking advantage of an opportunity at this point in time to move forward in the best interest of the United States with the global health community.

I can tell the Senator this is not the bill I started with, and myself, Senator KERRY of Massachusetts, and a number of us have worked on a whole range of bills—the Lugar-Biden, Biden-Lugar bill. We are going to have plenty of opportunity to address this issue. This little virus, I have said again and again, is going to be with us for the next 30 years. Even if we invent a vaccine tomorrow, we will have plenty of opportunity to refine this bill or the framework upon which this bill was started at a later date.

I again encourage all people who are considering amendments to not offer those amendments. Our intent is to defeat each one. I remind everybody, this is a bipartisan bill.

It did come from the House of Representatives, built on lots of other bills on which we have been working, and only one Democrat and a handful of Republicans voted against this bill. Therefore, I encourage our colleagues to withdraw amendments.

We will be working together in a bipartisan fashion to improve this fight against a devastating virus. The intent is to complete this bill tonight.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. If the majority leader will yield, would the majority leader seek to ascertain how many amendments will indeed be called up yet?

Mr. FRIST. Mr. President, indeed I hope the managers can agree on a list of amendments. Again, I know a lot of people—we have been working on colloquies, and we will continue to do that, if necessary, to show what our intent is. Again, I am not sure if a final list has been settled upon. I encourage it to be as small as possible. I inquire of the other side.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, we are working on a definitive list as we speak. There are some amendments that may only require a voice vote, but at this point there are at least three or four amendments that may require rollcalls but with very short time limits. I know of no one on our side requesting more than 10 minutes in an effort to offer their amendments. So we should be able to move these quickly.

Mr. FRIST. Mr. President, I do not believe we have any amendments on our side to be offered tonight. I encourage my colleagues to yield back time, again after careful explanations on their amendments so people know what they are voting on, but yield back time accordingly.

I ask unanimous consent that all rollcall votes be 10 minutes.

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

Mr. BYRD. Mr. President, will the leadership try to determine how many amendments are really going to be called up? We have cast 30 or 31 rollcall votes already today. It is now 17 minutes until midnight. We used to ask for a show of hands as to which Senators were serious about calling up amendments, and I would hope the leaders would do that. I would like to stay around and finish action on the bill, but I am not bound to do so. If we are going to have several, I will ask unanimous consent for a leave of absence from the Senate for the rest of the evening and be on my way home.

I would love to stay around and finish voting with other Senators. I do not want to presume to be the leader tonight, but I have been known to ask other Senators for a show of hands as to which Senators were serious about calling up amendments.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. I respond by saying I am scared to death to ask the other side how many amendments we actually have. We heard from the Democratic leader that there are four amendments that will likely require rollcall votes.

From our side of the aisle, we have no amendments. We made it very clear what our strategy is, and that is to defeat the amendments. Why? Because it is the clearest way to help the hundreds of thousands of people who we know will benefit if we pass this bill tonight and get it to the G–8 so that the President can use it appropriately.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I suggest we get on with these amendments. The sooner we do so, the sooner we will finish.

Mr. BYRD. I ask unanimous consent that I be granted a leave of absence for the remainder of the evening.

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

The Senator from California.

AMENDMENT NO. 682

Mrs. FEINSTEIN. 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 California (Mrs. FEINSTEIN), for herself, Mr. LEAHY, Mrs. CLINTON, Mr. DURBIN, Mr. JEFFORDS, Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. SCHUMER, Mr. CORZINE, Mrs. BOXER, Mr. FEINGOLD, and Mr. BIDEN, proposes an amendment numbered 682.

Mrs. FEINSTEIN. 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 provisions relating to the distribution of funding)

Beginning on page 94, strike line 19 and all that follows through line 17 on page 95, and insert the following: ''301 of this Act), including promoting abstinence from sexual activity and encouraging monogamy and faithfulness and promoting the effective use of condoms for sexually active people; and

''(4) 10 percent of such amounts for orphans and vulnerable children.

''SEC. 403. ALLOCATION OF FUNDS.

''(a) THERAPEUTIC MEDICAL CARE.—For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care.''.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I rise today with Senators LEAHY, CLINTON, DURBIN, JEFFORDS, HARKIN, LAUTENBERG, REID, SCHUMER, CORZINE, BOXER, FEINGOLD, and BIDEN to offer an amendment to strike the earmark included in the bill which mandates that 33 percent of all prevention funds must be used exclusively for abstinence before marriage programs.

I deeply believe this bill has one major flaw. I appreciate the bill, and I know the effort that went into it. It is a big step forward. But when it comes to AIDS, prevention is the name of the game.

Over one-half of the AIDS cases that are expected between today and 2010 can be prevented. The World Health Organization says of the 45 million new HIV cases anticipated, 29 million could be averted with effective prevention.

I was mayor of San Francisco when AIDS was discovered. We had one of the first AIDS program in the country. I spent 9 years of my life as Mayor developing AIDS prevention programs, seeing what worked and what did not work. What I found was that there has to be flexibility. What works for one group of people or community might not necessarily work for another.

I believe one of the major flaws of this bill is the earmark which would require that 33 percent of the prevention funds—that is $1 billion over 5 years or $200 million a year—must be spent exclusively on abstinence before marriage programs. Abstinence will not work for everyone.

We offer this amendment not because we are opposed to abstinence programs or do not want to see them funded. Rather, there are many additional approaches that are also effective and we believe it is critical that there be the necessary flexibility for a particular community or country to design a prevention program that best meets the needs of its people.

I deeply believe that when we look at prevention, we have to consider a number of programs. Let me give a few examples of prevention programs that should be funded under this bill:

Voluntary counseling and testing. This is an important component to stop the spread of the virus. Access to testing is important to ensure that one knows they are infected. Often, the disease is spread from husband to wife because he does not even know he is HIV positive. So testing is prevention.

Another form of prevention is stopping the spread of HIV from mother-to-child. Nevirapine is effective in preventing the transmission of HIV from a mother to her child. Studies have shown that combining drug therapy with counseling and instruction on use of such drugs can reduce transmission by 50 percent.

Blood safety is also an important preventive measure. While the U.S. has taken the necessary steps to nearly eliminate the transmission of HIV by blood transfusion, many countries lack resources and infrastructure to take similar action including the creation of a national blood supply, use of low-risk blood donors, screening of blood donations, and reducing the number of unnecessary transfusions.

Sexually transmitted disease control is another prevention tool. Left unchecked, sexually transmitted diseases can expand the risk of HIV/AIDS two to five times.

Lastly, empowering women is an important component to prevention. In Africa, women account for 58 percent of HIV/AIDS cases, and the number is rising. This means that providing women around the world with health and educational opportunities, equal rights before the law, protection from sexual violence and sexual trafficking, can help them take control of their lives and help reduce the spread of HIV.

It is unrealistic to think that sexual abstinence is the most appropriate prevention strategy in every community. There has been research conducted in our own society on how an abstinence only approach fails to reach everyone. Therefore, I fail to understand then how this approach will work in the developing world.

I deeply believe that the 33 percent earmark is the wrong approach to take with this bill. The amendment we have submitted would replace that 33 percent earmark with language that would give local communities the flexibility necessary to design prevention programs that work for them. It includes abstinence. It includes faithfulness. It would also include the use of condoms for sexually active people.

I believe our amendment is simple and straight forward. Let local communities, working in conjunction with the USAID and others, develop prevention programs that work for them. Congress should be passing legislation that simply gives local communities and health care providers the necessary resources to implement programs that are effective given their unique cultural, social, and medical circumstances.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I yield to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank the leader for yielding the floor. I thank the Senator from California for the spirit in which she is putting this amendment forward. She wants to see the best possible happen. I appreciate the tenor and spirit she is putting forward.

I reiterate what the chairman of the committee said: We want to get a bill through. If we put this amendment in, it is not going to get done in time for the G–8 meeting.

The second issue, this week the First Lady of Uganda was visiting and spoke to a number of us. Uganda has been a wonderful model with great success thus far working on reducing the incidence of AIDS from a 21 percent level of infection of AIDS in their country in 1991 to 6 percent in 2002. She said very clearly and directly this is about a change of culture, about pushing a model of ABC which started with abstinence and be faithful. That was the key, the key area they needed to push in that they got the most success, the right thing to do.

I point out in this area, the way the bill reads, in this actual provision, 33 percent of 20 percent would be used for abstinence programs, but not just abstinence programs. It would be abstinence and other programs along with it. Effectively, we are talking about roughly 6.5, 6.7 percent of the money. This is a small amount. It is a clear message we think needs to be sent along with an effective model that worked very well in Uganda and is being implemented in Senegal, Zambia, Ethiopia, and Jamaica because it has proven so successful.

This is an important provision to leave in because if we change it, even with the good intentions of the Senator from California, it will stall, if not really put the bill way back, because this issue involved a major dispute with the House.

Second, the abstinence programs have worked, in the clear places they have been used, particularly in Uganda, the model that has been most frequently cited.

Third, it is a small portion of the funding; 6.7 percent is actually in use here.

I urge for all those reasons my colleagues vote down the Feinstein amendment and stay with the provisions of the bill as sent over from the House.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have heard this interesting discussion by two Senators I like a great deal. I cannot add to the experience the distinguished Senator from California had as

mayor of San Francisco and, in fact, in her work as a national leader in efforts to prevent AIDS.

I say also to my good friend from Kansas that I remember being in Uganda at a time when they were first becoming aware of the fact they had an AIDS problem. I was sitting with President Museveni when he got his first real briefing, by USAID officials, of the calamity of AIDS in his country. At that time he switched from opposing the use of condoms as an acceptable way to protect against AIDS to supporting it.

It is one of the reasons Uganda is a model for Africa today. Of course they support abstinence. So does the Senator from California. Of course they support fidelity. So does the Senator from California. But also in Uganda they know that does not always work. And they also support the use of condoms.

I commend the Senator from California for her amendment. This amendment addresses one of the serious flaws in a bill that has much else to recommend it.

This bill, assuming the President requests the funds to implement it, will be a major step forward in the fight against HIV/AIDS, tuberculosis, and malaria.

I have pressed for significantly more funding to combat AIDS ever since I first traveled to Africa in 1990 and saw the ravages of AIDS in Uganda, South Africa, and Kenya.

We have had amendments brought up here within the past year to appropriate emergency funds to combat AIDS, that were opposed by the White House. Now the majority party has its own bill, a House bill and they want us to pass it without amendment. I understand that. But this is the Senate, not the House.

The amendment of the Senator from California would clarify several matters.

First, we all support programs to promote abstinence among young people who are not yet sexually active. We support that and her amendment reaffirms that.

We also support programs to promote fidelity, because multiple partners is a major cause of HIV transmission. The Senator's amendment promotes fidelity.

But in many instances, and especially for women and girls in countries like Uganda, Cambodia, India, or South Africa, abstinence is not a realistic option. And fidelity may be an option for women, but it makes no difference because they have no control over their male partners. And that also goes for married women.

In many developing countries, women and girls have no say over when or even with whom they have sexual relations. And for them, a condom is their only protection against HIV. It is a matter of life and death.

That is true in Uganda, where I have been. We have heard a lot said about how Uganda's rate of HIV infection was reduced because of abstinence. That is not the whole story. In fact it is a distortion. Promoting abstinence has been very important there, but it has been no more important than other interventions, like promoting the use of condoms.

Senator FEINSTEIN's amendment supports abstinence. It supports fidelity. And it supports the use of condoms. Like the Uganda model, her amendment does not give one approach any more weight than the other.

Most importantly, it does not mandate a certain amount of funds for any one approach.

Whether 33 percent or 13 percent or 3 percent of the funds we make available for AIDS prevention are used to promote abstinence is a public health decision that should be made not by Congress, but by experts working in the field.

The same goes for the amount spent on condoms. It is not for us to decide that. It varies depending on the country and the target population.

Among younger populations abstinence may be the best approach. Among others it may be irrelevant and condoms may be the only practical protection. That is consistent with Uganda's experience. It is consistent with the experience of exports everywhere who are working to stop the spread of AIDS. And it is consistent with what President Bush himself has said.

It is also important to mandate that abstinence, fidelity, and condoms are only three of the necessary approaches to AIDS prevention.

There is also counseling. There is voluntary testing. There is treatment for sexually transmitted diseases. These are all essential to any AIDS prevention strategy. Again, this has been true in Uganda, and in many other countries.

So let us not earmark one approach—abstinence—when it is only one of several necessary approaches. Senator FEINSTEIN'S amendment leaves it to the Administration, and to the experts who implement these programs, to decide. That is the only sensible and workable approach.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I yield to the Senator from Wisconsin.

Mr. FEINGOLD. It is late, but I cannot let the characterization of the AIDS program in Uganda pass without suggesting that the characterization by the Senator from Kansas is an oversimplification of how they reduced the AIDS incidence in Uganda.

Most importantly, what Uganda did is to destigmatize AIDS, to not make people who have AIDS pariahs, and to talk about a range of alternatives, not simply abstinence.

The House approach to this does not characterize the way in which they succeed in Uganda. In fact, I suggest it does just the opposite.

I object to the use of the Uganda example, which is one of the leading examples of the world. Without the ABC, all three of them, it would not have succeeded. The House approach is too limited to save the lives we all want to save.

Mr. LUGAR. Mr. President, let me clarify that if $2 billion is spent in the first year for bilateral HIV programs and if 20 percent is for prevention, only $132 million will be involved in the abstinence programs. I simply say, it is a fairly small amount.

When the President addressed this issue at the White House, he specifically said, there are three elements. There is abstinence, faithfulness, and condoms. He said all three. There is a liberal amount of money for a lot of flexibility.

I don't argue with the distinguished Senator from California. I just say essentially the language accomplishes that.

Once again, we are faced with the fact that if we are determined to amend it, we are back into the problem with the House, which debated this. This was an important part of the compromise that brought those 375 votes in favor of the bill.

I yield back our time.

Mrs. FEINSTEIN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Two minutes 10 seconds.

Mrs. FEINSTEIN. I yield 1 minute to Senator DURBIN.

Mr. DURBIN. Having been to Uganda and having seen the success of this program, the characterization on the floor is not correct. Secretary of State Powell has made it clear the United States approach involves all three—abstinence, fidelity, and condoms. And in the country of Uganda, it has been successful.

Why in the world are we establishing a 33 percent requirement when it comes to the abstinence programs? This afternoon we had tea with the First Lady of Uganda, and we had a conversation with her and asked, wouldn't you want to have the flexibility to apply these programs to the communities and villages and situations in the most effective way to fight this disease? She said, of course we would.

This House bill, which is now so sacred that we cannot change one word, has put in 33 percent—not in the interest of global health but in the interest of an American political agenda. That is unfortunate.

Mrs. FEINSTEIN. Mr. President, I yield the remaining balance of the time 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 amendment of the Senator from California.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Massachusetts (Mr. KERRY) are necessary absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote aye.

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

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—45

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

NAYS—52

Alexander	Dole	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	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	Lott	Thomas
Cornyn	Lugar	Voinovich
Craig	McCain	Warner
Crapo	McConnell	
DeWine	Miller	

NOT VOTING—3

Byrd	Domenici	Kerry

The amendment (No. 682) was rejected.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, the majority leader and I have been discussing how we will continue. I know of no one who has asked for a rollcall vote on final passage. It would be our hope that we could voice vote final passage.

I also encourage my colleagues, to the degree possible, to accept voice votes on these amendments as well. The hour is late, and each vote takes at least 10 minutes. There will be a voice vote on final, assuming everyone has agreed. To the extent possible, I encourage voice votes on amendments as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 681

Mr. KENNEDY. 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 Massachusetts [Mr. KENNEDY], for himself and Mr. FEINGOLD, Mr. MCCAIN, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, and Mr. JOHNSON, proposes an amendment numbered 681.

Mr. KENNEDY. 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 provide for the procurement of certain pharmaceuticals at the lowest possible price for products of assured quality)

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest delivered duty unpaid price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I)(aa) approved by the Food and Drug Administration;

''(bb) authorized for marketing by the European Commission;

''(cc) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(dd) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used unless the President determines that the product does not meet appropriate quality standards; and

''(II) in compliance with—

''(aa) the intellectual property laws of the country where the product is manufactured;

''(bb) the intellectual property laws of the country where the product will be used; and

''(cc) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iii) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(iv) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect a decision regarding which medicine is most medically appropriate for a specific disease or condition.

Mr. KENNEDY. Mr. President, we know that 30 million people in Africa are afflicted with HIV/AIDS, and millions more around the world are also ill. Eight thousand people die in Africa each day from AIDS, and many of them are children. Only 50,000—1 in every 600—receive the drugs that we know can turn a deadly disease into a chronic one.

This legislation promises that funds will finally be available to buy these lifesaving drugs. Our amendment is intended to see that these drugs will help the largest number of people possible. It does that by requiring that products be purchased at the lowest possible price. It does not add a penny to the cost of this bill. But it also means that we will get the greatest value for this very urgently needed investment to stop the HIV/AIDS epidemic.

President Bush emphasized in his State of the Union Address ''antiretroviral drugs can extend life for many years. And the cost of these drugs has dropped from $12,000 a year to under $300 a year—which places a tremendous possibility within our grasp. Ladies and gentlemen, seldom has history offered a greater opportunity to do so much for so many.''

The best way to take advantage of this opportunity as identified by the President is to require the purchase of AIDS drugs of assured quality at the lowest possible price. That is now $300 a year—not $12,000.

It is important that we understand the significance of this difference. If we use the funds in this bill to buy a year's supply of drugs for $12,000 a person, we will help only 100,000 persons. But if we buy the drugs for $300, we will help over 4 million.

This amendment is based on the successful program of the Global Fund to Fight AIDS, Tuberculosis, and Malaria. This program is proven to work in getting safe, high-quality drugs to people in need in the developing world at the lowest price.

The essence of this amendment is simple. It fulfills the President's pledge to treat AIDS patients with drugs costing $300 per case. It protects America's

intellectual property rights. It assures that drugs will be of the highest quality. But, most of all, it means we will be able to save millions of lives instead of thousands.

Let us put patients first—not the profits of the drug companies. Let us buy drugs at the lowest possible price to treat the maximum number of patients. Let us deliver the best medicine at the best price.

I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to speak in support of Senator KENNEDY's important amendment. The Senate should not be silent on this issue. Senator KENNEDY's amendment requires that pharmaceuticals procured by the United States for treatment initiatives authorized in this bill be purchased at the lowest possible cost while maintaining high quality standards.

In the past, Congress has been reluctant to address treatment issues, shying away from the complexities associated with providing treatment and resources. But just because it has been difficult does not mean it is impossible. And recognizing and accepting complexity is no excuse for ignoring urgent needs.

I have served on the African Affairs Subcommittee in the Senate now for almost 11 years, and I am pleased to be able to say that it appears that the tide is finally beginning to turn on this issue after so many years with people cavalierly dismissing the notion of providing access to antiretroviral drugs in the developing world.

I often recall the very end of almost a marathon meeting with the Senegalese public health community. An extraordinary group of Senegalese doctors, nurses, and volunteers and religious leaders had come out on a Saturday to spend hours talking with me and others about their coordinated campaign to fight AIDS. We were wrapping up when a gentleman who had been among those briefing me stood up, and speaking softly he told me that he was HIV positive. He wanted to know if there would be any help for him, any assistance with the kind of treatment that is out of reach for some in Africa.

There has to be an answer to his question. I heard the President of the United States answer positively in the State of the Union that basic human decency tells us that we cannot stand by while tens of millions die and societies collapse.

Recently, in South Africa I met with pediatricians whose exhaustion showed on their faces and their posture and in their tired, angry voices. They were tired of watching children die when they know that the treatment actually exists to save them.

There is much more to say about what we have seen in Africa. But what we are talking about here is a tremendous commitment of U.S. resources in this bill and in this time of crises. I think we have to get the most that we can for our money.

The amendment is about using taxpayer dollars wisely. It would be beyond shameful and almost reprehensible for us to use the resources authorized in this bill for what might end up being sweetheart deals with big pharmaceutical companies for their products if we could get equally safe and effective products at a better price.

The amendment is in no way targeted to the pharmaceutical industry. It does not prejudge anyone's intentions. It does not exclude any single provider of safe and effective drugs. It simply demands that the U.S. Government get the quality we need at the best available price.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, just as a matter of common sense, the U.S. Government will attempt to purchase pharmaceutical products of the highest quality at the best price. But I would just simply urge my colleagues to consider the fact that mandating this, while it appears reasonable, and has some reliance upon the World Health Organization's pilot program, we ought to recognize that the World Health Organization actually dealing in countries with a high incidence of HIV/AIDS does not guarantee the quality of the medicine. It is probably unable to do that.

The facts are—and I respect the distinguished Senator from Massachusetts and, likewise, the Senator from Wisconsin; they have experience, I am sure, in the field looking at these programs—the testimony of people I have visited with at Indiana University, who have been in the field, indicates that the whole idea of the treatment is a very provisional situation.

We are grasping as a world at what works. And this is why flexibility has been encouraged thus far. We also are simply up against the fact that the problem is so overwhelming that attempting to obtain pharmaceutical products from anybody around the world has been extremely difficult. And a good number of pharmaceutical companies have been prepared to make enormous price concessions. And most physicians then point out, you need a physician to help the patient make certain the doses are right, the combination of drugs is right, the discipline of dealing with this is correct.

It is not a matter of mandating the lowest cost drugs, and failing to do that denying people treatment. The fact is, 80 percent of the people with AIDS in the world are getting no treatment at all. That is why we are trying to pass a bill tonight as opposed to having several months more discussion, attempting to perfect the bill. I have said from the beginning, as Dr. FRIST, that all of us could perfect this bill in a number of ways. Our problem is to get a bill through two Houses now so it might be of some benefit to our President in his diplomacy and advocacy as he approaches the other wealthy countries of the world, starting at least on the first of January, if not before.

Therefore, Mr. President, I am hopeful that Members understand the importance of getting drugs at the best price and mandating the highest quality and attempting to get as many companies all over the world interested in this as we can. But the amendment, it seems to me, once again, obstructs the fact of getting any bill at all, any relief for the people we are talking about. Therefore, I ask Senators to vote no.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have just seen the World Health Organization deal with one of the great challenges of modern times; and that is with SARS. The World Health Organization has been commended all over the world for the way it has worked with countries all over the world, and we have joined in that commendation.

We have been working with the Global Fund to Fight AIDS, Tuberculosis, and Malaria to ensure quality products are used to treat patients with HIV/AIDS. We are investing money in these quality products through the Global Fund to Fight AIDS, Tuberculosis, and Malaria. All we are saying in this amendment is that you are going to have the same assured product at the lowest possible price.

If the American Government is, through the Global Fund, buying these quality products, then you ought to be willing to accept this amendment. All it does is make sure we have the best prices for these products of assured quality. We are not saying we have to buy the antiretroviral drugs for HIV for $300, but they do have to be purchased at the best available price, with the quality assured.

I do not understand how we can refuse to say, if we are going to invest the taxpayers' money in this endeavor, then we should get the maximum in terms of the results, in terms of the number of people helped. We should make sure that helping the most people possible is the policy of the United States.

Mr. GREGG. Will the Senator from Massachusetts yield?

Mr. KENNEDY. I am happy to yield.

Mr. GREGG. I was wondering if the Senator from Massachusetts would be willing to enter into a time agreement, say, 2 minutes on each side, and then have a vote?

Mr. KENNEDY. We were trying to reach 10 minutes for ourselves. We probably have 2 more minutes for the Senator to speak and then we are finished.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, one quick point to reinforce what Senator KENNEDY said in response to what the Senator from Indiana said.

Obviously, the Senator from Massachusetts and I are not going to offer an amendment to provide unsafe treatments. In fact, the WHO guarantees the bioequivalency of a given product. And that just means they actually verify that it is exactly the same as a product that has been thoroughly tested for safety by an institution such as the FDA.

So it is not a valid point that somehow this approach that we are suggesting will lead to products that are not safe. They are as safe as the ones we would use ourselves.

Mr. MCCAIN. Mr. President, this amendment, like this bill, addresses a specific pandemic that demands our attention and our action. According to the most recent data available, at least 20 million people have died of HIV/AIDS globally, orphaning 14 million children. On the African continent, approximately 30 million people have the AIDS virus—3 million of whom are children under the age of 15.

In the spirit of the underlying bill, I have joined my friend Senator KENNEDY in cosponsoring this amendment to ensure that this bill saves as many lives as possible. Our amendment will allow for the purchase of many more drugs to treat those suffering from HIV/AIDS, stretching the taxpayers' dollars as far and as effectively as possible.

This amendment allows U.S. taxpayer dollars to go towards the purchase of safe, but less expensive equivalent medications on the global market if they are available. It enables the U.S. Agency for International Development (USAID) to use Federal funds to procure drugs at the lowest possible price on the global market to treat HIV/AIDS patients, provided that they are approved for treatment in the U.S.; the EU; have been selected by the World Health Organization's, WHO, Pilot Procurement Quality and Sourcing Project for HIV-related medicines; or are authorized for use by the country where the product will be used. These are the same qualifications used by the United Nations Global Fund to procure drugs.

This amendment does not give preference to a particular treatment for HIV/AIDS. Patients will not be precluded from receiving the drug treatments that are medically necessary; however, if there is a less expensive equivalent drug included in that treatment, this amendment will require the purchase of that lower-cost drug.

As a proponent of free trade and a staunch supporter of upholding our global trade obligations, I don't believe this amendment violates carefully negotiated agreements on intellectual property rights at the World Trade Organization, WTO, nor does it weaken the position of our trade representatives in future intellectual property negotiations. The language of this amendment closely tracks the most recent intellectual property rights agreements at the WTO.

I urge my colleagues to choose to make treatments available to many more people suffering from this terrible disease and vote for this amendment.

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

The Senator from Nevada.

Mr. REID. Mr. President, I have checked with both managers of the bill. I ask unanimous consent that the only amendments in order be the following: Senator FEINGOLD, who is going to offer his amendment; Senator CLINTON; Senator LAUTENBERG; Senator LEAHY; Senator LANDRIEU; Senator DODD; Senator BOXER. And it is my understanding the manager of the bill has an amendment to offer. Oh, I am sorry. There he is. And the Boxer amendment will be 20 minutes, equally divided.

Mrs. BOXER. I don't need that much time.

Mr. REID. Five minutes equally divided.

Mrs. BOXER. Ten minutes.

Mr. REID. That is what I said.

Mrs. BOXER. You said 20 minutes. I need 10 minutes.

Mr. REID. OK, Senator BOXER, 20 minutes, equally divided. Senator DODD, 20 minutes.

Mr. LUGAR. Senator BOXER, 10 minutes, evenly divided.

Mr. REID. I think we have been here 17 hours. What do you think?

Senator CLINTON is going to speak for a short time. She will take a voice vote. Senator LAUTENBERG is going to enter into a colloquy. Senator LEAHY is going to offer and withdraw. Senator LANDRIEU is going to enter into a colloquy. Senator FEINGOLD is going to offer and withdraw.

I ask unanimous consent that the order of the amendments be: FEINGOLD, CLINTON, LAUTENBERG, LEAHY, LANDRIEU, DODD, and BOXER, and the final vote be that of Senator BIDEN, and there be no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, I don't mind going last. I will be happy going last.

Mr. BIDEN. No, Mr. President, I will go last.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, 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 amendment No. 681.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii, (Mr. INOUYE) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye.''

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

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—42

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

NAYS—54

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

NOT VOTING—4

Byrd	Inouye
Domenici	Kerry

The amendment (No. 681) was rejected.

Mr. LUGAR. 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. DASCHLE. Mr. President, we have two other amendments that require rollcalls. Very short time limits will be used to present the amendments is my understanding. We have no other requests for rollcalls. Other Senators will be offering amendments requiring voice votes. I think at that point Senators will be free to leave. I ask that the Boxer amendment be the next in order.

Mr. LUGAR. Mr. President, I ask for information now on the time limits on the two amendments.

Mr. REID. The Boxer amendment is 10 minutes. It is already an order.

Mr. LUGAR. On the Dodd amendment?

The PRESIDING OFFICER. There was no time limit established.

Mr. DASCHLE. It is my understanding that there was 20 minutes on the Dodd amendment, 10 minutes on the Boxer amendment, evenly divided.

The PRESIDING OFFICER. There was no time limit—

Mr. DASCHLE. I ask unanimous consent for that.

Mr. REID. Mr. President, I don't want to belabor the point, but when I said we were in the 17th hour, we did ask for time on the Boxer amendment.

The PRESIDING OFFICER. Yes, the Boxer amendment has a 10-minute time limit.

Mr. REID. Senator DODD has agreed to 20 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin is withdrawn.

The Senator from California is recognized.

AMENDMENT NO. 684

Mrs. BOXER. Mr. President, I know we are all exhausted and I am really sorry to be here for an extra few minutes. I feel I don't deserve to really be in the Senate because we are talking about global AIDS, which is turning into a weapon of mass destruction. I feel very bad about what we are doing here tonight.

First, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mrs. BOXER) proposes an amendment numbered 684.

Mrs. BOXER. 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 require a specific plan to help AIDS orphans)

On Page 29, line 15, insert before the semicolon the following: '', including the development and implementation of a specific plan to provide resources to households headed by an individual who is caring for one or more AIDS orphans''.

Mrs. BOXER. Mr. President, I feel very badly about what we are doing tonight. We are passing an inferior bill that was passed by the other body so that the President can hold in his hand a piece of AIDS legislation. How better it would be if it were a fine piece of legislation, if it were a more thoughtful piece of legislation, if it were a more effective piece of legislation.

But the fix is in. All amendments are being voted down because of the President's schedule. Well, I didn't get elected from the largest State in the Union, that has been fighting the AIDS epidemic ever since Senator FEINSTEIN was a mayor and I was on the county board of supervisors, to rush through something like this. I think it is really very sad that we are being governed by the schedule of the executive branch.

I want to tell you very quickly what my amendment does. It restores a focus on AIDS orphans. You cannot think of anything more tragic. AIDS orphans were the focus of the bills that passed the Senate before. They are no longer the focus. More than 10 million children have been orphaned by AIDS. It is estimated that, by the year 2010, there will be over 40 million children left orphaned by this horrendous disease. That is a population so large that it is more than California's 37 million residents. It is 8 Wisconsins or 70 North Dakotas. You get the point. In the vast majority of cases, single women and young girls, 16 years old, 17 years old, 15 years old, are taking responsibility for the care of these orphaned children. Just read about it. It is heartbreaking.

All my amendment says is that a specific plan will be developed by the AIDS coordinator and implemented to provide resources, especially to households headed by an individual who is caring for one or more AIDS orphans.

This bill is silent on this point. We do nothing specific about this. This bill is vague. Even though you have committed to vote against everything, it will take only 2 minutes for the President to call TOM DELAY and say: Help the orphans, vote for this amendment. I hope we will all vote aye.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I am unfamiliar with the amendment of the distinguished Senator from California. I have listened carefully to her argument, and obviously the bill before us addresses the needs of women and orphans in a great number of places. I must argue again, I suspect that the best in this case should not be the enemy of the better.

We have a bill here that I believe is sound on these issues. As we have admitted again and again, each one of us might perfect it in various ways. The distinguished Senator from California is attempting to do so now. But I encourage Senators to vote against the amendment for the same reasons I have encouraged Senators to vote against each of the perfecting amendments—realizing that each one of us, in the event we were to write the bill, could do better. But we have two bodies working on a procedure whereby we are on the threshold of having a significant breakthrough for the people we are attempting to assist and save.

The Senator has made an eloquent case for why we ought to have action now and ought to encourage other countries to join us. I ask Senators, once again, to oppose the Boxer amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I yield back the remainder of my time.

Mr. LUGAR. We yield back our time.

Mrs. BOXER. 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. 684. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye.''

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—45

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

NAYS—50

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

NOT VOTING—5

Byrd	Inouye	Landrieu
Domenici	Kerry	

The amendment (No. 684) was rejected.

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

Mr. LEAHY. 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 Connecticut.

AMENDMENT NO. 685

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 685.

Mr. DODD. 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 add CARICOM Countries and the Dominican Republic to Priority List of HIV/AIDS Coordinator)

On page 31, line 19, insert the following after the second comma on that line:

''Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Jamaica,

Montserrat, St. Kitts and Nevis, St. Vincent and the Grenadines, St. Lucia, Suriname, Trinidad and Tobago, Dominican Republic,''

Mr. DODD. Mr. President, I apologize to my colleagues. I know it is now after 1 in the morning. People are tired. It has been a long day. I have great respect for this institution and do not normally like to test the patience of my colleagues, but as tired as all of us are at this very hour, there are some 250,000 orphans right now, 80,000 of whom live in the Caribbean, who are orphaned because their families, their parents, contracted AIDS.

There are half a million people in the 14 CARICOM countries who will not be included as a part of this bill, for reasons that have never been explained adequately to me, who are suffering a lot more than just fatigue tonight because they will not get the kinds of medicines and support they deserve.

I apologize for raising an amendment that is brought up at a late hour. I am sorry we are not going to be here tomorrow to debate some of these issues. The decision to be here at this hour is certainly not that of those who are offering these amendments.

This is a very important bill. I have great respect for the President, who has made this an important issue, who wants to bring it up and see to it that these issues can be debated when he goes to the G–8.

My amendment simply says that for the countries that suffer the second largest incidents of AIDS in the world, the Caribbean countries where 10 million American tourists go every year, ought to be included as part of this package.

I do not think our colleagues in the House of Representatives, Democrats or Republicans, would reject this legislation because we add 14 countries where 5 million people live, where half a million people are suffering from AIDS, second only to that of sub-Saharan Africa. If they would object to the bill on that grounds, I do not understand this. Yet we have excluded all but two countries from being recipients of this aid. So my amendment merely says we ought to include these countries as part of this package.

The average age of death in the Caribbean countries is 45 years of age. Twenty-five percent of all hospital beds in these Caribbean countries are now filled with people infected by AIDS. Few of these patients receive any treatment at all. The mother-to-child transmissions are the highest in the Americas. The AIDS epidemic has already left 80,000 orphans in these Caribbean countries. Globally, half of all infected are in children between the ages of 15 and 24, except in the Caribbean. There it is, 10 years of age.

I know it is late, but it is getting later for these kids. It is getting a lot later for them. So I am asking my colleagues in the Senate to ask our colleagues in the House to accept an amendment that would include people who live only a few minutes from our shores, who deserve a little more than they are getting tonight. If you are a 10-year-old child and you are suffering from AIDS, you are one of 80,000 orphans in the Caribbean and you deserve better than being told that this bill cannot be changed, not one dot, not one comma, not one word.

I know in fact this bill will be changed before we leave tonight. So the argument somehow that we cannot do this is specious. We ought to be doing better than that. We are the Senate. We are dealing with a critically important global issue. It deserves more of our time, attention, and concern than the argument that we are fatigued and tired, that we do not have the patience to go back to our colleagues in the House and say we can do better. I urge my colleagues to support this amendment. It is not asking too much to say to half a million people who are a few miles from our shore that we want to include them as part of this effort to make this world a better and safer place. I urge its adoption.

Mr. BIDEN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. BIDEN. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. BIDEN. Mr. President, I, quite frankly, not only agree with every point the Senator has made, but, quite frankly, I have not heard a more compelling case, a more logical case, and a more—how can I say it?—reasoned indictment of our failure to be willing to confront the House with what I cannot believe, particularly if the President said he supported this, that we would not be able to get it done.

It is true that I believe the House is willing to accept some changes in this bill. The fact is, as the Senator knows, the bill we had did exactly what he is talking about providing for these folks.

Even though everyone says there is no possibility of anything being accepted beyond this, I find it hard to believe, if this body, which passed this before, which unanimously said this made sense, and a President who says he is overwhelmingly concerned not only about AIDS worldwide but about our Latin American friends to our south—remember, he started his whole initiative in foreign policy; he was looking in this hemisphere south.

I realize everyone thinks this would not happen, many think this would not occur, but it is clearly worth taking a chance. I am willing to bet, if it passes, it gets accepted. I cannot imagine it being turned down. I cannot imagine the President of the United States saying he would not accept this amendment.

All these amendments have been important, but there is simply no logic whatever—none—to refuse this amendment.

I yield the floor.

Mr. DODD. I am prepared to yield back my time.

Mr. GRAHAM of Florida. I would like to add to your comments and those of Senator BIDEN that we have talked mainly this evening about the humanitarian aspects of this issue.

If I could bring it a little closer to home, in large part because of the health care conditions in the Caribbean, my State has suffered from time to time outbreaks of tuberculosis and other serious diseases. We now have a significant percentage infected with HIV. These are not 5,000 miles away; they are just a few minutes away.

We have a very direct national interest in arresting this problem, preventing its outbreak in the future, and therefore protecting the people of the United States. I hope this amendment will be adopted. It not only is the right thing to do for the people involved, it is the right thing to do for our people involved.

Mr. LUGAR. Mr. President, I will make a short comment and yield to my distinguished colleague from Pennsylvania.

I point out, without for a moment arguing with the distinguished Senator from Connecticut about the urgency of Latin America, our friends right here in the Caribbean, that the language of the bill with regard to the United States coordinator does list 14 countries, but it also then has these words: ''and other countries designated by the President.''

It appears to me this language is fairly flexible. It might have been better if all of the countries had been listed, but it does enumerate the Latin American countries that the Senator from Connecticut has pointed to and gives the power of the President to designate other countries.

I yield to the distinguished Senator from Pennsylvania and then the distinguished Senator from Kansas.

Mr. SPECTER. I have not spoken on this bill. From my experience, I know that few, if any minds, are changed by speeches. But I think it is important to note that we are not fatigued. We have almost 100 Senators on the floor. We have been here since 9:15, but we are robust and we are able to take on the country's business and we are not fatigued. We will give ample consideration to any amendments which anyone seeks to offer.

But it ought to be a point of focus that it is possible—barely, but possible—that somebody might be watching these proceedings on C-SPAN. And you might think those who are voting against these amendments are hard-hearted. But the fact is that unless we pass a bill, a clean bill, a virtually clean bill, what is agreed to by the House, this bill is not going to be ready when the President has to make a very important international trip. The President will be carrying a legislative package of $15 billion. That is a hefty sum of money and can go a long way on this hideous disease. With that kind of a package, the President will be in a position to leverage and get funds from other countries.

I certainly agree with the Senator from California who talked about prevention. I certainly agree it would be good to cover more children. It would be good to have lower prices. It would be good to have an explicit coverage to the Caribbean, although as the Senator from Indiana pointed out, there is flexibility to do that.

When we vote against these amendments, it is not because we do not think they are good or that we are in a hurry or we are fatigued. We are focused. But the principal objective is to get it passed and get it signed.

People ought to know, if they have not seen the beltway scene, that relations between the Senate and the House are not too good. If we put a lot of amendments on this bill, nothing will happen. We ought to get on with it. Fifteen billion is significant. It will really go to the heart of the matter. And then it can be revisited at a later time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, the hour is late and I point out to my colleagues, I am told this is the 36th vote of the day. According to some, that is a record for this body in a 24-hour period. This appears to be the last one.

I appreciate the spirit in which this is being put forward by my colleague from Connecticut who has a lot of interest and is focused on this region a great deal. This is coming from his heart.

However, we can do this, and what he is asking for, under this bill as it is. What is in this bill would provide that opportunity to do it. Really, by his raising this, it will elevate the focus, the possibilities in the Caribbean.

I read directly from the bill, ''directly approving all activities of the United States relating to combating HIV/AIDS,'' and it lists some 14 countries. Then it says ''and other countries designated by the President.''

I hope the facts he has put forward tonight will be considered by the administration. I believe they will be in combating this and we would use the funds—this is a large portfolio of funds we put forward, $15 billion—to focus and get results. We are on the edge of accomplishing something historic, of helping a lot, and we can do what our colleague from Connecticut says under the plain language of this bill.

I hope we can go ahead and vote on this.

I yield the floor.

Mr. DODD. I am happy to yield.

Mr. LEAHY. Mr. President, we want to get this bill off to the President so he will have it when he goes abroad. I agree with that, although I don't think that was a reason for opposing the amendments that were offered tonight. We could have passed those amendments, gone to conference with the House, and sent this bill to the President in plenty of time. But that was not what the majority wanted. They wanted to rubber stamp the House bill, despite its defects which were obvious to everyone.

Let's be realistic about what is going on here.

This is an authorization bill. It does not actually appropriate one dime. The President will be taking a promise when he goes abroad, nothing more. In fact, his budget request for 2004 does not include the amount authorized in this bill that people have been talking about. Not only that, while this bill authorizes $1 billion for the Global Fund to Fight AIDS, TB and Malaria, the President's 2004 budget includes only $200 million for the Global Fund, a $150 million cut from last year.

And not only does this bill not appropriate any money, his 2004 budget would cut many other global health programs. It would cut funding for child survival and maternal health by 12 percent. It would cut funding for programs to protect vulnerable children by 63 percent. It would cut programs to combat other infectious diseases—diseases which kill millions of children each year, by 32 percent. I wonder how many Senators know this.

So I hope that soon after the President signs this bill he will send us a budget amendment for the rest of the $3 billion authorized here that is missing from his 2004 budget request.

I hope he also asks for the funds to replace the cuts his budget makes in other global health programs. Because those cuts are going to mean fewer children will be vaccinated against measles and polio, and fewer pregnant women will have access to medical care. Each year, over half a million women die needlessly from pregnancy related causes. There are real consequences to cutting these programs.

Mr. LUGAR. Mr. President, I am prepared to yield back time on our side. Before doing so, may I clarify with the Chair that the only two remaining amendments are to be offered by the distinguished Senator from New York, Senator CLINTON, and the distinguished Senator from Delaware, Senator BIDEN, and that these will have voice votes at the conclusion of the two amendments, and then we will have final passage on a voice vote. Is that interpretation correct?

The PRESIDING OFFICER. There were other amendments authorized, amendments by Senators LAUTENBERG, LEAHY, and LANDRIEU.

Mr. LUGAR. Mr. President, I ask unanimous consent the only two remaining amendments be amendments of Senator CLINTON and Senator BIDEN, with voice votes to follow, and a voice vote on final passage.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Reserving the right to object, and I shall not, I will withhold my amendment.

Mr. LUGAR. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. I appreciate the comments of the chairman of the committee about the discretion of the President and, certainly, going on record as this being important, that additional countries are to be included as part of this package.

I ask unanimous consent a letter signed by the Ambassadors of all these countries asking these nations be included as part of this bill be printed in the RECORD.

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

MAY 14, 2003.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Addressing the AIDS pandemic in the Caribbean has been a major concern of the Caribbean Community of countries' (CARICOM), we therefore commend your efforts to address the AIDS epidemic in the Caribbean through your Emergency Plan for AIDS Relief. We are writing however, because we believe that a more inclusive approach to addressing AIDS in the region is needed, which is why we are requesting that you expand your initiative to include all Caribbean countries in the region.

As you know, the number of HIV/AIDS infection rates in the Caribbean is only surpassed by that of sub-Saharan Africa. In fact, prevalence rates in the Caribbean region are similar to what they were in sub-Saharan Africa prior to the explosion of the virus in the general population.

Like you, were greatly concerned about the AIDS crisis in the Caribbean and realize that aid from international donors such as the U.S. is necessary if we are to address the crisis. The slumping tourism industry has negatively affected our already weakened economies, making it difficult for our countries to provide resources that will adequately address the AIDS epidemic. Inadequate funding is then increasingly putting us at-risk for the further spread of the epidemic to the general population commensurate with current prevalence rates in sub-Saharan Africa.

We realize that high prevalence rates can overwhelm our health care capacity, destabilize our economies, and increase migration flow—which could pose a real security risk for the U.S. due to its proximity to he Caribbean. It is for these reasons that we are interested in supporting approaches to fighting the AIDS epidemic that fully take into consideration our special circumstances on the Caribbean.

Our AIDS epidemic is driven by heterosexual contact and a mobile population. For example, over 10 million persons from the U.S. visit the Caribbean annually. Population movements between the U.S. and the Caribbean for business purposes and tourism, including large numbers of U.S. and Caribbean students moving back and forth for study and leisure purposes, argue strongly for an inclusive approach to combating AIDS in the Caribbean.

As such, our own AIDS initiatives have been developed in response to the high mobility of the region. For example, the Pan Caribbean AIDS Partnership, administered through CARICOM is a collaboration between Caribbean countries, Caribbean regional institutions, and international agencies that work together to fight AIDS across the region. Similarly, programs implemented by your government have also taken regional approaches. USAID administers AIDS initiatives in the Dominican Republic, Guyana, Haiti, Jamaica, and through the Caribbean Regional Program, which is a Caribbean wide program that targets countries where USAID does not have a presence.

Because a regional approach is crucial to addressing the AIDS epidemic in our highly mobile population, we are requesting that you expand under your Emergency AIDS Initiative to the entire Caribbean region. Expansion of the program would allow for your initiative to include countries such as the Bahamas, which has an adult AIDS prevalence rate of 3.5 percent, and Trinidad and Tobago and the Dominican Republic who are suffering with prevalence rates of 2.5 percent. Additionally, countries such as Barbados and Jamaica with AIDS rates approaching 2 percent could receive funding for prevention efforts.

Without a regional approach to the Caribbean AIDS crisis, we fear that AIDS will lower life expectancy, increase the number of AIDS orphans, further threaten our already fragile economies, increase migration flow out of the region, and increase the threat to the U.S.

We therefore hope that you will seriously consider our request to include the entire Caribbean in your Emergency AIDS Relief Initiative.

Sincerely,

Lionel Hurst, Ambassador of Antigua and Barbuda. Joshua Sears, Ambassador of Bahamas. Michael King, Ambassador of Barbados. Lisa M. Shoman, Ambassador of Belize. Denis G. Antoine, Ambassador of Grenada. M.A. Odeen Ishmael, Ambassador of Guyana. Seymour Mullings, Ambassador of Jamaica. Izben Williams, Ambassador of St. Kitts and Nevis. Elsworth John, Ambassador of St. Vincent and the Grenadines. Sonia Johnny, Ambassador of St. Lucia. Henry Lothar Illes, Ambassador of Suriname. Marina Annette Valere, Ambassador of Trinidad and Tobago. Harry Franz Leo, Minister Counsellor, Charge d' Affaire a.i., of Haiti.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back.

The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in regard to the schedule, as mentioned, the votes as outlined will be planned for the remainder of the evening. The vote we are about to have will be the last rollcall vote of the evening. I thank all Members for their patience. We have been here about 17 hours of consecutive voting.

The Senate will not be in session tomorrow. We will return for business on Monday.

Mr. REID. We won't be in session today.

Mr. FRIST. That's right, we will not be in session later today. We will return for business on Monday.

On Monday, the Senate will begin consideration of the Department of Defense authorization bill. The next rollcall vote will occur at 5:30 on Monday.

Again, this will be the last rollcall vote of the morning.

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

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye''.

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—44

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

NAYS—51

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

NOT VOTING—5

Byrd	Inouye	Landrieu
Domenici	Kerry	

The amendment (No. 685) was rejected.

Mr. LUGAR. I move to reconsider the vote.

Mr. BROWNBACK. 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 New York is recognized.

AMENDMENT NO. 652

Mrs. CLINTON. Mr. President, I call up amendment No. 652, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] for herself, Mrs. BOXER, Mrs. MURRAY, and Mr. LEAHY, proposes an amendment numbered 652.

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

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

The amendment is as follows:

(Purpose: To improve women's health and empowerment and reduce women's vulnerability to HIV/AIDS)

On page 23, line 24, insert before the semicolon the following: '', including the pursuit of sexual relations with adolescent girls''.

On page 24, strike lines 2 through 4, and insert the following: ''developed to address the access of women and adolescent girls to employment opportunities, income, education and training, productive resources, and microfinance programs;''.

On page 27, strike lines 19 through 23, and insert the following:

(W) An analysis of strategies to reduce deaths from cervical cancer caused by high risk strains of human papillomavirus in women over 30 living in sub-Saharan Africa.

(X) A description of a comprehensive 5-year global AIDS plan that shall be developed by the President to address issue effecting, and promote specific strategies to overcome, the extreme vulnerability of adolescent girls to HIV infection, including self esteem, access to education, safe employment and livelihood opportunities, pressures to marry at an early age and bear children, and norms that do not allow for safe and supportive family life and marriages.

(Y) A description of the programs, and the number of women and girls reached through these programs—

(i) to increase women's access to currently available prevention technologies and the steps taken to increase the availability of such technologies;

(ii) that provide prevention education and training for women and girls;

(iii) addressing violence and coercion; and

(iv) increasing access to treatment.

(Z) A description of the progress made on developing a safe, effective, and user-friendly microbicide.

On page 51, line 8, strike ''and''.

On page 51, line 12, strike the period and insert a semicolon.

On page 51, between lines 12 and 13, insert the following:

''(I) assistance for programs to dramatically increase women's access to currently available female-controlled prevention technologies and to microbicides when these become available, and for the training and skills needed to use these methods effectively;

''(J) assistance for research to develop safe, effective, and usable microbicides;

''(K) assistance for programs to provide comprehensive education for women and girls, including health education that emphasizes skills building on negotiation and the prevention of sexually transmitted infections and other related reproductive health risks and strategies that emphasize the delay of sexual debut;

''(L) assistance for strategies to prevent and address gender-based violence and sexual coercion of women and minors;

''(M) assistance to reduce the vulnerability of HIV/AIDS for women, young people, and children who are refugees or internally displaced persons; and

''(N) assistance for community-based strategies to reduce the stigma faced by women affected by HIV and AIDS.

On page 52, line 3, strike ''; and'' and insert a semicolon.

On page 52, line 10, strike the period and insert a semicolon.

On page 52, between lines 10 and 11, insert the following:

''(D) assistance for programs that promote equitable access to treatment and care for all women, by—

''(i) reducing economic and social barriers faced disproportionately by women;

''(ii) directly increase women's access to affordable drugs; and

''(iii) providing adequate pre- and postnatal care to pregnant women and mothers infected with HIV or living with AIDS to prevent an increase in the number of AIDS orphans; and

''(E) assistance to increase resources for households headed by females caring for AIDS orphans.

On page 81, after line 24, add the following:

(9) At the United Nations Special Session on HIV/AIDS in June 2001, the United States also committed itself to the specific goals with respect to reducing HIV prevalence among youth, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

Mrs. CLINTON. Mr. President, I offer this amendment on my own behalf, along with Senators BOXER, MURRAY, and LEAHY.

First, I commend the leadership as well as the President for bringing this important issue of global HIV/AIDS to the floor this evening, although the hour is obviously very late.

While I am pleased with many aspects of this bill, and the commitment it represents, I do believe the bill is flawed in a very important and fundamental respect; and that is, with regard to the treatment of and concern for girls and women.

As many of us know who have traveled in Africa, the Caribbean, and other places where the HIV/AIDS pandemic has ravaged so many people, young girls, girls barely in their teens, adolescents, young women, are all too often the victims of this disease because of the way they are treated.

I believe in abstinence. I went to Uganda in 1997. I was impressed, as many of my colleagues have been, by what I saw with respect to the program that Uganda undertook and certainly the results.

But I am concerned that abstinence is not a prevention tool realistically available to many girls and women throughout Africa. So many of the prevention tools are controlled by men, and by customs and by traditions, in communities where the expectation may very well be for a young girl to be married at a very young age.

In Africa, the seroprevalence for women ages 15 to 17 is five times the rate it is for boys of the same age. Now, why does that happen? Certainly the leaders in Africa who are now undertaking their own campaigns against HIV/AIDS are well aware of the uphill climb they face.

Two years ago, Mozambique's Prime Minister, after a comprehensive study, found that there was an explanation for the higher rates among young women, and it was—and I quote him—

Not because the girls are promiscuous, but because nearly three out of five are married by age 18, [and] 40 percent of them [are married] to much older, sexually experienced men, who may expose their wives to HIV/AIDS. Abstinence is not an option for these child brides. Those who try to negotiate condom use commonly face violence or rejection.

That is why I have offered this amendment to specifically address not just women's health but also women's empowerment, because empowering women and girls is the clearest way to give them the tools to be able to not only say no but to actually implement that belief.

It is also imperative to reduce economic and other dependence, to combat gender discrimination and stigma, to recognize that the effective prevention strategies for women, who now represent the majority of people worldwide suffering from HIV/AIDS, must be addressed immediately, urgently, and with resources.

Research shows that the most effective policies are those that include an understanding of the relevance and impact of the roles that culture and society assign men, women, boys, and girls. But the bill that we are considering overlooks and neglects this important aspect of the problem.

Our amendment would correct that neglect by providing assistance for programs that increase women's access to female-controlled prevention technologies, including microbiocides when they become available; and by providing assistance for programs that improve the health education, and skills-building efforts for women and girls, increasing women's ability to protect themselves from unwanted sex, safeguarding themselves when they are sexually active, and reducing the stigma faced by women affected by HIV and AIDS.

One of the reasons the prevalence of HIV/AIDS among younger and younger girls is occurring in Africa is for two interrelated causes: One, because many of these young girls are available, they are healthy; and, secondly, because there is this myth that very young girls will not transmit HIV. And because we do not have widespread testing, many of the men do not even know that they are infected.

Thirdly, we have to recognize that gender inequality is a part of this epidemic. Women who lack access to education, or any kind of skills training, who are exposed to gender-based violence in their home or their larger community, who are sexually coerced or otherwise vulnerable, make up many of the victims that, unfortunately, suffer from HIV/AIDS.

We also should be boosting women's access to pre- and postnatal care, and increasing resources for female-headed households caring for orphans and victims of AIDS, as my colleague from California, Senator BOXER, so eloquently argued.

In addition, we should increase focus on other women's health threats, including cervical cancer, which can be caused by high-risk strains of human papilloma virus.

I hope we can assure we pay particular attention to young people.

Much of the language that is included in this amendment has already passed the Senate unanimously last year in S. 2525. It is not controversial, at least in this body.

I understand the fast track we are on, and the fact that the majority does not wish to have any amendments, but I hope that when we revisit this, as we must, in the appropriations process—when we take the bill and rid it of the contradictions and the conflicts that it inherently has in its language—that this amendment will be accepted. It will help to guarantee that we address these very particular problems that affect women.

When we are talking about women's health and looking at all of the problems women have, it is important that we not focus just on HIV/AIDS as though that is some separate, abstract problem that can be removed from cervical cancer and sexually transmitted diseases and other problems that women suffer from so grievously, not only in Africa but in many countries around the world.

I ask the positive, affirmative support of those who remain in the Chamber on a voice vote for this amendment that specifically stands up for the girls and women of Africa in this important cause we are now undertaking.

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

Mr. LUGAR. Mr. President, the Senator from New York has made a very eloquent and important statement, and I appreciate it. My response has to be the one I have made throughout the evening, and that is that it is different, and it will cause conference. In my judgment, there is merit in what she has to say. That has been true of many amendments this evening. But it is something that I must oppose. I am hopeful Senators will vote no on the Clinton amendment.

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

If not, the question is on agreeing to amendment No. 652.

The amendment (No. 652) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN. 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. BIDEN. 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. BIDEN. Mr. President, I understand the regular order is that my amendment on debt relief would be in order now.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 686

Mr. BIDEN. Mr. President, the hour is extremely late. The bottom line of this is that this provides for debt relief

for the very countries we are trying to help with AIDS. They are swamped by debt. It is legislation that we have been through before. My staff and I sat with the White House, the National Security Agency. We sat down with the White House today, the National Security Agency representative for hours. We negotiated the exact language.

I send the 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 Delaware [Mr. BIDEN], for himself and Mr. LEAHY, proposes an amendment numbered 686.

(Purpose: To amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative)

At the end of the bill, insert the following:

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is amended by adding at the end the following new section:

"SEC. 1625. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

''(A) the net present value of the outstanding public and publicly guaranteed debt of the country, (i) as of the decision point if the country has already reached its decision point, or (ii) as of the date of Enactment of this Act, if the country has not reached its decision point, to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

''(B) the annual payments due on such public and publicly guaranteed debt to not more than—

''(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

''(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of subparagraph (A).

''(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

''(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

''(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

''(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

''(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

''(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

''(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

''(1) has an excessive level of military expenditures;

''(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

''(3) is failing to cooperate on international narcotics control matters; or

''(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

''(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

''(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

''(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

''(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

''(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

''(e) DEFINITIONS.—In this section:

''(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

''(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

''(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.''.

SEC. 502. REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term ''Enhanced HIPC Initiative'' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

Mr. BIDEN. Mr. President, as we consider legislation today on the global epidemic of HIV/AIDS, I urge my colleagues to think about this: While the poorest nations of the world lack the resources to provide the most basic public health care and the most basic education, they still send money to the international financial institutions established by the wealthiest nations of the world.

The 26 countries currently qualified to receive debt relief under the heavily indebted poor country—HIPC—program continue to pay more than $2 billion annually on debt service.

That money goes to the World Bank and the International Monetary Fund here in Washington, as well as other lenders, to pay the interest on loans they have received over the years.

Unless we act now on this HIV/AIDS bill to reduce that debt burden, we run the real risk that the resources we are providing them today will find their

way back, not only to Washington, but to other lenders, such as France, Germany, and Japan.

Deeper debt relief for those poor countries is essential to make the work we are doing on this HIV/AIDS legislation as effective as possible, and to make sure that funds do not leak out through the mandatory spending these countries must do to service their debts every year.

Money is money and the problem of these debt payments is very real for these poor countries. As long as they face these mandatory debt payments, the resources we are providing in this HIV/AIDS bill will be less effective.

But deeper debt relief is also needed because the current HIPC Program is not working.

In fact, last year the Bank and the fund honestly admitted that under the current formula, many countries will simply not reach a sustainable level of debt.

The amendment I am offering tonight aims to make the HIPC Program itself more likely to succeed.

It is essentially the legislation Senator SANTORUM and I introduced in the last congress, with the support of Senators FRIST, NICKLES, CHAFEE, DEWINE, and SPECTER on the majority side, along with Senators KERRY and SARBANES, FEINGOLD, MURRAY, and others on this side of the aisle.

Specifically, for the many countries facing a public health crisis—such as the HIV/AIDS epidemic—we say that no more than 5 percent of their revenues should go to service their debt to other nations and international institutions.

For those who do not face such a crisis, debt service should exceed no more than 10 percent of their budget.

Some debate remains about the most appropriate way to measure a country's ability to pay its debt and still provide basic public goods in the areas of health, education, and infrastructure.

So our amendment gives the administration the flexibility to find an alternative measure that would achieve an equivalent level of debt reduction—a level that these poor countries can sustain.

Only countries that quality for the existing HIPC Program—that sets standards of economic reform and human rights—will participate.

The bottom line is that unless the U.S. and our G–7 partners reduce debt service payment to manageable levels—no more than 10 percent of Government revenue, 5 percent if the country has a major health crisis—these nations will be unable to devote the necessary resources to the fight against HIV/AIDS.

This amendment was part of the HIV/AIDS bill that passed the Senate last year. It belongs on this legislation, too.

Although there is some confusion about how we got there, I believe in retrospect the chairman, quite frankly, unknown to me, was not brought into the loop on this. I assure him the reason I agreed to a voice vote is because we had every Democrat, and I believe from personal discussion we had at least four Republicans supporting the amendment. I understand, without getting into all the detail, the bottom line is the amendment has been signed off on by the White House in direct discussions with my staff this afternoon. I would move the adoption of the amendment.

I ask for a voice vote.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I would like to ask the distinguished ranking member of the Foreign Relations Committee if he knows—and I see the majority leader here and I will ask him the same question—if the House of Representatives has indicated they would accept this amendment? I have been standing shoulder to shoulder with the chairman of the full committee all night, voting against every amendment on the basis that the House would not accept an amendment.

Now, the ranking member, Senator BIDEN, has said the White House has indicated they would accept this amendment and that is very powerful medicine for us. I do not want to abandon my chairman and the position he has taken in support of the House bill, unless I can be assured that on this amendment, unlike all of the others, the House leadership has indicated they are willing to accept it.

I ask the ranking member and the majority leader, if either one of them could respond, would the House be willing, contrary to what we have been told about all the other amendments, to accept this amendment?

Mr. BIDEN. Mr. President, I will respond to what I know firsthand. I can only speak firsthand to the White House. It is my understanding, and it has been asserted to me, that there have been discussions with senior Republicans—I assume that that was shared by everybody, with both the speaker and with Mr. DELAY, and that they had signed on to this. But I will respectfully suggest that I yield to Senator SANTORUM, who may be able to give you a more direct answer. I personally, for the record, have not spoken with anybody in the House of Representatives.

Mr. SANTORUM. Mr. President, this amendment has been agreed to by the White House and has been agreed to by the speaker and the majority leader. This, in the amended form, has been changed substantially from the proposal that the Senator from Delaware originally put forward. It is now not mandating the State Department to do anything; it is suggesting that they should do this.

So it is a flexible amendment. It expresses the sentiments of this body, and it will express the sentiment of the House when they agree to this amendment as well as the underlying bill. This is an issue they should take seriously and give due consideration to. Both the speaker and the majority leader, having talked to their people in their respective committee jurisdictions, are comfortable with this language—the ''should'' language as opposed to the ''shall'' language. That was the main issue. Because of its advisory nature, as opposed to a mandatory nature, they are willing to accept it.

Mr. BIDEN. If the Senator will yield. In addition, I agreed with the White House to further amend my amendment to change the effective date, which was a very important element to the White House. They wanted the original language we had in Lugar-Biden that we moved off of to go to the House bill, and in previous language that we had in other bills, including the original bill which came out of the committee and passed out of here. It had language relating to the effective date when countries could qualify to meet the test for this. The White House wanted it tighter, wanted it more stringent.

We took the better part of the afternoon, 3 or 4 hours, negotiating back and forth. We yielded on that point as well. That is the point at which the White House spokesperson from the National Security Agency said to us, ''We have a deal.'' That is when it then got scrubbed. That was even more palatable, I am told, to the speaker and the majority leader. That is as much as I can say firsthand.

Mr. BENNETT. I thank the Senator. Mr. President, I had stayed here prepared to vote against the amendment, to vote against all amendments, not knowing that the Senator from Delaware had these conversations with people at the White House and the Senator from Pennsylvania had these conversations with the leadership of the House. Therefore, I feel released from my previous commitment to oppose all amendments when I discover that passage of this amendment will not only not impede passage of the bill—as was the case with the other amendments—it would in fact enhance passage of the bill on the basis that both the House and the White House were willing.

So I appreciate knowing this new information. On the basis of this information, it will cause me to change my position. I thank the Senator for sharing this information with me.

Mr. LUGAR. Mr. President, I have been listening to all of this information. Let me simply say that, throughout the evening, I have asked Senators to vote against amendments. That was based upon the feelings of our colleagues in the House of Representatives, who passed the bill—namely, my friends HENRY HYDE, TOM LANTOS, and likewise in the course of this debate, I have mentioned conversations with the President himself, who wanted this bill unamended so there would not be a need for a conference and for difficulty. I have not been apprised by anybody at the White House, or in the House leadership, of any other situation.

I am perfectly willing to accept, on good faith, the assertions of my colleagues who have had these conversations. But for the sake of the RECORD, when the voice vote comes, I will vote no because I have asked my colleagues to vote no on each amendment. I will continue in that frame of mind.

But I have listened carefully and I understand what, apparently, have been conversations and agreements and I appreciate that.

I know of no reason to extend the debate, unless the majority leader has something.

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

The amendment (No. 686) was agreed to.

MICROBICIDES: HIV PREVENTION'S NEW HOPE

Mr. CORZINE. Mr. President, today we are considering landmark legislation to provide $15 billion to expand prevention, treatment, and care in the developing world to address the AIDS epidemic and other infectious diseases.

We know that the heart of the global HIV epidemic is in Africa. We also know that the center of the epidemic in Africa is among women. Biologically, women are four times more vulnerable to HIV infection then men. And tragically, in Africa, and indeed throughout the developing world, it is widely understood that a woman's single greatest risk factor for contracting HIV is being married and monogamous.

This astounding and tragic fact bears repeating: The typical woman who gets infected with HIV has only one partner—her husband. Women's vulnerability increases due to their lack of economic and social power in many societies, where they often cannot control sexual encounters or insist on protective measures such as abstinence or mutual monogamy. This trend devastates families and puts children at risk.

If we pass legislation today that ignores this stark reality, we will be back here a few years from now, scratching our heads and wondering what we can do to stem the tide of infections. If we want to contain the epidemic, we have to help women.

Women need HIV-prevention tools that they can control to safeguard their health and that of their families and communities. One of the most promising prevention tools is microbicides. Once developed, microbicides and vaccines would serve as complimentary prevention technologies, with microbicides giving women the power of prevention.

It is important to emphasize that microbicides are being designed first and foremost to protect against infections, not necessarily against pregnancy. This issue has nothing to do with birth control. It has nothing to do with spermicide Nonoxynol-9, which prevents pregnancy, but not disease. Microbocides are about preventing HIV. Scientists are hopeful that they can develop microbicides that would allow women to protect themselves from this and other sexually transmitted diseases—while also enabling them to conceive a child.

While the bill we are considering today acknowledges microbicides as a promising prevention tool, it does not go nearly far enough in supporting this area of research and development. I introduced legislation last Congress and again this session to give greater Federal support to microbicides research and development.

While microbicides are not a magic bullet, once available, many researchers believe that could prevent millions of infections. And with leading scientists concluding that a vaccine is likely to be more than 10 years away, we need to make a strong commitment to developing complementary prevention tools such as microbicides. Even when we get a vaccine or vaccines to tackler this epidemic, complementary prevention strategies such as microbicides will be needed for decades to come.

Let me take a minute to review the state of the science in this field. Scientists are currently testing approximately 65 different microbicide compounds to determine whether they will help to protect against HIV and/or other STDs. Of these, I7 are in clinical trials that will assess their safety for human use, and 4 are being readied for large trials that will assess their effectiveness. If one of these leads proves successful and investment is sufficient, a microbicide could be publicly available in 5 to 7 years.

The cost of developing the existing pipeline of microbicide candidate products has been estimated at $775 million over 5 years. Currently, however, U.S. Federal funding for microbicides is only about $75 million annually. Microbicides are a public health good for which the social benefits are high but economic incentives to private investment are low. Despite the potential market size, neither pharmaceutical nor major biotech companies have made large investments in the field because many of the benefits of microbicides are public benefits for which manufacturers will not be directly compensated. Like other public health goods, such as vaccines, public funding must fill the gap left by market failure.

The National Institutes of Health, principally through the National Institute of Allergy and Infectious Diseases, NIAID, spends the majority of Federal dollars in this area. However, microbicide research at NIH is currently conducted with no single line of administrative accountability or specific funding coordination. What is needed is for the Director of NIAID to establish a branch dedicated explicitly to microbicide research and development, and to provide this new branch with appropriate staff and funding.

In addition, other Federal agencies such as CDC and USAID undertake microbicides research and development activities. Because there is no Federal coordination, however, there is a risk of inefficiencies and duplication of effort. Through a variety of committees, Congress has requested that NIH and its Office of AIDS Research provide Congress with a ''Federal coordination plan'' for research and development in this area, but formal submission of this plan has been repeatedly delayed.

Will the Senate majority leader join me in urging NIH to consider establishing a branch dedicated explicitly to microbicide research and development, and to provide this new branch with appropriate staff and funding?

Mr. FRIST. I agree with the Senator from New Jersey about the critical importance of research on microbicides, and I commend him for his leadership on this important issue. I applaud his efforts to better coordinate research conducted at USAID, CDC, and NIH, and to increase Federal funding. I urge the leadership at NIH to five his proposal prompt and careful consideration.

Mr. CORZINE. I thank the distinguished majority leader for his comments and for his support of this important initiative.

ASSISTANCE FOR ORPHANS AND VULNERABLE CHILDREN AFFECTED BY HIV/AIDS

Ms. LANDRIEU. Mr. President, to date, approximately 14 million children have lost their parents to the AIDS virus. In many cases, this devastating disease has robbed them of their parents, their aunts, uncles, cousins, brothers and sisters. At a time when they are most in need of the care of loving adults, millions of children are left without anyone to call their own. Some of them are sick themselves, infected often at birth. If we are serious about $1.5 billion for programs aimed at assisting children orphaned by AIDS, then we must do all that we can to ensure that these programs reflect their many needs.

I would suggest that the language in the underlying bill is remiss in that it does not address perhaps their most urgent need, the need for a permanent, loving home. I would like to commend the majority leader and the committee chairman for their foresight in insisting that 10 percent of the funds allocated in the bill be used to serve the educational, development and health needs of these young people. Yet, if these programs are not also focused on connecting children to at least one, caring adult, these programs will undoubtedly fall short of their potential. Every child needs a home. A child whose family has been devastated by disease is no exception. As a member of the Foreign Operations Appropriations subcommittee, I hope that we could address this issue at some point. Again, I thank the majority leader for his leadership and look forward to working with him.

Mr. FRIST. Mr. President. I commend the Senator from Louisiana for her leadership in the area of adoption. She is right to suggest that we focus these programs on an orphan child's

need to find a permanent, loving home. I would be happy to work with her toward this end.

ELIGIBILITY FOR ASSISTANCE

Mr. LAUTENBERG. Mr. President, I see the distinguished majority leader, Senator FRIST, and wonder if I could ask him to address a concern I and other Senators have about a provision entitled ''Eligibility for Assistance'' which is located on page 61, line 18 of the bill.

Mr. FRIST. I would be happy to.

Mr. LAUTENBERG. This provision says that an organization that is otherwise eligible to receive assistance authorized by this Act to prevent, treat, or monitor HIV/AIDS, shall not be required, as a condition of receiving that assistance, to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection.

Again, I support this provision, because there are faith-based groups that are playing a crucial role in HIV/AIDS prevention and treatment which do not, for example want to distribute condoms. I understand that. There are other ways that they can be effective, through counseling, treatment, care and other services. They should not have to distribute condoms if they have a religious or moral objection.

But there is a problem, which this provision fails to explicitly address. Some of these same groups that object to distributing condoms, have actively sought to discourage people from using condoms. They have told people who have come to them for advice and counseling that condoms are bad, that they should not use them, and, erroneously, that condoms usually fail.

This is wrong. It is wrong from a medical point of view and it is wrong from an ethical point of view, because the consequence of providing this type of inaccurate or misleading information can quite possibly be death. Yet this provision does not address this very real, and very serious, problem. I would ask the majority leader how we can be sure that when these organizations, receive Federal funds, any information they provide about approaches to HIV/AIDS prevention is complete and medically accurate, including both the public health benefits and failure rates of the approach involved.

Mr. FRIST. I thank the Senator from New Jersey for his question. This is an important issue. I fully agree that it is essential that information about approaches to HIV/AIDS prevention be medically accurate, including both the public health benefits and failure rates of the approach involved. That is what is intended by this provision. In fact, the provision uses the words ''an organization that is otherwise eligible to receive assistance''. I believe that ''otherwise eligible'' should be interpreted to require explicit assurances by such organization that when it provides information about HIV/AIDS prevention approaches it will meet this standard of accuracy.

Mr. LAUTENBERG. I thank the majority leader. I agree that these assurances are needed and that they should be routinely spelled out in any contract or grant agreement between the U.S. Government and such organization in order to clarify the intent of this provision.

GLOBAL EPIDEMIC OF TUBERCULOSIS

Mrs. BOXER. Mr. President, I want to highlight one critical area of this important legislation, and that is the global epidemic of tuberculosis. While I appreciate the language on TB that was included in this bill at my request, I am disappointed that there is not a specific earmark for TB programs.

The Kerry-Frist bill that passed the Senate last year included specific increases for funding for international tuberculosis programs. That bill authorized $150 million bilaterally for international tuberculosis in fiscal 2003 and $200 million for 2004.

It is critically important that funding for tuberculosis remain a priority. There is a particular need to highlight the need for expanded tuberculosis funds given that the President's 2004 budget request calls for a reduction in funding to combat TB. We must not only protect but significantly expand funds for programs that combat tuberculosis. Here is why:

TB is an immense global killer. Nine million people become sick with active TB every year and 2 million people are killed by the disease. Tuberculosis is medically linked with the global AIDS pandemic. TB is the leading killer worldwide of people with HIV, because those who contract HIV suffer from weakened immune systems and they develop active TB. TB rates have increased five-fold in some African nations in conjunction with AIDS.

But there is hope. Basic TB treatment is incredibly effective and can cure over 90 percent of cases even in resource-poor settings, even in people with HIV/AIDS. This treatment, called DOTS, which stands for Directly Observed Therapy Short-course, uses drugs that cost just $10, for a full 6 months of treatment. Few health interventions are so effective and affordable.

There is even a mechanism for getting high-quality drugs to poor countries, called the Global TB Drug Facility. The TB Drug Facility is a critical part of the global effort to combat TB. The TB Drug Facility needs just $50 million per year in order to reach its goals of averting 25 million TB deaths by 2020, but the U.S. has only contributed a little over $3 million to the Drug Facility so far. The U.S. must contribute more to this important mechanism.

And, the U.S. must do more to help expand access to DOTS treatment for those who are sick with TB. Currently, fewer than one in three people who need basic TB treatment have access to it. And only a fraction of those with drug-resistant TB are receiving needed treatment. The need is clear. We must do everything we can to ensure that access to treatment for tuberculosis is expanded, before drug-resistance and TB's interaction with HIV make this into an unstoppable epidemic.

I want to thank my friend from Oregon, Senator SMITH, who has been so helpful in working with me over the past several years to make sure that international TB programs remain a priority.

Mr. SMITH. Mr. President, it has been my great pleasure to work with my colleague, Senator BOXER, over the past years to put global tuberculosis control on the map as an important priority for U.S. funding.

I share the Senator's concern that the United States continue to protect and expand the funds we allocate to this important cause.

We must indeed not lose our focus on combating global TB even as we respond efficiently and effectively to SARS. We must remember that failing to protect and expand funds to combating TB means needless death for 2 million people in the developing world each year—people who are teachers, doctors, civil servants, and people who are parents to young children who need their protection, financial support, and guidance. We must remember that the problem of tuberculosis is inextricably linked together with the growing problem of global HIV. TB is the biggest killer of those with HIV, and TB also accelerates the course of AIDS. Treating TB can save lives and slow the progression of AIDS.

We also must remember that treating tuberculosis works. We know what to do and that we have some of the key elements in place to successfully control this disease. As Senator BOXER mentioned, we have the Global TB Drug Facility in place. And we have a Global Plan to Stop TB. And the new Global Fund to Fight AIDS, TB, and Malaria is adding to the bilateral efforts of the U.S. and other nations.

So we must use these mechanisms and use our window of opportunity to expand access to TB treatment before it is too late, before drug-resistant TB and HIV/AIDS turn TB into a disease that is nearly untreatable and an epidemic that is at best very difficult to deal with and at worst perhaps uncontrollable.

Does the majority leader agree that global tuberculosis control ought to receive adequate increased funds from the U.S. in the next fiscal year?

Mr. FRIST. Mr. President, I appreciate the points raised by Senator BOXER and Senator SMITH and will work with them to ensure that adequate funding is provided for U.S. bilateral TB programs.

Mr. DEWINE. Mr. President, this is an historic day. I am very pleased that the Senate is moving forward with this AIDS relief bill—a bill that represents an unprecedented commitment to

fighting the global scourge of HIV and AIDS. It is a good bill. It is a bill that has both bicameral and bipartisan support. It is a place to start—a beginning, not an end.

I would like to take just a moment to thank my colleagues both in the Senate and in the House who have been working tirelessly in this fight against AIDS. They have spent countless hours crafting a bill that is going to make a difference—a bill that is going to help save and prolong the lives of millions worldwide. I especially commend Majority Leader FRIST for his leadership and vision and Senators LUGAR, DURBIN, SANTORUM, BIDEN, and KERRY for their dedication to this fight, as well as Representatives HYDE and LANTOS for crafting a bill in the House that recently passed by an overwhelming vote of 375 to 41.

I thank them all for their efforts, for their compassion, and for their commitment.

I also applaud the President and Secretary of State Powell for their dedication to easing the worldwide suffering caused by the HIV/AIDS pandemic. They understand that we, as a nation, have an obligation to fight this disease. We have the ability to fight it. We have the tools. And, it is our duty—as a leader in the world—to move forward now and do the right thing.

To be sure, there are a number of issues—very important public policy issues—and differences that still need to be resolved as we move ahead. However, while those issues are important, we must not lose sight of the urgent need to do something about AIDS now. This HIV/AIDS relief package is a public health initiative of a magnitude never before undertaken in this country.

It is an enormous task that will require a coordinated effort among the State Department, Department of Health and Human Services, and USAID and multiple NGOs and faith-based organizations. Because of that, we need to start putting the infrastructure in place—today.

We need to start coordinating efforts—today.

We need to get the programming started—today.

We need to do all of these things so we can be ready to go when the money gets appropriated—so that on ''Day One'' when the money is available in the field, people in these impoverished nations who desperately need anti-retroviral treatment drugs can start receiving them and prolong their lives—so that pregnant, HIV-infected mothers can get the drugs they need so they don't transfer the disease to their children.

Ultimately, Mr. President, this bill represents a starting point. Each one of us who has studied the HIV/AIDS issue would have changes to the bill if we were writing it just ourselves, and frankly, no one knows the future and can see exactly the landscape of the new ground we are plowing here. So really, none of us here can be sure that the precise approach we have taken or the precise figures and precise percentage allocation of dollar amounts for certain things is correct. But, we have to start somewhere. The most important thing is that we start—and this is the start. This is the beginning. It is a major first step.

This bill is different than anything we have done in the past. It is a holistic approach to fighting global AIDS. It will have to be followed with appropriations money, and we will need to come back year after year to get that funding, but this bill gives us a place to start. It takes a balanced, comprehensive approach to combat the scourge of HIV/AIDS, Tuberculosis, and Malaria.

It will focus funds on education and prevention and treatment—treatment in terms of mother-to-child transmission, treatment of mothers who already have children, and treatment of all infected adults and children who have AIDS. This type of comprehensive approach, Mr. President, can and will make a difference.

As I said, Mr. President, I believe this is a good bill—a good starting place—a major first step. Underscoring all of the major provisions of this bill is the moral imperative to fight this horrible, tragic disease. Over the last few months and years, we have heard countless statistics about the devastation AIDS is causing. Those statistics are troubling. They are disturbing. But, until there is a face and a name attached, those suffering from the disease remain statistics. I would like to take a few minutes to talk to my colleagues about the faces I have seen—the faces of children and babies with AIDS.

In February, my wife Fran and I traveled to Haiti—our 12th trip—and we saw once again what this disease is doing to this nation and its people.

In Haiti today, a nation of approximately 8 million people—300,000 currently live with AIDS. We have seen the devastation this is causing. We have held dying babies in our arms—babies who could have been saved—babies who could live and grow up if they only could get the treatment drugs they need to stay alive.

We traveled to Guyana in February, as well, and saw the same devastation—too many children and adults dying of this horrible disease and too few drugs to go around to help treat them and keep them alive. Right now in Guyana—a nation of roughly 800,000 people, 35,000 have been identified as HIV-positive or as having AIDS. Of those 35,000 people, only 200—less than one percent—are getting anti-retroviral drug treatment. And, of the many children in Guyana with AIDS, only one of those children—only one—is receiving anti-retroviral drugs!

In Haiti, we visited an orphanage that has an entire floor just for AIDS babies. What you see is truly tragic—row after row of steel cribs with babies at various stages of the disease—none of whom are receiving any sort of anti-retroviral drug treatment.

I remember seeing a little boy—he was about four or five years old—named Francois. He had AIDS and was very close to death. He was laid out on a makeshift bed on the cold, concrete floor. He had an I.V. attached to him, and he was getting some fluids. The wonderful people who were caring for him explained that little Francois was no longer able to keep any food down. He was within days of death. There were no drugs available to treat him. So, the people caring for him were loving him, nurturing him, and were doing what they could to make him as comfortable as possible in the little time he had remaining.

I will never forget that child—I will never forget little Francois. I will never forget him for the rest of my life.

Another little boy who I will never forget appeared the opposite of little Francois. This little boy was about 7 years old, and also has AIDS, but he seemed to be very healthy. He was lively and content and thriving. But, that won't last.

Very likely, unless something changes—unless he gets the treatment drugs that he'll eventually need—this 7 year-old boy, whom I cannot get out of my mind, will also eventually die.

His death will be a needless one. It will be needless because these drugs are available. It is just that the folks caring for this little boy do not have access to them. Money is not available. The drugs are not available. That is an injustice. It is wrong. And, it is a great human tragedy.

Let me conclude, Mr. President, by again thanking my colleagues for their efforts in getting this bill passed. We are telling the world that the United States cares and that we will lead the fight against this dreaded disease. We can make a difference, Mr. President—and we will make a difference. There is hope. This bill gives us more hope.

We are moving ahead. We are moving in the right direction. We are finally doing the right thing.

Mr. MCCAIN. Mr. President, Senate passage of this bill authorizing the expenditure of $15 billion over 5 years to combat HIV/AIDS sends an important message: that the United States is committed not only to making this a safer world, by ending threats posed by terrorists and rogue states, but also a better, more humane world, by helping people in need in Africa, Asia, and elsewhere cope with the ravages of the HIV/AIDS pandemic.

The spread of HIV/AIDS, and the efforts of the international community to combat it, will be remembered by history as one of the defining issues of our time. Until recently, we have been losing the battle: the disease has infected 68 million people to date. It has already brought disaster to Africa, where AIDS has taken over 20 million lives and has surpassed malaria as the leading cause of death. UNAIDS estimates that by 2020, an additional 55

million Africans will lose their lives to the disease. There are currently 11 million AIDS orphans in Africa. Average life expectancy in Sub-Saharan Africa is currently estimated at 47 years, but it would be 62 years in the absence of AIDS.

These numbers are staggering. The ethical implications of not doing everything in our power to slow the spread of this disease are severe. The most basic morality requires that we commit ourselves to combating HIV/AIDS everywhere. The social and political implications of allowing this disease to claim its grim toll are grave: countries cannot survive the death of a quarter or more of their populations without severe unrest, impoverishment, even radicalization and revolution. In Africa, more women are infected with HIV/AIDS than men; their central role in family life means their deaths have disproportionate effect. Millions of children cannot lose their parents without lasting damage to themselves and their societies. In many countries, the army has higher infection rates than the general population. Mass death among uniformed personnel will have profound implications for political stability and national security in these countries, as armies literally become unable to fulfill their basic duties.

As the CIA assessed in 2000 for the 20-year period through 2020,

> At least some of the hardest-hit countries, initially in sub-Saharan Africa and later in other regions, will face a demographic catastrophe as HIV/AIDS and associated diseases reduce human life expectancy dramatically and kill up to a quarter of their populations over the period of this estimate. This will further impoverish the poor, and often the middle class, and produce a huge and impoverished orphan cohort unable to cope and vulnerable to exploitation and radicalization.

As the World Bank and others have reported, AIDS affects the most economically vibrant group within society, the working-age men and women who account for most national output. With one quarter of a country's population facing impending death, labor markets would be ravaged, the benefits of education lost, and health-care spending rationed on what should be a society's most fit citizens. Resources that would have been used for productive investments would instead be apportioned for health care, orphan care, and funerals. Decades of gains in social welfare could be rolled back. National productivity and economic growth would be set back for generations.

HIV/AIDS is decimating Africa, but its next frontier lies in Eurasia. More than 7 million people in China, Russia, and India carry the disease, but as we have seen in Africa, an infection rate of that magnitude can jump into the tens of millions within a decade. As Nicholas Eberstadt has written, ''The coming Eurasian pandemic threatens to derail the economic prospects of billions and alter the global military balance.'' Africa's plight alone is reason enough to pass this bill. Given the economic size and military stature of India, China, and Russia, the world will simply not be able to ignore the consequences of the coming AIDS crisis in Eurasia.

Given the scale of human disaster and socio-political turmoil we confront from HIV/AIDS, enactment of the bill before us represents a critical step in the direction of leading the world in a common response to a crisis that affects us all. This bill nearly triples the U.S. commitment for international AIDS assistance. It targets most assistance at the 14 most afflicted countries in Africa and the Caribbean, but can incorporate other afflicted countries if necessary. It demonstrates the United States' commitment to leading a global campaign against a disease that has already killed 25 million people.

As Uganda in particular has shown, AIDS can be managed and contained. Often the biggest challenges are political will, which has been sorely lacking in much of Africa, and government competence to effectively diagnose and treat victims, backed by a decent health care infrastructure. Afflicted nations with whom we partner to fight this disease must know that we expect a level of governance, transparency, and effectiveness from them in order to make the fullest use of AIDS assistance.

The scale of the AIDS crisis, and the consequences of inaction in the face of a pandemic that threatens the global order, call for the type of bold leadership reflected in this bill. Our commitment must be sustained, and we must enjoy the partnership of other wealthy nations in this effort. We cannot afford to fail.

Mr. ENZI. Mr. President, I rise today in support of H.R. 1298, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003. I urge my colleagues to join me in passing this bill without amendment.

Why am I speaking on this subject? Why I am so committed to the swift passage of this bipartisan global AIDS bill? No one in my family and none of my close friends has AIDS. Nor have I traveled to Africa to care for people suffering from AIDS, as has our distinguished majority leader, Dr. FRIST.

Well, I am speaking on this subject for one reason and one reason only: I believe that passing this bill as soon as possible is the right thing to do. We have a responsibility to fulfill—and an opportunity we cannot squander.

Millions of people are dying needlessly. We have the ability to make an investment that will save millions of lives and give hope and security to millions more. Doing nothing is not an option.

We live in a highly interconnected world. Today more than ever, creating a more peaceful and secure environment for the people of one region translates into more peace and security for people around the globe. By increasing our commitment to fight AIDS in Africa and the Caribbean, we also will be helping our nation and the rest of the international community. The world awaits our response.

As the cries for help from Africa increase, and the world watches to see what we will do, President Bush has challenged the Congress to provide the assistance that would begin to rid the world of this deadly menace.

If we pass this bill, we will provide the people of Africa with hope for a better and more secure future. If we do not, history will not soon forgive—or forget—that a nation blessed with all the resources we have at our disposal failed to act when we heard the cries of the people of Africa.

Let me remind my colleagues what the President has challenged us to do. He asked us to send him a bill that would prevent 7 million new infections—or 60 percent of the projected new infections in the target countries. He asked for a bill that would treat 2 million HIV-infected people in the target countries—as opposed to fewer than 100,000 today—using the latest advances in drug therapy. He also asked for a bill that would provide care and comfort for 10 million HIV-infected people and AIDS orphans.

The bill before us today would do all of these things. It represents the first global effort to provide advanced antiretroviral treatment on such a large scale in the poorest and most afflicted countries. This bill also would make the successful Ugandan model of prevention—in other words, putting abstinence first—the basis of our global prevention strategy.

The bill would require accountability and transparency from both the Global Fund and our bilateral efforts. The recent GAO report on the Global fund raises some legitimate concerns about how this 16-month-old organization manages its contributions and monitors its projects. The bill before us would mandate careful scrutiny of and accounting for how the Global Fund spends the contributions it receives.

In short, this bill both reflects American values and recognizes that we need the active involvement of all countries in the struggle against AIDS. It also reflects a bipartisan compromise. This bill passed the House 375 to 41, with only 1 Democrat in opposition.

Now I realize that no one is completely satisfied with this bill. I have colleagues on both sides of the aisle who might prefer to change one section or another to make it a better bill. However, we cannot afford to let the perfect be the enemy of the good.

We don't have time to let the legislative process drag on while people around the world are dying—waiting for us to act. Time is not on our side—or theirs!

I know many of my colleagues strongly support the Global Fund. President Bush supports the Global Fund too. In fact, his Secretary of

Health and Human Services, Tommy Thompson, is the fund's new chairman.

The President has pledged to continue our commitment to the Global Fund even as he proposes expanding and targeting our bilateral country-to-country initiatives to fight AIDS. By providing both bilateral and multilateral funding, this bill doesn't pin all of our hopes—or our taxpayers' money—on any one approach to addressing this crisis.

If you support the Global Fund, you know that the Senate's delay would mean a missed opportunity to increase the international commitment to fighting AIDS globally.

The United States is the single largest donor to the Global Fund. As of April 1, the United States had pledged nearly half of the $3.37 billion in total pledges to the Global Fund. We have already appropriated $650 million to the Global Fund, and we have pledged an additional $1 billion over the next 5 years.

We are already doing more than our fair share for the Global Fund. What we need to do now is to encourage the rest of the international community to step up to the plate.

President Bush is traveling to France next month for the G–8 Summit. This summit is a meeting of the political leaders of the world's largest economies. When would there be a better time to encourage other countries to increase their own contributions to the Global Fund?

If you are concerned with the future viability of the Global Fund, you also should be concerned about passing this bill now. Our swift action will demonstrate our commitment to seeing this battle through. It will also give the President a great tool with which to leverage additional funding from other nations.

On the other hand, amending this bill will result in a lengthy conference with the House. If we don't get this bill to the President until the summer, we will miss a golden opportunity to encourage more financial support for the Global Fund from the G–8 members. If we don't finish action on this bill until the fall, then the State Department will have lost the time it will need to get ready for the coming year's appropriations for our expanded bilateral AIDS initiatives.

Clearly, these are not artificial timelines. Even less artificial are the timelines that AIDS places on a person's life and a family's future.

In the 3 months since President Bush announced his emergency plan, nearly 800,000 people have died from AIDS. In those 3 months, 1.2 million people have been infected with HIV, and more than 175,000 babies have been born with the virus. Every day we spend debating this bill on the Senate floor or in a conference with the House means more lives lost—lives that could have been saved had we acted sooner.

Our Founding Fathers were never more inspirational than when they wrote that our Creator has endowed us with certain unalienable rights—and among these are life, liberty and the pursuit of happiness.

Swift passage of this bill will again show the world that these aren't just words on a piece of paper. Swift passage will again show that these words apply to every citizen of every country—not just our own.

In Africa and the Caribbean, the scourge of AIDS is robbing people of their natural rights. We know the thief is a virus. We also know how we can stop this thief from stealing the lives of people—from stealing fathers and mothers from their children. But with this knowledge comes an obligation to use it.

For so long we could only treat the symptoms of AIDS and provide comfort to the dying. Today, we have the ability to fight back against HIV itself. Today we have medicines that can effectively halt the evolution of HIV and help people live a normal life. In other words, we have the technology and the know-how to stop AIDS from killing people, destroying families, and destabilizing societies.

By sending this legislation to the President, we will save the lives of millions of people and liberate them from the tyranny of AIDS. And we will demonstrate, once again, that we are a principled nation that leads through actions, not words.

I urge my colleagues to vote for this bipartisan bill and send it without amendment to the President.

Mr. HATCH. Mr. President, I rise to speak in support of the pending legislation.

I think it is important for the Senate to endorse the work of the House on the issue of international AIDS funding.

As with many of our colleagues, I was absolutely thrilled to hear President Bush use the State of the Union Address as an occasion to display his leadership on the critical issue of the pandemics of HIV, tuberculosis, and malaria in Africa, the Caribbean, and the developing world.

We must give President Bush, Vice President CHENEY, and Secretaries Powell and Thompson a lot of credit for urging the Congress and American public to give a higher priority and more resources to these deadly, intertwined epidemics. An estimated 30 million of our African neighbors are infected with HIV. About 11,000 Africans become infected each day.

Tragically, of the 25 million who have died due to HIV infection worldwide, about 20 million, or 80 percent, were Africans. Unfortunately, it is likely that many more millions will follow them to an early death unless significant efforts are made to turn the tide of these epidemics. For example, about 40 percent of the citizens of Botswana are infected with HIV and the infection rate in many other countries is in the 1-in-5 and 1-in-4 range.

The Bush administration deserves a lot of credit for making this issue a priority at a time when the Federal budget is once again facing severe strains.

If our Nation takes a leadership role in helping nations in the developing world address the problems associated with infectious diseases such as HIV, TB, and malaria, these nations will remember us as an ally who helped them when they most needed aid.

Let me be frank. There are many citizens in the developing world who sometimes question the motives of the United States in international affairs. We saw this dynamic at play in the debates leading up to and in the aftermath of the recent war in Iraq.

It seems to me that in undertaking this important public health initiative at this time when we are once again struggling to regain control of the Federal budget—there can be no question that the motive of our country is nothing more than to try to help millions of people from perishing from a group of deadly infectious diseases that threaten to destabilize sub-Saharan Africa and the Caribbean for decades to come. If such longtime NATO allies such as France and Germany do not see eye to eye with us on certain aspects of Mideast policy, perhaps they and the rest of the developed world can agree with us that now is the time to roll up our sleeves and make the commitment of necessary resources to help those developing nations fight the interconnected scourge of HIV, TB, and malaria.

This is exactly the type of challenge that President Bush will issue at the upcoming G–8 meeting. I hope and trust that the leaders of these countries will work together with us on reversing the course of these epidemics.

I have been active in developing legislation related to AIDS since the onset of the epidemic. In my former capacity as a member—and chairman—of the Senate Labor Committee, I was a coauthor of the Ryan White CARE Act, the Terry Beirn AIDS Research Act, and worked to increase appropriations for research and services related to AIDS.

I am a conservative. I share the concerns many have expressed that this bill could fund activities with which we disagree. To be clear, I very much disapprove of many of the behaviors by which HIV is transmitted.

That being said, early on in this epidemic, I learned the wisdom of the old adage, ''Hate the sin, but love the sinner.''

High-risk behaviors—for example, intravenous drug abuse—are hard to break. But, as a society, can we use behaviors with which many of us vigorously disagree as an excuse to abandon our responsibility to help individuals who are trying to kick their dependency on drugs? I think not.

It is important to employ proven public health strategies to prevent the spread of HIV, even if some of these techniques and educational messages can be viewed as controversial if taken

out of context of a public health crisis. We must also recognize geographic differences in what strategies are most proven and acceptable. Appropriate public health education prevention and education tactics are often different in Salt Lake City and New York City, or for that matter, Ho Chi Minh City.

There was a spirited debate in the House over the proper balance between abstinence and other risk reduction techniques such as the role of condoms. I don't want to replay the whole debate over the rule that 33 percent of prevention funds must be devoted to reenforcing an abstinence message. I believe in abstinence. I also am mindful of the fact that in some geographic regions such an inflexible rule may not represent an optimum use of prevention dollars.

There are elements of the House bill that I do not like. But I must salute the efforts of Chairman HYDE and Representative LANTOS for working so long and hard to find a consensus and get this legislation out of the House.

Let me just add that I have heard the frequent—and not unjustified complaints to my mind—of the House leaders who observe that they are often faced with the prospect of passing what they consider watered down Senate versions of legislation after the House has taken action. It is well known that the House majority leadership views the tax legislation we just adopted earlier this evening to be a prime example of this dynamic.

When all is said and done, the Constitution set forth a bicameral legislative body with different membership criteria and different election cycles. It is not surprising that it is often the case that the House and Senate come up with different legislative provisions. In the normal case, these differences can be ironed out by the vehicle of a conference committee.

However, sometimes the regular order of the conference report is in tension with outside events. The case of the upcoming G–8 meeting is just one of those circumstances. As my friend Chairman HYDE wrote in an op-ed piece earlier this week, the development of a Senate version of the bill—normally a positive—may have a material adverse effect of the very type of international cooperation that the bill seeks to kindle and redouble.

As Congressman HYDE noted, ''A new bill only delays the pressure on House and Senate appropriators to pony up the $15 billion requested by the President over the next five years. . . .

'' . . . for the President in his meeting with G–8 leaders in June, a new bill only delays an opportunity he will have at this meeting to use enactment of this legislation to leverage support for worldwide AIDS efforts from our wealthy partners.''

We need to take this view into account. I say this as one for whom the version of the bill developed and introduced by Senators LUGAR, KERRY, and BIDEN is more attractive than what emerged from the House. All in the Senate should commend Senators LUGAR, KERRY, BIDEN, and FRIST for their longstanding leadership in this area. From a purely public health standpoint, I think their legislation has a number of advantages over the House bill that we are taking up on the floor today.

I also have the utmost respect and praise for what the House accomplished by passing a bill that resolved a number of very difficult issues that lingered for many months. I want to associate myself with the remarks made earlier today by Chairman LUGAR and Senator BIDEN in which they took the position that, despite the Lugar-Kerry-Biden bill's many virtues, the bottom line reality is that to go to conference with a new Senate version of the bill is to risk losing a critical opportunity at the G–8 meeting.

Our majority leader, Dr. FRIST, who has spent so much of his own time helping the people of Africa, also noted that the bill he called up may not be the perfect bill, but it represents a major step forward in advancing the program that President Bush laid out in the State of the Union Address.

As the great philosopher Mick Jagger once noted, you can't always get what you want, but sometimes you find you get what you need.

I think that the President's $15 billion proposal and the House bill are exactly what the people of Africa and the Caribbean need. Although I can think of some ways to refine the House language—as Senators LUGAR, KERRY, and BIDEN have suggested, my view is that we can not let the perfect become the enemy of the very good.

I urge my colleagues to support H.R. 1298. It is a good bill. The House worked for a long time and came up with a product of which we can all be proud and supportive. We will have ample opportunity in the months ahead and during the appropriations process to fine tune this legislation. But I agree with Senator FRIST, let's get this done job done.

Now is the time to send the President to France with an enacted bill with which he can attempt to leverage additional support from our closest allies. Being able to put the $15 billion bill on the table as a finished product will do much more benefit than a progress report on the Conference Committee.

I believe that H.R. 1298 will be viewed as an important step forward with respect to public health. I cannot help but think that many of the developing world—the very same people we want to enlist with us to fight the battle against terrorism and to resist the entreaties of those who seek to undermine the role of America in world affairs—will take note of our action tonight. They will see that, even at a time when the domestic U.S. economy is struggling to recover, Americans found both the will and wallet to launch a major humanitarian effort against diseases that are severely lowering the quality of life in the developing world.

Mr. President, I support H.R. 1298 as a clean bill. I urge my colleagues to support this important measure.

Mrs. DOLE. Mr. President, I rise in strong support of H.R. 1298.

Our world is in the midst of a crises. HIV/AIDS has taken hold of many parts of the world and left death and destruction in its wake. Millions have been affected, wives have lost husbands, parents have lost sons and daughters, small children have been left alone, orphaned after AIDS took the life of parents.

The Joint United Nations Program on HIV/AIDS reports that as of the year 2002, there were 29.4 million people living with this disease. Sadly, most of them are in sub-Saharan Africa. Estimates are that by the year 2020, an additional 55 million Africans will lose their lives to the epidemic.

Women are particularly affected and make up 58 percent of the HIV-positive population in sub-Saharan Africa. Perhaps even more troubling, 6 to 11 percent of women aged 15 to 24 were HIV positive in 2001, compared to 3 to 6 percent of young men. Women are dwarfed by men in economic and political affairs, and far too many of these women have no way to protect themselves. The political and cultural standards in many countries have left them unable to defend themselves from unwanted sexual activity and advances and their reluctance to submit to male domination. With this pandemic, these women are victimized yet again.

During my time as President of the American Red Cross, I saw firsthand the poverty and countless other socioeconomic factors that make Africa particularly vulnerable to the spread of AIDS. Rwanda, for instance, is one of the areas with a high rate of adults infected with HIV. And Mr. President, while there, and in Goma, Congo, where a million Rwandans had fled from the bloodshed in their country, I saw 100s of children with no parents, no home, no food, no clothes, no hope. To this day, I can close my eyes and see a little boy sitting by himself on a mound of dirt. He was probably 13 or 14 his face was covered with dust and he was crying. The tears left little paths down his cheeks. I sat beside him, and put my arm around him to try to comfort him but there was no reaction. Nothing moved, not a muscle moved, as the tears flowed. He was traumatized. This is the challenge we face, ending the poverty and despair of that little boy, and replacing them with hope and life.

Due to AIDS, the region is in a dangerous cycle that affects global health, the global economy and global security. Consider this: labor forces are decreasing because of the disease. Since there are fewer workers to farm the land, harvests are depleted, and famine is running rampant. As hopelessness sinks in, people become vulnerable and susceptible to evil terrorist predators.

It is an endless cycle of despair, a boiling pot that cannot go unchecked.

This Nation, the world's global leader, cannot sit idly by. We must pass this bill today. An entire generation is in danger of being wiped out by HIV/AIDS.

This legislation takes a historic step in fighting this battle. It commits $15 billion dollars over the next five years to fight AIDS, tuberculosis and malaria. It establishes within the Department of State a coordinator of United States Government Activities to Combat HIV/AIDS so that the U.S. can continue to lead on this issue. And it commits $1 billion dollars for the Global Fund to fight AIDS, Tuberculosis and Malaria.

The legislation is the important springboard to real changes in Africa related to AIDS. It brings together many nations to participate in this effort, and through the conscience clause, allows for non-governmental and faith-based organizations to lend their efforts to eradicating this epidemic. This clause and the participation of community and faith-based organizations are vitally important.

The funding will work two-fold, through public private partnerships, to offer prevention and treatment.

At the Red Cross, I was also able to work firsthand on AIDS prevention education. Ours was the first nationwide effort, so I know the benefits. The Red Cross has provided AIDS prevention education to more than 18 million people across the United States since 1985. More than 30,000 have been trained as HIV/AIDS education instructors. In the time since, our nation has made great strides in battling AIDS. People are taking precautions and living longer.

But I also know firsthand that prevention efforts can sometimes get bogged down in controversy. There are so many different views and beliefs. But this is not the time for the Senate to engage in partisan or ideological delays. America is needed in this crisis; we are needed now, not next month, not next year. Lives are literally hanging in the balance on this bill. Saving them should be our only focus. We must step forward now to help our global neighbors, to offer a helping hand to those who need it, to end the death and destruction. We must pass this bill.

Ms. STABENOW. Mr. President, I rise today to support the United States Leadership against HIV/AIDS, Tuberculosis, and malaria Act of 2003.

This legislation authorizes $15 billion over 5 years, $3 billion per year through 2008. This bill also establishes an HIV/AIDS response coordinator and advisory panel, and requires a 5-year comprehensive, integrated, global strategy to fight this deadly disease. I am pleased to join a bipartisan group of Senators supporting this legislation.

According to the United Nations, more than 65 million people worldwide have been infected with HIV, more than 25 million have died of the disease, and more than 14 million children have been orphaned.

At the end of 2002, an estimated 42 million people were infected with HIV or were living with AIDS, of which more than 75 percent live in Africa or the Caribbean. AIDS is the leading cause of death in sub-Saharan Africa, where more than 19.4 million have died.

Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS have achieved meaningful results. Nonetheless, of the more than 30 million people in Africa with HIV, only 50,000 receive necessary medicines.

We must do everything to reverse this horrible trend and fight this pandemic. But we can't do it on the cheap. Fighting this disease will take a lot of money because the problem is so widespread.

The Global H.I.V. Prevention Working Group, funded jointly by the Kaiser Family Foundation and the Gates Foundation, has issued a report stating that: ''Globally, fewer than one in five people have access to basic HIV prevention programs—the information and services that can help save lives and reverse the AIDS epidemic.''

The Working Group's analysis of global HIV prevention funding finds that annual spending from all sources in 2002 was $3.8 billion short of what will be needed by 2005.

The report also finds that access to proven prevention interventions is extremely limited, and highly variable, depending on region and the intervention.

As you can see, this problem is bigger than what our response will be here today. We must view this legislation as the first step in an ongoing battle to end the AIDS epidemic once and for all.

The bill before us is an important bill, but it is only an authorization bill. Now, we must focus on the upcoming appropriations bills to make good on the promise of the bill before us today.

Mr. SMITH. Mr. President, I support the global AIDS bill. I, like many of my colleagues, do not believe the House version of this legislation is perfect. I have reservations about the bill—in particular more funding is needed to fight the spread of tuberculosis and malaria. Nevertheless, I enthusiastically support this legislation as a vital first step in the international response to the global AIDS pandemic. Coupled with expanded—though still relatively small—bilateral resources to fight tuberculosis, the leading killer of people infected with AIDS, this initiative will save many, many lives. I commend the President for his leadership in this effort, and the House's overwhelming support of this important legislation and the global fund.

Today, there are an estimated 42 million people worldwide living with HIV. Of the 42 million people infected with the virus, 3.2 million are children and half women. These numbers will tragically increase. In 2002, there were 14,000 new HIV infections each day, resulting in an estimated 5 million new cases worldwide.

The HIV/AIDS pandemic is devastating for millions of men, women, children, and families. Moreover, it threatens the economic and political stability of many developing countries. More than 95 percent of the new HIV/AIDS cases were contracted in developing countries. It is estimated that AIDS will diminish economic growth by up to 1 percent of GDP annually and consume more than half of health care budgets in the hardest-hit countries. With ever fragile infrastructures and inadequate funding for health, this economic drain will further hamper developing nations' prospects for a peaceful transition to democracy.

The ability of these developing countries to prevent the further spread of the AIDS virus is limited without our help. Accordingly, it is imperative that we join with the President and House and offer our assistance to those struggling countries. This bill will provide the much-needed support and financial assistance to foreign countries struggling to combat the spread of HIV/AIDS, tuberculosis, and malaria. Along with a comprehensive 5-year plan to combat the global spread of HIV and AIDS, the bill authorizes funding and enables the U.S. to participate in the global fund through 2008.

While passage of this legislation is essential, it ought to be remembered that this effort has just begun. This initiative is just a first downpayment by the U.S. in our fight against the global spread of AIDS. We must fully fund this bill in 2004 and still do more. We must invest wisely to protect and save as many lives as possible and as soon as possible. These funds are needed immediately, and if we do not invest enough now, we will pay far more later—in money, in lives lost, and in the social, economic, and spiritual cost to the families, communities, nations, which are hardest hit. There are ten million children in sub-Saharan Africa alone—children who ought to be free to play, to learn, to enjoy their young lives—who have lost one or both parents to AIDS. This represents a country the size of Belgium. In 10 years, at current rates, this number will quadruple. But we have a choice. Will we allow this to happen? Every year we delay, the greater the cost. This epidemic is not waiting for us, it is here and accelerating. So, we too must accelerate our response.

I again salute President Bush for his compassionate leadership and commitment to fighting HIV/AIDS at the global level. With passage of this bill, the U.S. will demonstrate its unwavering belief in the dignity of life, and as a nation, that we take seriously our moral duty to bring an end to preventable human suffering. I urge my colleagues to consider this just a first step in our response to fighting global HIV/AIDS, to invest our resources judiciously, and

to act immediately. We must not wait another day to pass this legislation, because we cannot afford to have another life needlessly taken by AIDS. I look forward to ensuring that this legislation will be full funded in this year's appropriations bills.

Mr. SARBANES. Mr. President, pending before the Senate is legislation that marks a major step forward in addressing the HIV/AIDS pandemic. Although in my view we have been slow to come to terms with the enormity of the problem, we now have a broad bipartisan consensus on the urgent need for increased funding to address the HIV/AIDS crisis, which is reflected in two proposals before the Senate: H.R. 1298, the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 and S. 1009, the United States Emergency Plan for AIDS Relief Act of 2003.

While they are broadly similar in their provisions, one, in my view, will equip us better with the tools we need. That is S. 1009, which I am cosponsoring. Within its overall authorization figures of $2.8 billion for fiscal year 2004 and $3.2 billion for fiscal year 2005 for HIV/AIDS initiatives, it obligates specified amounts for bilateral programs, The Global Fund to Fight Aids Tuberculosis, TB, and Malaria, The Vaccine Fund, The International AIDS Vaccine Initiative, tuberculosis programs and the Malaria Vaccine Initiative. It promotes an integrated and balanced approach to fighting the disease, while at the same time embracing a wide range of established HIV/AIDS treatment and prevention programs. Indeed, S. 1009 is designed to complement and support existing development and relief funds, which have already proved their value.

Today in sub-Saharan Africa and other parts of the globe we confront the tragic consequences of ignorance about HIV/AIDS, indifference to its effects and delay in marshalling worldwide efforts to contain and ultimately to eliminate it. First diagnosed in Los Angeles just over 20 years ago, it rapidly spread worldwide, especially as major mechanisms of transmission, like blood transfusions and unsterilized needles, were overlooked. While concerted efforts of the medical community and the public at large have helped control the number of new cases and reduced the death rate, the disease continues to spread in some parts of the world. According to the most recent report of the Joint United Nations Programme on HIV/AIDS, UNAIDS, on the Global HIV/AIDS Epidemic, 3.5 million people were infected last year in Africa alone.

If not effectively treated, HIV/AIDS takes a truly terrible toll. In economic terms, the pandemic has turned back the clock on decades of development gains, creating a vicious cycle that exacerbates poverty among the already poor and reduces others to poverty. It displaces or marginalizes populations, making them even more susceptible to HIV infection. In South Africa, where the epidemic's grip has been especially deadly, AIDS has caused major social and economic disruption. What began as a health issue is now also a development crisis.

In every country where HIV/AIDS rages out of control, all sectors are affected. Public health services have been particularly hard hit, because the demand from the services of public health workers has increased. IMF indicators suggest that in the most afflicted countries health services have been overwhelmed by the epidemic, even as the number of patients is projected to double over the next few years.

HIV/AIDS has hit hardest in countries with limited budget resources. Scarce funds have been allocated to rising health care costs, at the expense of other critical public services. Additionally, because the disease debilitates and incapacitates well before it kills, and because it crosses all socioeconomic lines, it has effectively deprived struggling governments of a generation of civil servants—of urgently needed leadership, experience and expertise. This loss of human resources constitutes a new and insidious form of brain drain that governments can ill afford as they work to promote economic growth, alleviate poverty and improve the quality of life for its citizens.

Education in the affected countries has been particularly hard hit. Even if the demand for education falls over time as fertility rates decline, it will be difficult, if not impossible, to maintain pupil-teacher ratios at constant levels. IMF indicators suggest that by 2010 the proportion of newly trained teachers replacing teachers who have died of AIDS will reach a staggering 67 percent—two in every three. The magnitude of this tragic epidemic further complicates the challenge of raising literacy rates in the developing world. The World Bank estimates that even absent the impact of HIV/AIDS, 55 of the world's poorest countries will be unable to achieve universal primary enrollment by 2015.

HIV/AIDS affects the private sector just as much as the public sector. As mortality rates rise and the working-age population declines in size, employers lose trained, experienced and productive workers. Medical care, death-related benefits and also absenteeism—a very important factor—all contribute to rising personnel costs.

The macroeconomic impacts are clear. When the HIV infection rate exceeds 5 percent in a country, HIV/AIDS begins to have significant economy-wide impacts. At least 24 African nations, along with Haiti, now fit into this category. The consequences are grim. UNAIDS estimates a loss of more than 20 percent of GDP by 2020 in the worst affected countries. The number of destitute families will rise as they face lower incomes, greater numbers of dependents and sharply higher healthcare expenditures. The ripple effects of continued reductions in labor, savings, and investment will mean lower economic output in the affected countries, inevitably slowing economic growth and causing trade balances to deteriorate further.

The economic ramifications of HIV/AIDS are one aspect of the crisis; the human dimension is another. According to UNAIDS, 42 million people worldwide are living with HIV. Of these cases, more than 28 million are in Africa alone. In 2002, 5 million people were newly infected with HIV; 28 million people have thus far died from the disease; 14 million children have been orphaned by AIDS without having contracted the disease themselves. Given the high mortality rates among young adults, the orphan population will inevitably increase; a recent report issued jointly by UNICEF/UNAIDS/USAID estimates that by the end of this decade the number of orphans will reach 25 million, an increase of nearly 80 percent. Social support systems in the affected countries are tragically inadequate in the face of the crisis. Children thus become part of a vicious cycle, with no one to care for them, still vulnerable to the disease, seeking to survive in a gang or militia—exacerbating social problems in these countries.

Available statistics tell only part of the story, since AIDS often goes unreported. There is no system of accessible AIDS testing and many cases go undiagnosed, given the sensitivity and social stigma too often surrounding AIDS. On the basis of what is available, however, experts agree that in Africa alone the disease threatens an entire generation that will either be lost to HIV/AIDS or severely affected by plummeting life expectancy, collapsing social institutions and decimated workforces.

As we consider our approach to AIDS, our recent experience with SARS should be instructive. With SARS we have learned in a few months what it took years to understand about HIV/AIDS: awareness, early intervention and international cooperation are critical factors in keeping the disease from spreading and in saving lives. We must apply the lessons we are learning from SARS to our efforts to treat and control HIV/AIDS.

A person infected with the HIV/AIDS virus may appear to show signs of the flu, or no symptoms at all for months or even years. Yet diagnosed in time, the disease is treatable. In the industrialized world, for example, research and intervention have reduced mother-to-child transmission of the HIV virus to less than 2 percent. Rigorous testing and surveillance can keep the blood supply safe. Effective, low-cost interventions have been developed. In high-risk groups in industrialized countries intensive education, vigorous political action and extensive drug therapy have been combined to bring the disease largely under control. Now we must

apply these strategies in the developing world, where the disease is raging out of control. Of the total HIV population worldwide, 95 percent live in the developing world. While there is no cure, we know that prompt intervention mitigates the terrible effects of the disease.

S. 1009 is not directed exclusively to HIV/AIDS; it includes important provisions addressed to tuberculosis and malaria. Unlike HIV/AIDS, which was first diagnosed less than a quarter-century ago, these two terrible diseases have been known and feared for centuries. Tuberculosis claims nearly 3 million lives every year—more than all other infectious diseases combined. Among HIV/AIDS patients, it is the single most common cause of death. In fact, HIV patients are up to 50 percent more likely to convert the latent form of TB into the active, contagious form. Unlike many other infectious diseases, tuberculosis is an airborne disease transmitted like the common cold. Nearly one-third of the world's population is already infected, and cases of multidrug resistant strains, which are far more difficult and expensive to treat, are rising. Overall, tuberculosis is responsible for 25 percent of all preventable deaths in the developing world. S. 1009 authorizes $150 million for fiscal year 2004 and $170 million for fiscal year 2005 for programs devoted to tackling TB.

The developing world, especially sub-Saharan Africa is also in the grip of resurgent malaria, as resistance grows to traditionally effective antimalarial drugs. Resurgent malaria is estimated to cause 1 to 3 million deaths annually, and WHO projects between 300 to 500 new cases every year. S. 1009 authorizes $105 million for fiscal year 2004 and $125 million for fiscal year 2005 to malaria programs and to the Malaria Vaccine Initiative.

With the worst effects of the pandemic still to come, S. 1009 is timely and urgent. It will help to stop the terrible downward spiral in living standards in the countries it has ravaged, and the destabilization that occurs when families and communities are torn apart. It can save lives.

We can beat back this disease. In my view, S. 1009 provides us with the tools most urgently needed by those on the front lines in the fight against HIV/AIDS. It is vastly superior in its provisions to H.R. 1298. Nonetheless, I will work with my colleagues to strengthen the underlying bill. I urge my colleagues to join me in this effort.

Mr. SESSIONS. Mr. President, I rise today to discuss the issue of health care transmissions of HIV/AIDS in Africa. I want to clarify some important provisions of the bill addressing the spread of HIV/AIDS and other infectious diseases in Africa and the developing world through the health care setting and more specifically the reuse of syringes and needles, in other words, injection devices.

The reuse of syringes and needles is a well-documented practice in the developing world. Scientists from the WHO, Duke University and the Gates Children Vaccine Program report that the percentage of unsafe injections in sub-Saharan Africa vary from greater than 50 percent to as high as 90 percent in Burkina Faso. In some countries in the study, 60 percent of centers reused syringes/needles. The Safe Injection Global Network, SIGN, an organization affiliated with the World Health Organization, WHO, reports that, ''Transmission of bloodbourne pathogens, including hepatitis B virus, HBV, Hepatitis C virus, HCV, and acquired immunodeficiency virus, HIV, through unsafe injections has long been reported and causes a heavy burden of disease.''

A December, 2002 paper co-authored by physicians from WHO and CDC estimated that in the developing regions that were studied, almost 40 percent of injections were given with reused injection devices. The same study found that unsafe injection practices in developing countries in the year 2000 alone caused 22 million hepatitis B infections, 2 million Hepatitis C infections and resulted in the transmission of the HIV virus to 260,000 people.

The cumulative number of people with HIV, Hep B and Hep C over the years is a significant number that cannot be ignored.

In response to the overwhelming evidence of diseases spread through needle and syringe reuse, and the recognition of the effectiveness of needles with technology features that prevent reuse to stop the spread of disease, Section 306 of this bill includes legislative language ''promoting sterile injection practices and technologies.''

I want to make the point that sterile injection practices and technologies referred to in Section 306 include injection devices with reuse prevention features.

Furthermore, it is my understanding that ''sterile injection practices and technologies'' referred to in Section 306 should include injection devices with reuse prevention features, especially since needles or syringes that can be reused are only guaranteed to be sterile during their use. This section should not be interpreted to support needle exchange programs. It is also my understanding that availability and use of reuse prevention injection devices will limit not only the spread of HIV/AIDS, but also have the additional benefit of reducing the incidence of Hepatitis B, Hepatitis C, and other infectious diseases such as the Ebola virus, through non-sterile and unsafe injection practices.

This clarification is important to ensure that the Coordinator of the HIV/AIDS Program at the State Department understands the importance of providing injection devices with reuse prevention features to prevent the spread of HIV/AIDS and other infectious diseases.

Studies may vary as to exact percentage of infectious disease spread by various known causes. But all should agree that the use of sterile injection devices with reuse prevention features is one effective, economical, and immediately available step that can be taken to prevent one of the most significant causes of the spread of infectious diseases, especially among children who receive injections for immunization and other health care.

It has been estimated that there are about 1.5 billion injections administered in Africa each year. Since some injection devices with reuse prevention features can be obtained for as little as approximately 5 cents each, the entire continent of Africa could be supplied with safe injection devices at a cost of less than $100 million dollars per year. Doing so could virtually eliminate the spread of HIV and other diseases in Africa from injection device re-use, in a manner that is cost-effective and with measurable results.

During a March 27, 2003 hearing I chaired in the Senate Health, Education, Labor and Pensions Committee on the transmission of AIDS in Africa, David Gisselquist, PhD, testified that, ''From the 16 available large studies in Africa with sufficient data on injections, an average of 28 percent of HIV infections is associated with medical injections.''

In a December 2002 WHO report the authors list four studies with findings of 8 percent, 15 percent, 41 percent and 45 percent attributable to contaminated injections resulting in HIV infections, thus suggesting that the WHO 2.5 percent model was conservative. Even the WHO in its own report stated ''[i]n the year 2000, four decades after the widespread availability of single-use injection equipment and two decades into the HIV pandemic, contaminated injections account for close to a third of new HBV infections, 40 percent of new HCV infections and 5 percent of new HIV infections. These infections translate to a substantial preventable burden of acute hepatitis, AIDS, hepatocellular carcinoma and end-stage liver disease.''

Even if the proportion of cases from injections is much lower than that by heterosexual transmission, it is an important component of the problem and we must act quickly. If healthcare procedures account for a high percentage of the cases of HIV infections in Africa, then we must immediately and radically change our prevention procedures.

Therefore, I plan to work with the Secretary of the Department of Health and Human Services to request an independent group to examine the available studies on the number of HIV/AIDS cases that are caused by the unsafe re-use of needles. This study will help clarify and highlight the dangerous impact of needle re-use in the spread of HIV/AIDS. I recommend that the independent organization draw a panel of experts from different public health organizations to compile this study and make available their findings in 90 days.

I plan to request this study to help understand the true impact of health care transmission and especially unsafe needle re-use in the spread of HIV in Africa and to ensure that our policies reflect the best science about the causes of the HIV/AIDS epidemic in Africa and other parts of the developing world.

I am glad this evening to join with my colleagues in support of the President's initiative to combat global HIV/AIDS and to deliver a bill prior to his departure for the G–8 summit in France which commences on June 1, 2003. The bill authorizes $15 billion over 5 years for HIV/AIDS programs and it is my desire that some of this money be used to eliminate the transmission of HIV/AIDS in the health care setting and especially by the re-use of injection devices.

Mr. ALEXANDER. Mr. President, this is an historic moment for us. The United States Senate is going to step up to the plate and declare in a bipartisan manner that we will meet our moral obligation and help those countries most afflicted by HIV/AIDS.

The scourge of AIDS knows no borders; it is the greatest plague of our time. Over 40 million people worldwide are infected with HIV/AIDS today. Thirty million of those are in Africa. Nearly half, or twenty million, of those infected are in the fourteen countries highlighted for special attention in the President's Emergency Plan for AIDS Relief, which is authorized in the bill before us today.

Now is the time for the Senate to act. I support the bipartisan global AIDS bill that passed the House, and urge my colleagues to do the same. The Bipartisan Global AIDS bill authorizes the President's 5-year, $15 billion plan to combat HIV/AIDS, mirroring President Bush's emphasis on treatment and care. The bill provides funding to the Global Fund to Fight AIDS—up to $1 billion per year—but it limits contributions to be no more than one-third of those monies contributed by other sources. This limitation provides the President with leverage to encourage other countries to donate to the global fund.

The bill supports the approach that Uganda has had so much success with called ''ABC,'' which stands for: abstain, be faithful, and use a condom. When I met with the First Lady of Uganda Tuesday, she told me how this approach of emphasizing abstinence was a return to traditional African values that is working well. From 1991 to 2001, the prevalence of HIV/AIDS among pregnant women in Uganda has declined from 21 percent to 6 percent, thanks largely to ''ABC.'' In Botswana, by contrast, a nurse told me 97 percent of the pregnant patients she saw were HIV-positive, and the national rate was 43 percent among pregnant women in 2000—seven times Uganda's rate. In fact, on Monday, I will be chairing a hearing in the African Affairs Subcommittee to look more closely at the Ugandan model and how it can be applied in other countries.

Thirteen million ''AIDS orphans'' around the world have lost their parents to AIDS—the bill authorizes funds to aid those children. Time is of the essence. Every moment we delay, more people are dying and becoming infected.

I know many of us see imperfections in the bill, and want to amend it. I'm one of them. In fact, I've introduced an AIDS Corps bill that would make a great amendment to this bill. I'm going to withhold that amendment in the interest of getting a good bill quickly to the President's desk, but I want to take a moment to talk about it in hope that we can adopt this proposal or something similar in the future.

The House bill includes language to establish a program where health professionals can volunteer their services to travel abroad to countries most afflicted by HIV/AIDS and provide training and care. This is a needed service. One exacerbating problem for poorer countries afflicted by HIV/AIDS Is the lack of a strong health care infrastructure. In many African countries, traditional healers are more relied upon than medical doctors—these traditional healers may have little or no knowledge about testing for HIV or providing advice on how to prevent or treat it.

Health professionals from countries like the United States can take a couple of months away from their practice to travel to other countries in need and provide necessary training to allow in-country care-providers to better respond to the HIV/AIDS pandemic.

And American health professionals have shown an interest in answering the call. A number of non-profit groups help doctors volunteer their services, groups like Doctors Without Borders, US Doctors for Africa, and the International Medical Corps.

My amendment takes the language from the House bill and improves on it in three important ways:

No. 1, it names the volunteers the ''AIDS Corps'' to help increase the profile of the group so as to better attract qualified medical professionals to give of their time and volunteer.

No. 2, it provides more flexibility for the length of time health professionals can serve—so that those who can only volunteer for a few months won't be excluded.

No. 3, it provides the same liability coverage to volunteering doctors as is provided for federal employees who provide health care services.

I hope that at some future date we can consider these changes that will allow any new corps of medical volunteers established by the President under this act to function more effectively.

Now is not the time to put such an amendment forward.

We need to pass this bill quickly so the administration can begin its implementation and President Bush can use it to encourage other countries to join us in this effort at the upcoming G–8 summit.

I urge my colleagues, let us pass this bill without amendment tonight so that the President can sign it as early as tomorrow, and we will be one step closer to reversing the trend of this growing menace and start reducing its impact around the world.

Mr. DODD. Mr. President, no challenge is more daunting in scope or immediate in need than the Global AIDS crisis. I rise today with the utmost urgency to speak of this modern-day plague and to urge my colleagues to ensure that the legislation currently pending before the United States Senate is both swift in its passage and effective in its nature.

The global AIDS pandemic threatens to undermine all of our other efforts to bring stability and prosperity to the world. AIDS is an unparelled crisis, and it threatens to have a potentially irreversible effect. Every country around the globe will, in one way or another, feel the devastating impact of this disease; no nation will be spared.

Certainly, I applaud the administration for its initiative on this important issue. We all do. And, the bill currently before this chamber—which closely reflects the Administration's requests—provides a good framework for battling this crisis. However, it has some serious shortcomings—shortcomings that will greatly impact its chances of success. That is why this chamber must ensure that any AIDS legislation it passes will be effective on the ground. In order to do this, we must look carefully at the facts, and at the reality of the situation. This must be our first priority.

Mr. President, there are well over 42 million people currently living with HIV/AIDS. In 2001 alone, there were approximately five million new infections. Even worse is that the number of infections continues to grow at an alarming rate. There are 15,000 new infections every day, and half of these infections—half—are in children between 15 and 24 years of age.

Without a doubt, the region hardest hit by this pandemic is sub-Saharan Africa. Approximately 70 percent of the worldwide total of people with HIV/AIDS live in that part of the world, and well over 29 million people are currently infected. The overall rate of infection among adults in the region is close to nine percent, compared with 1.2 percent worldwide, and in seven countries, the infection rate is over 20 percent.

Experts contend that the severity of the AIDS pandemic in that region is directly related to its wide-spread poverty, lack of education, ill-equipped and underfunded health systems, and local taboos that stigmatize and ostracize those who are infected. Even more devastating to the region is that the AIDS pandemic creates a vicious circle of events that, despite international aid, increasingly hinders the ability of affected societies to help themselves.

This vicious circle is pervasive throughout all sectors of society. Skilled workers, teachers, farmers, management executives, and government officials alike are falling prey to AIDS. In fact, according to UNAIDS, by 2020, the most affected countries will experience a loss of more than 20 percent of their gross domestic product.

AIDS is also having a debilitating effect on our hemisphere. In Guyana, almost 3 percent of the adult population is infected, and in Haiti, a nation long-suffering from substantial economic and political instability, more than 6 percent of its adult population are living with the virus. Indeed, throughout Latin America and the Caribbean, over 1.9 million people are infected, and in some Caribbean countries, the rates of prevalence are second only to sub-Saharan Africa.

Throughout the world, AIDS is killing millions of parents, and often leaves young children in the precarious position of having to supply food, money, and medicine for their families. The World Bank estimates that there are currently 15.6 million AIDS orphans, and this number is expected to double by 2010. Many of these children, especially girls, quit school and become victims of sexual violence or commercial sex workers. And, due to lack of resources and education, only a fraction of these children know that they are infected. Most do not even believe that they are at risk or know how AIDS is spread.

I urge my colleagues to carefully examine this situation. Many of these children are not promiscuous because of childish recklessness. Certainly, children do not desire to become commercial sex workers. They are children. Given the chance, they would play games and go to school, as do most children. However, in many cases, their reality, as well as the obligation to provide for their families, forces them into this lifestyle.

I know that citing the successful efforts in the nation of Uganda, some of my colleagues argue that United States AIDS assistance should focus on the promotion of abstinence among children. Certainly, encouraging young, unmarried children to abstain is a worthy goal. We can teach them to abstain, we can urge them to abstain, and we should. However, we can not ignore the multitude of factors with which we are faced. We must remember that the Uganda plan worked because it encouraged abstinence, monogamy, and distributed condoms—the ''ABC'' model. Most of all, it worked because the President of that nation made it a national priority to educate his people about HIV/AIDS.

In my view, the most important distinction among regions of the world has been the ability of affected nations to deal with the AIDS crisis and to educate their people about it, as well as the ability of infected people to pay for a variety of life-saving or life-prolonging treatments.

I know we can all remember a time in the United States when in schools, television advertisements, and billboards, we strove to educate Americans about HIV/AIDS. In fact, this effort continues, and with much success. Coupled with access to state-of-the-art treatments, Americans with HIV are able to live longer and healthier lives than ever before. But it is important to realize that the methods used to progress in one area of the world will not necessarily be effective in another. In many regions, AIDS infection stems from an intricate social reality—one with many contributing factors. In most of these countries, poverty deprives the people of effective systems of health information, health education, and health care. AIDS counseling is often unavailable, and HIV testing is difficult for many to obtain. Lack of resources to buy and distribute the expensive drugs that prolong life for those infected with HIV, as well as the rarity of sex education and prevention methods, have compounded these problems.

Therefore, we must not ignore the widespread destitution caused by this disease, which forces many people—children and adults—into a lifestyle that dramatically increases their risk of infection. Any effort to fight AIDS must be accompanied by an effort to fight poverty and build infrastructure; it must be focused on helping people to help themselves. It is my hope that as the Senate addresses the issue of foreign aid in the coming year, it pays particular attention to the other myriad needs on the continent of Africa, as well as in other poverty-stricken regions throughout the world.

In addition, we must not ignore existing institutions, such as the Global Fund to Fight AIDS, Tuberculosis, and Malaria. While I strongly support the provision in this bill authorizing up to $1 billion for the Global Fund in fiscal year 2004, I am concerned that the Bush Administration will instead choose to follow its fiscal year 2004 budget request, and only allocate $200 million for this important institution. Indeed, such a decision would threaten the ability of the Global Fund to continue its important work; it would be a step backwards in our fight against AIDS.

And lastly, although this bill will serve to combat HIV/AIDS in twelve African countries, as well as Haiti and Guyana, it is absolutely essential that we focus our efforts not only on these countries, but on the world at large. HIV/AIDS is a global problem and it needs a global response. My amendment designating Caribbean countries as priority countries for United States support was an attempt to give additional attention where it is most needed.

To highlight the necessity of this global approach, I would like to bring to the attention of my colleagues a report on AIDS, which was published in January 2000 by the Central Intelligence Agency, CIA. This report states that by 2010, the focal point of infections will most likely shift from sub-Saharan Africa to Nigeria, Ethiopia, India, Russia, and China. There will be approximately 50 to 75 million infected people in these countries alone, and according to the CIA, the AIDS crisis will contribute to political instability and slow democratic development. These are dire predictions, and we have an obligation to address them.

Our intentions are noble and our conviction is real. But in order to achieve all of these vital goals, we must fully and sensibly commit ourselves to the fight against AIDS. That means providing the necessary resources to prevent and treat this illness, sufficiently funding important organizations and vaccine research, educating people about AIDS, providing a truly global response, and ensuring that our efforts are effective and grounded on the realities of those in need. And, as we consider this bill, it is crucial to remember that it is only a first step. In order to succeed, we must also change the reality in which this disease thrives.

If we don't act with urgency, sensibility, clarity, and deliberation, we will be condemning to death countless men, women, and children throughout the world. We must act now. We can not afford to fail.

Mr. SESSIONS. Mr. President, the underlying bill provides too much money to the global fund. The administration requested $200 million next year for the global fund. This bill funds the global fund to the tune of $1 billion.

Let me begin by saying I do not think we should be giving the global fund anything. They have not earned our trust. They have not proven they can do a better job of fighting AIDS than the President can do through direct assistance.

Let me share an exchange I had with Sir Elton John at a hearing on the AIDS issue.

SESSIONS. Thank you for that commitment. It has made a difference. I talked to a businessman who does a lot of work around the world, and he said that in developing nations, the absolute key is not to give the money too high up the ladder. If you are giving the money to the people doing the work, they will work wonderfully, and things will happen beautifully. If you give it too high up, it does not get to the people who do the work in an effective way. Many of you have foundations and are leading groups that are smaller, where you can be more effective. We are talking about, if we were to do what Ms. Thurman asked, tripling our contribution to $2.5 billion. Do you have any suggestions as to how we can make sure that that money actually reaches its greatest potential?

Sir ELTON JOHN. I concur with you totally. What that money has to go toward is training people to build an infrastructure so that people can get the drugs they need in remote parts of countries, and it needs to run on a government level. But I know what you are saying. I do not know how you do that, because I am just a singer. This is something that the politicians have to make sure that when the money goes to governments, the money is spent in the right way. I have said before that we are a very small AIDS organization; we can control where everything

goes, and we do. We know where every penny goes. But when you get to these vast sums of money that we are talking about there today, you are going to run into those kinds of problems, and I do not personally know myself how you solve them, but I do concur with you that that is a major problem.

Sir Elton John's statement is relevant to the issue of whether to take massive amounts of money and give it to this global bureaucracy.

The General Accounting Office recently completed an exhaustive study of the global fund. I strongly recommend that my colleagues read this report.

Here are some of the findings.

The Secretariat's office has 63 staff members who have an average salary of $174,603. This is the average.

Compared to recipient countries' average annual salaries, or even to the U.S.'s average annual salary, no country even comes close.

The average annual salary of the 73 recipient countries where such figures are known is $3,020, over $171,000 less than the average global fund salary.

Even the average U.S. citizen only makes $36,300 a year. A job with the global fund would give a U.S. worker a potential $138,000 payraise.

Americans work hard to pay their taxes. In times of economic trouble, they have to work even harder. We have a fiduciary duty to the taxpayers.

We owe it to them to make sure these precious resource are used as wisely as possible, especially when we are deciding how to address a deadly epidemic.

Disease specialists within the United Nations estimate that it would cost $1,400 to $4,200 a year per patient to treat HIV/AIDS effectively in sub-Saharan Africa with antiretroviral drugs. That means that by simply eliminating one average Secretariat employee's wages, between 42 and 125 AIDS patients could be helped to lead better lives.

I want these funds in the hands of someone I can trust. Do I have concerns about giving money to the Federal bureaucracy? Of course. But this is a judgment call. Who do you trust most with these dollars, the global fund, or President Bush?

I trust President Bush. I trust the United States of America.

Our of $862 million in funds received, the global fund has only distributed $20 million to actual AIDS prevention grants. Meanwhile, they are spending exorbitant amounts on salary and bureaucracy.

President Bush has a proven record. He gets results. I cannot say the same for the global fund.

The Democratic Leader says he will offer an amendment to ''guarantee a robust American commitment to the Global Fund to fight AIDS.''

This statement implies three things—

1. That America's current commitment to the global fund is not robust. Not true.

2. That the bill we are considering does not provide a robust commitment. Not true.

3. By voting for this amendment,you will guarantee a commitment to the global fund that is more robust than you would by voting against it. Not true.

Let me take these one at a time. First, Is America's current commitment to the global fund robust? Absolutely.

To date, we have contributed a total of $300 million out of a total $862 million, 32 percent. Our commitment next year is $350 million out of $832 million. The next highest nation is Italy at $100 million.

Does the bill we are considering represent a robust commitment to the global fund? I submit that $1 billion is an overly robust commitment.

The President stated that $200 million for the global fund is what is needed next year. This bill authorizes $1 billion. This bill is five times what the President requested.

The bill is more than every nation's pledges combined. Last year, the total was $832 million. This bill provides $1 billion. I guess too much is never enough for the other side.

Third, the majority leader is implying that by voting for this amendment, you will guarantee a commitment to the global fund that is more robust than you would by voting against it.

The House is not going to spend more than $1 billion on the global fund. So you can vote to increase the funding, but that will just send the bill to conference where the funding will be reduced to the House amount, or preferably, lower.

Here is the real point. The President has indicated his determination in having Congress send him a final bill before he departs for the June 1–3 G8 Summit in Evian, France.

At the G8 Summit, the President intends to use this bill as a catalyst and leverage in requesting that the world's leading powers make combating global HIV/AIDS a significant element in their foreign assistance programs.

If this amendment is adopted, the President will not have it for the G8 summit. He will not be able to use our $1 billion commitment to leverage other nations to make similarly generous commitments.

The other G8 countries contributions are paltry compared to ours. The next highest country is Italy who contributed $100 million. The rest are half that amount. The Gates Foundation contributes more to the global fund than most G8 countries.

If my colleagues want to maximize the global contribution to the global fund, they should vote against this amendment so we can get this bill signed into law and President Bush can have the strongest possible hand at this summit.

In conclusion, there is a lot in this bill I do not like. There are provisions I would change. I think there is way too much money in this bill for the global fund.

I have amendments I would like to offer. Some are pretty important. Some would be adopted overwhelmingly. But if it means we avoid a lengthy conference and allow the President to make the strongest possible case at the summit in June, I am willing to withhold. There will be other chances to improve this bill. I urge my colleagues to do the same.

Ms. MIKULSKI. Mr. President, I support the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.

For 20 years, HIV/AIDS has spread from the devastated region of sub-Saharan Africa to the entire world. It is the fourth leading cause of death in the world, killing over 22 million people.

But HIV/AIDS doesn't just kill people. It destroys economies. It ruins nations. It menaces our children and stifles hope.

Forty-two million people worldwide have HIV/AIDS. Thirteen million children are now orphans because of its wrath. Three million children are infected. The vast majority of the afflicted live in Africa, but the disease continues to spread at an alarming rate. The peoples of Eastern Europe, China, India and Central Asia are under assault. The world cannot afford a mediocre response to this disease's assault on human life.

While the experts know how this disease spreads, we can't afford to rely on one solution. Abstinence, being faithful and condoms is an approach that has been successful in Uganda. The ABC approach is now being followed in other countries as well. But this won't stop rape, sexual abuse and prostitution. We cannot expect women and children refugees to overcome their vulnerability to HIV/AIDS by themselves. They deserve real help—help with empowerment, help in fighting the sex and trafficking industries, and help in keeping their predators away.

We also need to help the families that are ruined by AIDS. The costs of caring for a family member afflicted with AIDS are severe, even worse if the person affected is the family's primary wage earner. America must stand up and ensure that families can afford the treatment and care they need to dull the spread and impact of HIV/AIDS.

This disease affects whole societies and nations, not just the infected individuals and their families. Economies suffer when labor forces can no longer survive, much less be productive. When the most educated and vital members of society get HIV, economies contract rather than grow. National security suffers when military forces contract HIV, often at rates up to 5 times as high as civilians.

But the HIV/AIDS pandemic is not the only threat we need to fight. Tuberculosis and malaria compound the problems of HIV/AIDS in developing countries, where 6 million people died of HIV/AIDS, tuberculosis, or malaria in 2002.

The nations and peoples of the world must share the burden of responding to the HIV/AIDs pandemic. Eliminating

the scourge of AIDS won't be easy and it won't be cheap.

That's why the U.S. needs to make a real contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. The $500 million the U.S. has pledged to the fund falls far short of the $7 billion it will need over the next two years to carry out its critical mission. We can do better. We must.

America also needs to encourage concerted international action beyond these important monetary contributions. HIV/AIDS is not a unilateral threat. The world must make a sustained, comprehensive global effort to provide a coordinated program of treatment, care and prevention. Together, we must combine the best of our values, service, technology, expertise and diplomacy to fight the great international menace of HIV/AIDS.

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 is a good step toward this goal. I applaud President Bush for joining our cause by proposing an Emergency Plan for AIDS Relief, a new mission to help countries in Africa and the Caribbean region address the HIV/AIDS pandemic by providing money, expertise and training. This measure recognizes the critical link between HIV/AIDS care, treatment, prevention, and education efforts. It also responds to the need for health care systems that actually provide the right treatment.

I'm proud to vote for this bill because I see as a culmination of our efforts here in the Senate to make this issue less about partisanship, and more about people. I've fought for so many years to provide a more adequate response to HIV/AIDS. I commend my colleagues for uniting in this effort.

There are certainly provisions in this bill that concern me. I've voted to try to change some of them. But I'm not going to let those concerns stand in the way of my support for a stronger U.S. and international response to the AIDS pandemic. While this bill is not perfect, it is a good start that may save millions of lives.

By passing this bill, the United States is taking real action to live up to its responsibilities as the strongest country in the world. We can show that we really do care about improving the lives and futures of people in the developing world. The American people should be proud of this American leadership.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. LUGAR. Mr. President, I thank all Senators for their diligence and faithfulness in working to this late hour. I thank our leader, Senator FRIST; likewise, Senator DASCHLE. I always appreciate working with my colleague, Senator BIDEN. We have a good relationship on the committee, and we are very appreciative that the Senate has given us this bill this evening.

The PRESIDING OFFICER. Does the Senator move to reconsider the vote?

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, what we have just done is significant in many ways. We have addressed for the first time in a comprehensive way one of the greatest humanitarian, moral, and public health challenges this country has ever seen, and, I would argue, the greatest humanitarian challenge we have had to face in the last 100 years.

We addressed this health challenge in a comprehensive way. We addressed it with an authorization for $15 billion over 5 years. It was just a few years ago we were spending a total of $100 million a year, and now it is going to be approximately $3 billion a year.

As has been stated again and again over the course of the evening, the afternoon, and around lunch when we first began talking on the bill, what we have done is shown that the United States is not just a good nation but is indeed a great nation, that we will lead in the global fight against this destructive virus that has killed 23 million people, that is affecting the lives of over 45 million people today, and that, as we have said today, will likely take the lives of 60 million others and will create probably another 40 million orphans over the next two decades.

This is our first step. I congratulate the chairman of the Foreign Relations Committee for bringing us to this point. Many of us have been working for 3, 4, and 5 years even to bring us to this point. I thank him for his tremendous leadership in accomplishing this goal.

I will be happy to yield to my colleague, Senator ENZI.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I congratulate everybody who was involved in the bill. This was not easy work. There were a lot of different personalities and opinions. It is a huge issue with a lot of detail. There is a lot of room for error and misunderstandings and different amendments.

I am so pleased that people on both sides of the aisle worked through all the difficulties, both ends of the building worked through all the difficulties, and that we arrived at this position.

I particularly congratulate the majority leader for the outstanding job he has done through all the years he has worked on AIDS. This would not have come to our attention and a vote tonight if it had not been for the diligence of Senator FRIST.

I also thank the chairman of the Foreign Relations Committee for all the work he has done on the bill. He has been through more variations of this bill than almost anybody, except Senator FRIST, and was willing to find a position that would get this bill passed. He did that in the best kind of spirit and took some stands against a bill that had his name on it. That is very difficult work for a Senator to do, and he did it in the best spirit of making sure we were taking care of the work.

It is one of the more universal bills we have done since I have been in the Senate.

I congratulate everyone for coming together and finishing this bill.

MEASURE RETURNED TO THE CALENDAR—S. 1054

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that S. 1054 be placed back on the calendar.

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

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF S. MAURICE HICKS, JR., TO BE UNITED STATES DISTRICT JUDGE

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that at 5:30 p.m. on Monday, May 19, the Senate proceed to executive session and a vote on the confirmation of Executive Calendar No. 172, S. Maurice Hicks, Jr., to be a United States District Judge for the Western District of Louisiana. I further ask unanimous consent that following that vote, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

U.S.-TURKEY RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the letter I just received, as President pro tempore, from the Prime Minister of Turkey be printed in the RECORD. The Prime Minister discusses the importance of the Turkish-U.S. partnership and shares his views regarding the recent developments in Iraq. He calls upon ''the distinguished members of the U.S. Congress to work hand-in-hand with their Turkish colleagues to further strengthen the cooperation and solidarity between our two countries . . .''.

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

REPUBLIC OF TURKEY,
Ankara, April 2, 2003.

Hon. TED STEVENS,
President pro tempore of the Senate, Hart Senate Office Building, Washington, DC.

I take the liberty of writing you to share my views concerning the recent developments in Iraq and the future of the Turkish-U.S. partnership.

Turkey and the United States maintain a partnership. It is a friendship that has withstood the test of time and events for over half a century. This partnership is unique as it is precious and has flourished on its own merits. It is firmly rooted in the common values and interests, and a long history of friendship.

When the United States called on our help in the defense of freedom in Korea we were there. Indeed, our forces sustained high casualties to help to liberate this country. We joined forces in NATO since 1952. Turkey was in the frontline in this successful struggle. More recently, we were again on the same side in the Balkans, a region which now enjoys stability and progress. When Saddam Hussein invaded Kuwait, Turkey stood firm with the United States in confronting and containing Iraq. When terror struck the United States, we shared the deep grief of the American people and displayed full solidarity. Our partnership has been global in reach, covering the Middle East, Somalia, Bosnia Herzegovina, Kosovo, Macedonia, Afghanistan, as well as the Caucasus and Central Asia, where we are involved in contributing to democracy, peace and stability. The solidarity between the U.S. and Turkey, the only western democracy in the Muslim world, has reassured the world that a global clash of civilizations will remain an unfulfilled prophecy. Had there been no such partnership between Turkey and the United States, both our countries would now be striving to establish it. Instead, we have a history of partnership that warrants even better days.

This brings me to the current question of Iraq, which has created certain sensitivity. I should stress two fundamental points in a bid to set the record straight.

The first point refers to an injustice sometimes done in assessing Turkey's support in the war. Turkey has a vibrant democracy and the overwhelming majority of the Turkish people is against war. Their reflexes are shaped by the fact that the Iraqi people, including Arabs, Kurds, Turcomans and others will continue to be our neighbors long after the end of military operations. At the same time, the Turkish people have paid untold social and economic costs on account of the last Gulf War. We have suffered economic hardship and had to face hundreds of thousands of refugees from northern Iraq. PKK/KADEK terrorism, which claimed more than thirty thousand lives, was able to breed in such an environment. We cannot afford a replay of those.

It was precisely due to the expression of this public anxiety over yet another war that the elected representatives in our parliament could not muster the necessary votes to approve the government decree involving the basing of U.S. troops in Turkey. Nonetheless, in a subsequent vote our parliament did approve extensive overflight rights for the U.S. and coalition forces. Given that Turkey is bordering Iraq, one has to accept that this is not an ordinary but a substantive contribution. Furthermore, cooperation that did not require parliamentary approval was underway even months before the beginning of hostilities and continues to date, in various forms. The relevant U.S. authorities are fully aware of this. We have indeed provided whatever we could.

The second point concerns the role wrongly envisaged by some, for Turkey, that is confined to providing a mere geographical launching pad for military operations. Indeed, Turkey's role and the essence of Turkish-U.S. partnership are far more fundamental. Turkey is one of the leading partners of the United States in winning the peace in Iraq and the broader Middle East.

At the end of the military operations both Turkey and the U.S. would want to see an Iraq that is whole and free. We have been advocating a transition in Iraq towards a peaceful state, disarmed of weapons of mass destruction, with its territorial integrity intact, and in which all segments of the populations take part in administering their common state and enjoying equitably the benefits of their rich natural resources. This is our joint vision and aspiration.

A couple of lessons also can be derived from the recent event. We must exert even greater efforts together to promote the Turkish-U.S. partnership. On her part, Turkey is committed to working with U.S. to take our partnership to new heights. The potential of our strategic partnership is unlimited. From our bilateral political, military and increasingly economic cooperation, to our solidarity in shaping a peaceful and stable state of affairs in our volatile region, and combating the scourge of terrorism, on all these issues the partnership between Turkey and the United States has much to offer. As the only predominantly Muslim country which is firmly and irreversibly embedded in the western world, Turkey has unique capabilities to help promote security and stability in the Middle East and beyond, so that all countries in the region including Israel and Palestine will enjoy lasting peace. Our democratic and secular values provide a model to the world to obviate a clash of civilizations. The United States has been and remains to be our valued partner in this common endeavor.

What is more, the recent developments and events have underlined once again the need to forge a greater dialogue among our legislators in a bid to better understand each other's priorities, expectations and constraints.

Therefore, as we look to the future, I call upon all the distinguished members of the U.S. Congress to work hand-in-hand with their Turkish Colleagues to further strengthen the cooperation and solidarity between our two countries and nations to fulfill the great promise of the Turkish-U.S. strategic partnership.

Sincerely,

RECEP TAYYIP ERDOĞAN,
Prime Minister.

THE ''SPAM'' PROBLEM AND ALTERNATIVE SOLUTIONS

Mr. LEAHY: Mr. President, I rise today to discuss the problem of junk commercial e-mail, commonly known as ''spam.'' It is increasingly apparent that spam is more than a just a nuisance: It has become a serious and growing problem that threatens to undermine the vast potential of the Internet.

America's businesses and America's homes are flooded with millions of unwanted, unsolicited e-mails each day. A recent study by Ferris Research estimates that spam costs U.S. firms $8.9 billion annually in lost productivity and the need to purchase ever more powerful servers and additional bandwidth to try to stay ahead of the spammers; to configure and run spam filters; and to provide helpdesk support for spam recipients. The costs of spam are significant to individuals as well, including time spent identifying and deleting spam, inadvertently opening spam, installing and maintaining anti-spam filters, tracking down legitimate messages mistakenly deleted by spam filters, deleting spam that is not caught by filters, and paying for Internet Service Providers' blocking efforts.

In my home state of Vermont, one legislator recently found that two-thirds of the 96 e-mails in his inbox were spam. And this occurred after the legislature had installed new spam-blocking software on its computer system that seemed to be catching 80 percent of the spam. The Assistant Attorney General in Vermont was forced to suggest to computer users the following means to avoid these unsolicited commercial e-mails: ''It's very bad to reply, even to say don't send anymore. It tells the spammer they have a live address. The best thing you can do is just keep deleting them. If it gets really bad, you may have to change your address.'' This experience is echoed nationwide. The FTC's recent spam forum underscored the magnitude and complexity of the problem.

Twenty-nine States now have anti-spam laws, but the globe-hopping nature of e-mail makes these laws difficult to enforce. Technology will undoubtedly play a key role in fighting spam, but a technological solution to the problem is not likely in the foreseeable future. ISPs block billions of unwanted e-mails each day, but spammers are winning the battle.

In addition, given the speed with which spammers adapt to anti-spam technologies, the development and dissemination of such technologies is not cheap. Why should businesses and individuals be forced to invest large amounts of time and money in buying, installing, troubleshooting and maintaining new generations of anti-spam technologies?

The problems posed by junk e-mail are real, with substantial consequences for Internet users and service providers alike. I am working with other members of the Judiciary Committee, on both sides of the aisle, to arrive at an appropriate solution.

I have often said that Congress must exercise great caution when regulating in cyberspace. Any legislative solution to spam must tread carefully to ensure that we do not impede or stifle the free flow of information on the Internet. The United States is the birthplace of the Internet, and the whole world watches whenever we decide to regulate it. Whenever we choose to intervene in the Internet with government action, we must act carefully, prudently, and knowledgeably, keeping in mind the implications of what we do and how we do it. And we must not forget that spam, like more traditional forms of commercial speech, is protected by the First Amendment.

At the same time, we must not allow spam to result in the ''virtual death''

of the Internet, as one Vermont newspaper put it.

The Internet is a valuable asset to our nation, to our economy, and to the lives of Americans, and we should act prudently to secure its continued viability and vitality.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 3, 2001. In Noroco, California, and Arab-American businessman was badly beaten by two men. As the man was closing his store for the evening, the pair entered the store wearing ski masks and shoved the victim to the back of the store. There they beat him and accosted him with racial epithets. The men then chained the victim to prevent him from fleeing, spray painted his face with black paint, and poured fire starter fluid on him. The victim eventually lost consciousness after he was repeatedly struck with liter bottles.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NOMINATION OF JUDGE CONSUELO CALLAHAN

Mr. LEAHY. Mr. President, I have been disappointed that the Republican leadership has not found time to proceed to the nomination of Judge Consuelo Callahan to the United States Court of Appeals for the Ninth Circuit. This is another of the judicial nominees that Senate Democrats have strongly supported and whose consideration we had expedited through the Judiciary Committee last week.

We still do not know who on the Republican side delayed consideration of the consensus nomination of Judge Prado for a month. I thank the Congressional Hispanic Caucus for its support of that nomination as well as this nomination and for working with the Senate to bringing fair evaluation of these nominees and for adding their voice to the discussion of these lifetime appointments.

Just as Senate Democrats cleared the nomination of Judge Edward Prado to the U.S. Court of Appeals for the Fifth Circuit without delay, so, too, the nomination of this Hispanic nominee to another circuit court was cleared on the Democratic side last week. All Democratic Senators serving on the Judiciary Committee voted to report her nomination favorably. All Democratic Senators indicated that they were eager to proceed with her nomination and, after a reasonable period of debate, we voted on her nomination. I am confident this nomination will be confirmed by an extraordinary majority—maybe unanimously.

It is most unfortunate that so many partisans in this administration and on the other side of the aisle insist on bogging down consensus matters and consensus nominees in order to focus exclusively on the most divisive and controversial of this President's nominees as he continues his efforts to pack the courts. Democratic Senators have worked very hard to cooperate with this administration in order to fill judicial vacancies. What the other side seeks to obscure is our effort, our fairness and the progress we have been able to achieve without much help from the other side or the administration.

The fact is that when Democrats became the Senate majority in the summer of 2001, we inherited 110 judicial vacancies. Over the next 17 months, despite constant criticism from the administration, the Senate proceeded to confirm 100 of President Bush's nominees, including several who were divisive and controversial, several who had mixed peer review ratings from the ABA and at least one who had been rated not qualified. Despite the additional 40 vacancies that arose, we reduced judicial vacancies to 60, a level below that termed ''full employment'' by Senator HATCH. Since the beginning of this year, in spite of the Republican's fixation on the President's most controversial nominations, we have worked hard to reduce judicial vacancies even further. As of today, the number of judicial vacancies has been reduced to 47 and is the lowest it has been in 13 years. That is lower than at any time during the entire 8 years of the Clinton administration. We have already reduced judicial vacancies from 110 to 47, in 2 years. We have reduced the vacancy rate from 12.8 percent to 5.4 percent, the lowest it has been in the last two decades. With some cooperation from the administration think of the additional progress we could be making.

Earlier this month, we were able to obtain Senate consideration of the nomination of Judge Prado, and another distinguished Hispanic nominee who was reported unanimously by the Judiciary Committee last month—Judge Cecilia Altonaga to be a Federal judge in Florida. We expedited consideration of that nominee at the request of Senator GRAHAM of Florida. I am told that she is the first Cuban-American woman to be confirmed to the Federal bench. Indeed, Democrats in the Senate have worked to expedite fair consideration of every Latino nominee this President has made to the Federal trial courts in addition to the nominations of Judge Prado and Judge Callahan.

Today, I urge the leadership to allow us to consider the nomination of Judge Consuelo Maria Callahan to the Ninth Circuit Court of Appeals. Unlike the divisive nomination of Carolyn Kuhl to the same court, both home-State Senators support the nomination of Judge Callahan. Rather than disregarding time-honored rules and Senate practices, I urge my friends on the other side of the aisle to help us fill more judicial vacancies more quickly by bringing those nominations that have bipartisan support, like Judge Callahan, to the front of the line for committee hearings and floor votes.

As I have noted throughout the last 2 years, the Senate is able to move expeditiously when we have consensus, mainstream nominees to consider. In a recent column, David Broder noted that he asked Alberto Gonzales if there was a lesson in Judge Prado's easy approval, but that Mr. Gonzales missed the point. In Mr. Broder's mind: ''The lesson seems obvious. Conservatives can be confirmed for the courts when they are well known in their communities and a broad range of their constituents have reason to think them fair-minded.'' Judge Consuelo Callahan is another such nominee.

To date the Senate has proceeded to confirm 124 of President Bush's nominees, 100 in the 17 months in which Democrats comprised the Senate majority. The lesson that less controversial nominees are considered and confirmed more easily was the lesson of the last 2 years, but that lesson has been lost on this White House and the current Senate leadership.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I regret the administration's refusal to work with us to end the impasse it has created in connection with the Estrada nomination. The partisan politics of division that the administration is practicing with respect to that nomination are not helpful and not respectful of the damage done to the Hispanic community by insisting on so divisive a nominee.

I invite the President to work with us and to nominate more mainstream individuals like Judge Prado and Judge Callahan whose proven records and bipartisan support make it easier for us to uphold our constitutional duty of advise and consent. I look forward to casting a vote in favor of her confirmation to the Circuit Court.

In connection with the unexplained Republican delay before consideration of the nomination of Judge Prado, some suggested that Judge Prado had been delayed because Democratic Senators were likely to vote for him and thereby undercut the Republican's shameless charge that opposition to

Miguel Estrada is based on his ethnicity.

We all know that the White House could have cooperated with the Senate by producing Mr. Estrada's work papers. This would have enabled the Senate to have voted on the Estrada nomination months ago. The request for his work papers was sent last May 15 and has been outstanding for a year. Rather than respond as every other administration has over the last 20 years and provide access to those papers, this White House has stonewalled. Rather than follow the policy of openness outlined by Attorney General Robert Jackson in the 1940s, this administration has stonewalled. And Republican Senators and other partisans could not wait to claim that the impasse created by the White House's change in policy and practice with respect to nominations was somehow attributable to Democrats being anti-Hispanic. The charge would be laughable if it were not so calculated to do political damage and to divide the Hispanic community. That is what Republican partisans hope is the result. That is wrong.

Unfortunately, in the case of Mr. Estrada, the administration has made no effort to work with us to resolve the impasse. Instead, there has been a series of votes on cloture petitions in which the opposition has grown and from time to time the support has waned. Recently, there have been press reports indicating that Mr. Estrada asked the White House months ago to withdraw his nomination. I understand his frustration. If this administration is not going to follow the practice of every other administration and share with the Senate the government work papers of the nominee—the very practice this administration followed with an EPA nominee in 2001—then I can understand him not wanting to be used as a political pawn by the administration to score partisan, political points. That the administration has not acceded to his reported request but has plowed ahead to force a succession of unsuccessful cloture votes and to foment division in our Hispanic community for partisan gain is another example of how far this administration is willing to go to politicize the process at the expense of its own nominees.

Judge Callahan enjoys the full support of the Congressional Hispanic Caucus. Not a single person or organization has submitted a letter of opposition or raised concerns about her. No controversy. No red flags. No basis for concern. No opposition. This explains why her nomination was voted out of the Judiciary Committee with a unanimous, bipartisan vote on an expedited basis.

During President Clinton's tenure, 10 of his more than 30 Latino nominees, including Judge Rangel, Enrique Moreno, and Christine Arguello to the circuit courts, were delayed or blocked from receiving hearings or votes by the Republican leadership.

Republicans delayed consideration of Judge Richard Paez for over 1,500 days, and 39 Republicans voted against him. The confirmations of Latina circuit nominees Rosemary Barkett and Sonia Sotomayor were also delayed by Republicans. Judge Barkett was targeted for delay and defeat by Republicans based on claims about her judicial philosophy, but those efforts were not successful. After significant delays and an unsuccessful Republican filibuster, 36 Republicans voted against the confirmation of Judge Barkett. Additionally, Judge Sotomayor, who had received the ABA's highest rating and had been appointed to district court by President George H.W. Bush, was targeted by Republicans for delay or defeat when she was nominated to the Second Circuit. She was eventually confirmed, although 29 Republicans voted against her.

The fact is that the Latino nominations that the Senate has received from this administration have been acted upon in a expeditious manner. They have overwhelmingly enjoyed bipartisan support. Under the Democratically-led Senate, we swiftly granted hearings for and eventually confirmed Judge Christina Armijo of New Mexico, Judge Phillip Martinez and Randy Crane of Texas, Judge Jose Martinez of Florida, U.S. Magistrate Judge Alia Ludlum, and Judge Jose Linares of New Jersey to the district courts. This year, we also confirmed Judge James Otero of California, and we would have held his confirmation hearing last year if his ABA peer rating had been delivered to us in time for the scheduling of our last hearing. As I have noted, we also have recently confirmed Judge Cecilia Altonaga and Judge Edward Prado with unanimous Democratic support.

Judge Callahan's nomination has been delayed on the Senate executive calendar unnecessarily in my view. I recall all too vividly when anonymous Republican holds delayed Senate action on the nomination of Judge Sonia Sotomayor to the Second Circuit for 7 months. It is time to act on this widely supported, uncontroversial Latina nominee. I urge the Senate leadership to bring her nomination up for a vote without delay.

ADDITIONAL STATEMENTS

TRIBUTE TO KATIE GROGAN

• Mr. BUNNING. Mr. President, I rise today in the Senate to honor and pay tribute to Katie Grogan, a student at Notre Dame Academy in Park Hills, KY. Ms. Grogan was chosen as the Kentucky winner of the U.S. Institute of Peace's 16th Annual National Peace Essay Contest.

More than 1,250 students from American high schools throughout the United States and abroad submitted essays for this year's contest. Contestants were required to write an essay on the justification of war. Ms. Grogan has shown a commitment to excellence deserving of such a distinguished honor. Ms. Grogan's essay is a shining example of what you can achieve if you work hard and pursue your goals. Her example should be followed by students across Kentucky.

I am proud of this young woman's dedication toward peace and her goals for educational excellence. The citizens from Lakeside, KY, are fortunate to call Katie Grogan one of their own. I also congratulate her teachers, along with her peers, administrators, and family for their support and sacrifices they have made to help her meet this achievement and make her dreams a reality. I wish her the best of luck in the national competition.•

CELEBRATING THE 100TH ANNIVERSARY OF THE SHELBYVILLE-SHELBY COUNTY PUBLIC LIBRARY

• Mr. LUGAR. Mr. President, I rise today to highlight for my colleagues an important event occurring in State of Indiana the 100th anniversary of the Shelbyville-Shelby County Public Library.

The growth success of the library through the years is a testament to the dedication of the staff and to the Shelbyville-Shelby County community. In 1822, the Shelbyville-Shelby County Public Library was founded with a modest collection of a few hundred volumes. In the years and decades that followed, the collection grew to more than one hundred thousand volumes, and the facility was expanded to meet the demands of the City and County. Today, residents enjoy a state of the art institution.

I join, with my colleagues in the Senate and with State and local officials in Indiana, to congratulate everyone who has been a part of the growth of this library throughout the years and who has gathered to celebrate this impressive milestone.•

UM/VA GENERAL CLINICAL RESEARCH CENTER

• Mr. GRAHAM of Florida. Mr. President, the Veterans Health Administration has long-standing relationships with medical schools around the country, a partnership that continually proves beneficial for all who are involved. I am proud to highlight that the Miami VA Medical Center and the University of Miami have taken this collaboration to the next level, with the May 2, 2003, opening of a National Institutes of Health-funded UM/VA General Clinical Research Center at the Miami VAMC.

At the September 12, 2002, meeting of the President's Task Force to Improve Health Care Delivery for our Nation's Veterans, Dr. John G. Clarkson, Senior Vice President for Medical Affairs and Dean of the University of Miami, testified about his experience in partnering

with VA. He expressed how valuable the academic affiliation has been in improving care for veterans while contributing greatly to the educational and research capabilities of the schools. The affiliation—in his view—has also fostered cost-effective and efficient sharing of clinical and research resources, resulting in significant health care reforms.

Dr. Clarkson also pointed out that, were it not for its 50-year old collaboration with the Miami VAMC, the University of Miami Medical School never would have gotten off the ground, nor would it have accomplished all it has over the years.

The new General Clinical Research Center will be only the third such facility housed at a VA Medical Center, and it will allow basic research results to be applied to the development of potentially lifesaving drugs, devices, and therapies that could benefit not only veterans, but the entire Nation.

I would like to congratulate and thank the hardworking staffs of both the Miami VA Medical Center and the University of Miami Medical School. Without their dedication, their 50-year collaboration would never have been so successful and this latest development, a brand-new Clinical Research Center, would not have been possible.●

SANDY JERSTAD RETIRES FROM AUGUSTANA COLLEGE

● Mr. JOHNSON. Mr. President, today I recognize Sandy Jerstad for her years of accomplishment as softball coach for the Augustana College Vikings in Sioux Falls, SD. Earlier this week, Sandy marked the end of an era, not only for that institution, but for an entire community when she announced her retirement from a 27 year coaching career.

When I think of Sandy, I think of all that she has accomplished and how her perseverance has carried her through both her career and her personal life. That perseverance has been exhibited and intertwined between her personal and professional life.

This perseverance began when she joined the Augustana staff in 1977 as head softball coach, tennis coach, and women's administrator. She started a softball program from scratch. Her coaching career then mirrored the implementation of Title IX, a law whose purpose she continually advocates and represents on a daily basis. Sandy was Augustana's first and, until now, only softball coach. The program, and its successes, was created with the foundation she built. Augustana's softball triumphs are evident in the statistics that were earned on the field and continue through the former players, who are now women that are leaders in communities all over the country.

During those early years Sandy was trying to build a program that equaled that of any men's sport with regards to budgets, equipment, scholarships, and opportunity for each girl that entered Augustana and wanted to participate in collegiate athletics. Her perseverance paid off and is evidenced in her teams' success and the increased opportunity for women athletes.

This season Sandy coached her 1,000th career win, only the second NCAA softball coach to achieve this. Following this win, sportswriter Eric Bursch of the Argus Leader described it well, noting that legendary University of North Carolina Men's Basketball Coach Dean Smith only had 879 wins and has the most wins of any coach in NCAA Men's Basketball history. This is an amazing feat for any coach, and it came with not only athletic success but with personal success off the field. She will end her coaching career with a 1,011–359–2 record. Her 1991 team won the NCAA Division II National Championship, as well as a second place finish in 1993. She coached for 25 straight winning seasons. The Vikings have appeared in 16 regional tournaments under the direction of Sandy. For her contributions to the sport of softball, Sandy was inducted into the National Fastpitch Coaches Association Hall of Fame in December 2000. In 1998 she was the South Dakota Sportswriters Association coach of the year.

Even with all of her career accomplishments her resolve has been quite evident in her personal life as well. It was exhibited again when her husband, Mark, was diagnosed with cancer. Mark fought bravely, but sadly, he succumbed to the disease. Sandy stood strongly by his side and helped him through his treatment. From her loss she has worked to keep Mark's memory and his work alive not only by speaking of her family's experience, but also by donating her time and resources to causes on Mark's behalf.

She has been an inspiration to her players throughout her tenure and that legacy will continue to live on in each player and especially in those who have chosen to follow in Sandy's coaching footsteps. The legacy will live on with lessons that were learned from their time at Augustana.

It is an honor for me to share Sandy's accomplishments with my colleagues and to publicly commend her for all she's done for softball, women's sports, Augustana, and the Sioux Falls Community, and I wish her all the best on her future challenges and opportunities.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 192. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts.

H.R. 255. An act to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretative Center in Nebraska City, Nebraska.

H.R. 856. An act to authorize the Secretary of the Interior to revise an repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

H.R. 1000. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets.

H.R. 1012. An act to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

H.R. 1577. An act to designate the visitors' center in Organ Pipe National Monument in Arizona as the ''Kris Eggle Memorial Visitors' Center'', and for other purposes.

The message also announced that the House has passed the following bills without amendment:

S. 243. An act concerning participation of Taiwan in the World Health Organization.

S. 870. An act to amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program.

At 4:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1527. An act to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003 through 2006, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 192. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes; to the Committee on Foreign Relations.

H.R. 856. An act to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes; to the Committee on Environment and Public Works.

H.R. 1000. An act to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1527. An act to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003 through 2006, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1577. An act to designate the visitors' center in Organ Pipe National Monument in Arizona as the ''Kris Eggle Memorial Visitors' Center'', and for other purposes; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2341. A communication from the President of the United States to the President Pro Tempore of the United States Senate, transmitting, consistent with the War Powers Resolution, the report to ensure that the Congress is kept fully informed on continued U.S. contributions in support of peacekeeping efforts in Kosovo; to the Committee on Foreign Relations.

EC–2342. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Mission Creek Waterway, China Basin, San Francisco Bay, California (COTP San Francisco Bay 03–004)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2343. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port Neches Riverfest, Neches River, Port Neches, TX (COTP Port Arthur 03–002)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2344. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; (Including 3 Regulations) [CGD01–03–038] [CGD01–03–041] [CGD08–03–020] (1625–AA09) (2003–0010)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2345. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: San Francisco Bay, California (03–008) (1625–AA00) (2003–0015)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2346. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: Port Everglades Harbor, Fort Lauderdale, Florida (CGD07–03–069)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2347. A communication from the Chief, Regulations and Administrative law, United States Coast Guard, Department of Transportation, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Areas/Anchorage Grounds Regulated Security: Zones Bolivar Roads, Galveston, TX (CGD08–02–018) (1625–AA01) (2003–0002)'' received on May 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2348. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Service of Process; Amendment for Materials Related to Petitions Under the National Vaccine Injury Compensation''; to the Committee on Health, Education, Labor, and Pensions.

EC–2349. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Testimony by Employees and the Production of Documents in Proceeding Where the United States is not a party''; to the Committee on Health, Education, Labor, and Pensions.

EC–2350. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Tobacco Regulations and Maintenance of Effort Reporting Requirement for Substance Abuse Prevention and Treatment Block Grant Applications''; to the Committee on Health, Education, Labor, and Pensions.

EC–2351. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''National Vaccine Injury Compensation Program; Revisions and Additions to the Vaccine Injury Table (0906–AA55)''; to the Committee on Health, Education, Labor, and Pensions.

EC–2352. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2003 Rates CORRECTION (0938–AL23)'' received on May 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2353. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Program; State Plan Approval and Grant Procedures State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Computerized Support Enforcement Systems (0970–AB81)'' received on May 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2354. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs (RIN 2502–AH57) (FR–4615–F–02)'' received on May 9, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2355. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Annual Report on the Developmental Disabilities Programs for Fiscal Year 2000, received on May 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2356. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Second Interim Report to Congress on the Assets for Independence Demonstration Program covering activities of grantees selected in Fiscal Years 1999 and 2000, received on May 7, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2357. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–2358. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports of the Airport and Airway Trust Fund, Aquatic Resources Trust Fund, Black Lung Disability Trust Fund, Harbor Maintenance Trust Fund, Hazardous Substance Superfund, Highway Trust Fund, Inland Waterways Trust Fund, Leaking Underground Storage Tank Trust, Nuclear Waste Fund, Oil Spill Liability Trust Fund, Reforestation Trust Fund, Uranium Enrichment Decontamination and Decommissioning Fund, Vaccine Injury Compensation Fund, Wool Research, Development, and Promotion Trust Fund located in the March 2003 Treasury Bulletin, received on May 9, 2003; to the Committee on Finance.

EC–2359. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Renewable Electricity Production Credit, 2003 Section 45 Figures (Notice 2003–29)'' received on May 9, 2003; to the Committee on Finance.

EC–2360. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Documentation and Information for Taxpayers Using the Fair Market Value Method of Interest Expense Apportionment (Rev. Proc. 2003–37)'' received on May 9, 2003; to the Committee on Finance.

EC–2361. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—March 2003 (Rev. Rul 2003–50)'' received on May 9, 2003; to the Committee on Finance.

EC–2362. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Action on Decision: Internet Corporation & Subs v. Commissioner (AOD)'' received on May 9, 2003; to the Committee on Finance.

EC–2363. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 2003–39—Multiple Exchanges of Property under LKE Programs (Rev. Proc. 2003–39)'' received on May 9, 2003; to the Committee on Finance.

EC–2364. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer to Corporation Controlled by Transferor (Successive 351) (Rev. Rul. 2003–51)'' received on May 9, 2003; to the Committee on Finance.

EC–2365. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled

''Simplified Service Cost and Simplified Production Methods (Notice 2003–6)'' received on May 9, 2003; to the Committee on Finance.

EC–2366. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Gasoline Station Gas Pump Canopies (Rev. Rul. 2003–54)'' received on May 9, 2003; to the Committee on Finance.

EC–2367. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Construction/Real Estate—Percentage of Completion Timing of Cost Recognition (UIL: 460.03–09)'' received on May 9, 2003; to the Committee on Finance.

EC–2368. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Savings & Loans—Supervisory Goodwill (UIL 597.01–00)'' received on May 9, 2003; to the Committee on Finance.

EC–2369. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Offshore entities investing in hedge funds (Notice 2003–34)'' received on May 9, 2003; to the Committee on Finance.

EC–2370. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Organization exempt under 510(c)(15) (Notice 2003–35)'' received on May 9, 2003; to the Committee on Finance.

EC–2371. A communication from the Deputy Secretary, Division of Corporation Finance, United States Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Mandates Electronic Filing and Website Posting for Forms 3,4, and 5 (3235–AI26)'' received on May 7, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2372. A communication from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Regulations H (State Member Banks) and K (International Banking Operations); Customer Identification Programs'' received on May 14, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2373. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Delegation of Enforcement Authority Regarding the Foreign Bank Account Report Requirements (1506–AA45)'' received on May 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2374. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual report relative to material violations or suspected material violations of regulations relating to Treasury Auctions and other offerings of securities, received on May 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2375. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the report that exceptions to the prohibition against favored treatment of a government securities broker or dealer were granted by the Secretary during the period of January 1, 2002, through December 31, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–2376. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Air Force, case number 00–04, in the amount of $9,175, received on May 8, 2003; to the Committee on Appropriations.

EC–2377. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Navy, case number 02-08, in the amount of $749,314.40, received on May 8, 2003; to the Committee on Appropriations.

EC–2378. A communication from the Chairman, The Good Neighbor Environmental Board, transmitting, pursuant to law, the Sixth Annual Report of the Good Neighbor Environmental Board, received on May 9, 2003; to the Committee on Environment and Public Works.

EC–2379. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a document entitled ''General Provisions and Requirements for Control Technology Determination for Major Sources in Accordance with Clean Air Act Sections 112(g) and 112(j): Air Toxic Final Rule Amendments: Fact Sheet'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2380. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; Post 1996 Rate-of-Progress Plans and One Hour Ozone Attainment Demonstration; CORRECTION (FRL 7499–9)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2381. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; Billings/Laurel Sulfur Dioxide State Implementation Plan (FRL 7489–5)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2382. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Revisions to Tennessee State Implementation Plan: Transportation Conformity Rule (FRL 7498–6)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2383. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Continuous Emission Monitoring Program (7483–4)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2384. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Aspen (FRL 7489–4)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2385. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans North Carolina: approval of Revisions to the Visible Emission Regulation Within the North Carolina State Implementation Plan (FRL 7498–1)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2386. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources (FRL 7497–4)'' received on May 14, 2003; to the Committee on Environment and Public Works.

EC–2387. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Arizona State Implementation Plan and California State Implementation Plan, Maricopa County Environmental Services Department and Bay Area Quality Management District (FRL 7471–4)'' received on May 14, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 521. A bill to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes (Rept. No. 108–48).

S. 523. A bill to make technical corrections to law relating to Native Americans, and for other purposes (Rept. No. 108-49).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Mark Moki Hanohano, of Hawaii, to be United States Marshal for the District of Hawaii for the term of four years.

L. Scott Coogler, of Alabama, to be United States District Judge for the Northern District of Alabama.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself and Mr. DEWINE):

S. 1068. A bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1069. A bill to direct the Secretary of the Interior to conduct a study on the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National

Park System and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 1070. A bill to amend the Internal Revenue Code of 1986 to attract foreign corporations to relocate to the area in New York City surrounding the former World Trade Center; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1071. A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID) (by request):

S. 1072. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself, Mr. FEINGOLD, and Mr. DAYTON):

S. 1073. A bill to provide for homeland security grant coordination and simplification; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 1074. A bill to amend title 38, United States Code, to enhance burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. MURKOWSKI (for herself, Ms. COLLINS, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. SANTORUM, Mr. FITZGERALD, Mr. DEWINE, Mr. MCCONNELL, Mr. GRASSLEY, and Mr. FRIST):

S. 1075. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN:

S. Res. 144. A resolution expressing the sense of the Senate that the United States should declare its support for the right of the people of Kosova to determine their political future once Kosova has made requisite progress, as defined by United Nations benchmarks, in developing democratic institutions and human rights protections; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 303

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 303, a bill to prohibit human cloning and protect stem cell research.

S. 403

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 403, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 491

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 535

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 535, a bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 623

At the request of Mr. WARNER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 639

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 639, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 869

At the request of Mr. HARKIN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 869, a bill to amend title XVIII of the Social Security Act to provide for enhanced reimbursement under the medicare program for screening and diagnostic mammography services, and for other purposes.

S. 875

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 887

At the request of Mr. KYL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 887, a bill to amend the Internal Revenue Code of 1986 to apply an excise tax to excessive attorneys fees for legal judgements, settlements, or agreements that operate as a tax.

S. 922

At the request of Mr. REID, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

S. 950

At the request of Mr. ENZI, the names of the Senator from California (Mrs. BOXER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 985

At the request of Mr. DODD, the names of the Senator from California (Mrs. BOXER) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 985, a bill to amend the Federal Law Enforcement Pay Reform

Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1000

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1000, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to provide TRICARE eligibility for members of the Selected Reserve of the Ready Reserve and their families; to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax with respect to employees who participate in the military reserve components and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Arizona (Mr. MCCAIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Colorado (Mr. CAMPBELL) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1015

At the request of Mr. GREGG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1015, a bill to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1035

At the request of Mr. CORZINE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1064

At the request of Mr. BREAUX, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Virginia (Mr. ALLEN), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1064, a bill to establish a commission to commemorate the sesquicentennial of the American Civil War, and for other purposes.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. CON. RES. 21

At the request of Mr. BUNNING, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. CON. RES. 43

At the request of Mr. BROWNBACK, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Maryland (Mr. SARBANES) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. Con. Res. 43, a concurrent resolution expressing the sense of Congress that Congress should participate in and support activities to provide decent homes for the people of the United States.

S. CON. RES. 44

At the request of Mr. AKAKA, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Con. Res. 44, a concurrent resolution recognizing the contributions of Asian Pacific Americans to our Nation.

AMENDMENT NO. 544

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 544 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 545

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 545 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 547

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 547 intended to be proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 557

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 557 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 562

At the request of Mr. DASCHLE, the names of the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. DODD) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 562 intended to be proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 569

At the request of Mr. NICKLES, his name was added as a cosponsor of amendment No. 569 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 572

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 572 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 576

At the request of Mr. DASCHLE, the names of the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 576 intended to be proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 577

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 577 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 578

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 578 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 578

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 578 proposed to S. 1054, supra.

AMENDMENT NO. 587

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 587 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 593

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 593 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 593

At the request of Mr. BURNS, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 593 proposed to S. 1054, supra.

AMENDMENT NO. 594

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. COLLINS), the Senator from Wyoming (Mr. THOMAS), the Senator from Montana (Mr. BAUCUS), the Senator from Iowa (Mr. HARKIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of amendment No. 594 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 594

At the request of Mr. EDWARDS, his name was added as a cosponsor of amendment No. 594 proposed to S. 1054, supra.

AMENDMENT NO. 596

At the request of Ms. COLLINS, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 596 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 596

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 596 proposed to S. 1054, supra.

AMENDMENT NO. 605

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 605 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 614

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 614 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 617

At the request of Mr. GRAHAM of Florida, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 617 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 620

At the request of Ms. LANDRIEU, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Michigan (Ms. STABENOW) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 620 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

AMENDMENT NO. 620

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 620 proposed to S. 1054, supra.

AMENDMENT NO. 622

At the request of Mr. ENSIGN, the names of the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. SMITH), the Senator from Virginia (Mr. ALLEN), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. BAYH) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 622 proposed to S. 1054, an original bill to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself and Mr. DEWINE):

S. 1068. A bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased today to join with my colleague Senator DEWINE to introduce legislation to protect the most vulnerable members of our society: newborn infants. As a first-time dad of a 20-month old baby girl, I now know the joy of being able to experience every pleasure that comes with being a father. What I also now share with parents everywhere is a constant sense of worry about whether our kids are doing well, are feeling well, and are safe. Nothing is of greater importance than the health and well-being of our children.

Thanks to incredible advances in medical technology, it is now possible to test newborns for more than 30 genetic and metabolic disorders. Many of these disorders, if undetected, would lead to severe disability or death. However, babies that are properly diagnosed and treated can go on to live healthy lives. In the most direct sense, newborn screening saves lives.

Frighteningly, the disorders that newborn screening tests for can come without warning. For most of these disorders, there is no medical history of the condition in the family, no way to predict the health of a baby based on the health of the parents. Although the disorders that are tested for are quite rare, there is a chance that any one newborn will be affected—a sort of morbid lottery. In that sense, this is an issue that has a direct impact on the lives of every family.

Fortunately, screening has become common practice in every State. Each year, over four million infants have blood taken from their heel to detect these disorders that could threaten their life and long-term health. As a result, about one in 4,000 babies is diagnosed with one of these disorders. That means that newborn screening could save approximately 1,000 lives each year. That is 1,000 tragedies that can possibly be averted—families left with the joy of a new infant rather than absolute heartbreak.

That is the good news. However, there is so much more to be done. For every baby saved, another two are estimated to be born with potentially detectable disorders that go undetected because they are not screened. These infants and their families face the prospect of disability or death from a preventable disorder. Let me repeat that—disability or death from a preventable disorder. The survival of a newborn may very well come down to the State in which it is born. Only two States, including my home state of Connecticut thanks to recent legislation, will test for all 30 disorders. While the number of genetic and metabolic disorders screened for varies among different states, the vast majority test for eight or fewer.

The General Accounting Office, GAO, released a report in March highlighting the need for this legislation. According to the report, most States do not educate parents and health care providers about the availability of tests beyond what is mandated by the State. States also reported that they do not have the

resources to purchase the technology and train the staff needed to expand newborn screening programs. Finally, even when States do detect an abnormal screening result, the majority do not inform parents directly.

Last year, I chaired a hearing on this issue during which I related a story that illustrates the impact of newborn screening, or the lack of newborn screening, in a very personal sense. Jonathan Sweeney is a three-year-old from Brookfield, CT. At the time of his birth, the State only tested for eight disorders. He was considered a healthy baby, although he was a poor sleeper and needed to be fed quite frequently. One morning in December of 2000, Jonathan's mother, Pamela, found Jonathan with his eyes wide open but completely unresponsive. He was not breathing and appeared to be having a seizure. Jonathan was rushed to the hospital where, fortunately, his life was saved. He was later diagnosed with L-CHAD, a disorder that prevents Jonathan's body from turning fat into energy.

Despite this harrowing tale, Jonathan and his family are extremely fortunate. Jonathan is alive, and his disorder can be treated with a special diet. He has experienced developmental delays that most likely could have been avoided had he been tested for L-CHAD at birth. This raises a question. Why was he not tested? Why do 47 States still not test for L-CHAD?

The primary reason for this unfortunate reality is the lack of a consensus on the Federal level about what should be screened for, and how a screening program should be developed. Twenty disorders can only be detected using a costly piece of equipment called a Tandem Mass Spectrometer. Currently, only 21 States have this resource.

Many health care professionals are unaware of the possibility of screening for disorders beyond what their State requires. Parents, and I include myself, are even less well-informed. My daughter Grace was born in Virginia, where they screen for nine disorders. I was extremely relieved when all of those tests came out negative. However, at that time I did not know that this screening was not as complete as it could have been. My ignorance had nothing to do with my love for my daughter or my capability as a parent. The fact is that the majority of parents do not realize that this screening occurs at all, nor are they familiar with the disorders that are being screened for. In fact, only one out of four States inform parents that they have the option to obtain testing for disorders that are not included on the State's screening program. For that reason, one of the most important first steps that we can take to protect our children is to educate parents and health care professionals.

In the Children's Health Act of 2000, I supported the creation of an advisory committee on newborn screening within the Department of Health and Human Services. The purpose of this committee would be to develop national recommendations on screening, hopefully eliminating the arbitrary disparities between states that currently exist. The Children's Health Act also included a provision to provide funding to States to expand their technological resources for newborn screening. Unfortunately, funds were not appropriated for either of these provisions. Senator DEWINE and I have led a campaign to secure $25 million in appropriations needed for this crucial initiative. It is unconscionable for us to not do all we can to help prevent children from dying of treatable disorders.

The legislation that we are introducing today, the Newborn Screening Saves Lives Act of 2003, seeks to address the shocking lack of information available to health care professionals and parents about newborn screening. Every parent should have the knowledge necessary to protect their child. The tragedy of a newborn's death is only compounded by the frustration of learning that the death was preventable. This bill authorizes $10 million in fiscal year 2004, and such sums as are necessary through fiscal year 2008, to HRSA for grants to provide education and training to health care professionals, State laboratory personnel, families and consumer advocates.

Our legislation will also provide States with the resources to develop programs of follow-up care for those children diagnosed by a disorder detected through newborn screening. While these families are the fortunate ones, in many cases they are still faced with the prospect of extended and complex treatment or major lifestyle changes. We need to remember that care does not stop at diagnosis. For that reason, this bill authorizes $5 million in fiscal year 2004, and such sums as are necessary through FY 2008, to HRSA for grants to develop a coordinated system of follow-up care for newborns and their families after screening and diagnosis.

Finally, the bill directs HRSA to assess existing resources for education, training, and follow-up care in the States, ensure coordination, and minimize duplication; and also directs the Secretary to provide an evaluation report to Congress two and a half years after the grants are first awarded and then after five years to assess impact and effectiveness and make recommendations about future efforts.

I urge my colleagues to support this important initiative so that every newborn child will have the opportunity for a long, healthy and happy life; and to spare thousands of families from an avoidable tragedy.

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

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

S. 1068

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Newborn Screening Saves Lives Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Currently, it is possible to test for at least 30 disorders through newborn screening.

(2) There is a lack of uniform newborn screening throughout the United States. While a newborn with a debilitating condition may receive screening, early detection, and treatment in one location, in another location the condition may go undetected and result in catastrophic consequences.

(3) Each year more than 4,000,000 babies are screened to detect conditions that may threaten their long-term health.

(4) There are more than 2,000 babies born every year in the United States with detectable and treatable disorders that go unscreened through newborn screening.

SEC. 3. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by adding at the end the following:

''SEC. 399AA. NEWBORN SCREENING.

''(a) AUTHORIZATION OF GRANT PROGRAMS.—

''(1) GRANTS TO ASSIST HEALTH CARE PROFESSIONALS.—From funds appropriated under subsection (h), the Secretary, acting through the Associate Administrator of the Maternal and Child Health Bureau of the Health Resources and Services Administration (referred to in this section as the 'Associate Administrator') and in consultation with the Advisory Committee on Heritable Disorders in Newborns and Children (referred to in this section as the 'Advisory Committee'), shall award grants to eligible entities to enable such entities to assist in providing health care professionals and State health department laboratory personnel with—

''(A) education in newborn screening; and

''(B) training in—

''(i) relevant and new technologies in newborn screening; and

''(ii) congenital, genetic, and metabolic disorders.

''(2) GRANTS TO ASSIST FAMILIES.—From funds appropriated under subsection (h), the Secretary, acting through the Associate Administrator and in consultation with the Advisory Committee, shall award grants to eligible entities to enable such entities to develop and deliver educational programs about newborn screening to parents, families, and patient advocacy and support groups.

''(3) GRANTS FOR NEWBORN SCREENING FOLLOWUP.—From funds appropriated under subsection (h), the Secretary, acting through the Associate Administrator and in consultation with the Advisory Committee, shall award grants to eligible entities to enable such entities to establish, maintain, and operate a system to assess and coordinate treatment relating to congenital, genetic, and metabolic disorders.

''(b) APPLICATION.—An eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(c) SELECTION OF GRANT RECIPIENTS.—

''(1) IN GENERAL.—Not later than 120 days after receiving an application under subsection (b), the Secretary, after considering the approval factors under paragraph (2), shall determine whether to award the eligible entity a grant under this section.

''(2) APPROVAL FACTORS.—

''(A) REQUIREMENTS FOR APPROVAL.—An application submitted under subsection (b) may not be approved by the Secretary unless

the application contains assurances that the eligible entity—

''(i) will use grant funds only for the purposes specified in the approved application and in accordance with the requirements of this section; and

''(ii) will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the eligible entity under the grant.

''(B) EXISTING PROGRAMS.—Prior to awarding a grant under this section, the Secretary shall—

''(i) conduct an assessment of existing educational resources and training programs and coordinated systems of followup care with respect to newborn screening; and

''(ii) take all necessary steps to minimize the duplication of the resources and programs described in clause (i).

''(d) COORDINATION.—The Secretary shall take all necessary steps to coordinate programs funded with grants received under this section.

''(e) USE OF GRANT FUNDS.—

''(1) GRANTS TO ASSIST HEALTH CARE PROFESSIONALS.—An eligible entity that receives a grant under subsection (a)(1) may use the grant funds to work with appropriate medical schools, nursing schools, schools of public health, internal education programs in State agencies, nongovernmental organizations, and professional organizations and societies to develop and deliver education and training programs that include—

''(A) continuing medical education programs for health care professionals and State health department laboratory personnel in newborn screening;

''(B) education, technical assistance, and training on new discoveries in newborn screening and the use of any related technology;

''(C) models to evaluate what a newborn should be screened for and when and where that screening should take place;

''(D) models to evaluate the prevalence of, and assess and communicate the risks of, newborn disorders, including the prevalence and risk of certain newborn disorders based on family history;

''(E) models to communicate effectively with parents and families about—

''(i) the process and benefits of newborn screening;

''(ii) how to use information gathered from newborn screening;

''(iii) the meaning of screening results, including the rate of false positives;

''(iv) the right of refusal of newborn screening; and

''(v) the potential need for followup care after newborns are screened;

''(F) information and resources on coordinated systems of followup care after newborns are screened;

''(G) information on the disorders for which States require and offer newborn screening and options for newborn screening relating to conditions in addition to such disorders;

''(H) information on supplemental newborn screening that the States do not require and offer but that parents may want; and

''(I) other items to carry out the purpose described in subsection (a)(1) as determined appropriate by the Secretary.

''(2) GRANTS TO ASSIST FAMILIES.—An eligible entity that receives a grant under subsection (a)(2) may use the grant funds to develop and deliver to parents, families, and patient advocacy and support groups, educational programs about newborn screening that include information on—

''(A) what is newborn screening;

''(B) how newborn screening is performed;

''(C) who performs newborn screening;

''(D) where newborn screening is performed;

''(E) the disorders for which the State requires newborns to be screened;

''(F) different options for newborn screening for disorders other than those included by the State in the mandated newborn screening program;

''(G) the meaning of various screening results including the rate of false positives;

''(H) the prevalence and risk of newborn disorders, including the increased risk of disorders that may stem from family history;

''(I) coordinated systems of followup care after newborns are screened; and

''(J) other items to carry out the purpose described in subsection (a)(2) as determined appropriate by the Secretary.

''(3) GRANTS FOR QUALITY NEWBORN SCREENING FOLLOWUP.—An eligible entity that receives a grant under subsection (a)(3) shall use the grant funds to—

''(A) expand on existing procedures and systems, where appropriate and available, for the timely reporting of newborn screening results to individuals, families, primary care physicians, and subspecialists in congenital, genetic, and metabolic disorders;

''(B) coordinate ongoing followup treatment with individuals, families, primary care physicians, and subspecialists in congenital, genetic, and metabolic disorders after a newborn receives an indication of the presence of a disorder on a screening test;

''(C) ensure the seamless integration of confirmatory testing, tertiary care medical services, comprehensive genetic services including genetic counseling, and information about access to developing therapies by participation in approved clinical trials involving the primary health care of the infant;

''(D) analyze data, if appropriate and available, collected from newborn screenings to identify populations at risk for disorders affecting newborns, examine and respond to health concerns, recognize and address relevant environmental, behavioral, socioeconomic, demographic, and other relevant risk factors; and

''(E) carry out such other activities as the Secretary may determine necessary.

''(f) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall submit to the appropriate committees of Congress reports—

''(A) evaluating the effectiveness and the impact of the grants awarded under this section—

''(i) in promoting newborn screening—

''(I) education and resources for families; and

''(II) education, resources, and training for health care professionals;

''(ii) on the successful diagnosis and treatment of congenital, genetic, and metabolic disorders; and

''(iii) on the continued development of coordinated systems of followup care after newborns are screened;

''(B) describing and evaluating the effectiveness of the activities carried out with grant funds received under this section; and

''(C) that include recommendations for Federal actions to support—

''(i) education and training in newborn screening; and

''(ii) followup care after newborns are screened.

''(2) TIMING OF REPORTS.—The Secretary shall submit—

''(A) an interim report that includes the information described in paragraph (1), not later than 30 months after the date on which the first grant funds are awarded under this section; and

''(B) a subsequent report that includes the information described in paragraph (1), not later than 60 months after the date on which the first grant funds are awarded under this section.

''(g) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a State or a political subdivision of a State;

''(2) a consortium of 2 or more States or political subdivisions of States;

''(3) a territory;

''(4) an Indian tribe or a hospital or outpatient health care facility of the Indian Health Service; or

''(5) a nongovernmental organization with appropriate expertise in newborn screening, as determined by the Secretary.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $15,000,000 for fiscal year 2004; and

''(2) such sums as may be necessary for each of fiscal years 2005 through 2008.''.

Mr. DEWINE. Mr. President, I rise today, along with my colleague from Connecticut, Senator DODD, to introduce the Newborn Screening Saves Lives Act of 2003, a bill designed to improve genetic newborn screening programs in this country. Our legislation would provide education grants for physicians and parents, as well as grants to states, to improve follow-up and tracking of those children who receive a positive result from a heelstick screening for metabolic, genetic, infectious, or other congenital conditions that threaten their health and well-being.

Each year, newborn screening identifies an estimated 3,000 babies with conditions like sickle cell diseases and homocystinuria that, if left undetected, would otherwise have had dire consequences. But, despite their clear importance, our newborn screening systems are fragmented. Quite simply, all children do not have access to the same genetic tests. Where a child is born determines the tests that he or she receives. In my home state of Ohio, we test for 12 disorders, while right across the border in Kentucky, they test for only four, and in Pennsylvania, only six. In Massachusetts, on the other hand, newborns are tested for 29 disorders.

Compounding this problem, parents often are not sufficiently informed of the number of tests available in their individual states and what those tests can help accomplish. Physicians may not know to educate parents, or physicians may talk to parents too late in the birthing process for it to make a difference. Also, state health departments may not follow up adequately with the parents of a child who receives a positive test result, and health departments may not have the capacity to effectively record or track a large number of positive results.

The bill we are introducing today would go a long way toward streamlining the current newborn screening system by offering grants to states to accomplish the following:

Build and expand existing procedures and systems to report test results to individuals and families, primary care physicians, and specialists;

Coordinate ongoing follow-up treatment with individuals, families, and primary care physicians after a newborn receives an indication of the presence of a disorder on a screening test;

Ensure seamless integration of confirmatory testing, tertiary care, genetic services, including counseling, and access to evolving therapies by participation in approved clinical trials involving the primary health care of the infant; and

Analyze collected data to identify populations at high risk, examine and respond to health concerns, and recognize and address relevant environmental, behavioral, socioeconomic, demographic, and other factors.

Senator DODD and I recently requested that the General Accounting Office examine state newborn screening programs. The results of this study were troubling. The GAO found that many children are not receiving critical, life-saving tests due, in part, to strained state budgets that cannot fund newborn screening initiatives.

The grant program established by our bill seeks to help states maintain and expand their newborn screening programs. Our legislation would be a good start toward ensuring that all newborns receive equal access to genetic tests and that their follow-up care, if needed, is available and coordinated. The importance of these screenings cannot be overstated. It can mean the difference between life and death for a newborn. And that, Mr. President, is something we must address.

I urge my colleagues to support this important children's health legislation.

By Mr. BINGAMAN:

S. 1071. A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce a bill to authorize the Secretary of the Interior to study a proposed water conservation project in eastern New Mexico. This project, involving the Arch Hurley Conservancy District near Tucumcari, NM, could play a significant role in helping to address the chronic water supply issues that exist in the eastern part of the state.

The Conservancy District receives its water supply from Conchas Lake on the Canadian River, and delivers it through an unlined canal to irrigate approximately 41,400 acres of farmland in the area. The district has suggested that it might be possible to line its canal, eliminate a large amount of seepage, and convey a portion of the saved water to address water supply needs in the Pecos River basin. The non-conveyed portion of the conserved water would be available to shore up the district's supply in times of drought.

While further investigation is warranted to test the feasibility of the proposed project and any issues associated with its implementation, the project does hold significant promise, making this legislation timely. I appreciate the district's leadership in developing this proposal which represents a creative effort to improve water management and efficiency within New Mexico. If, in the 21st century, we are to maintain the standard of life that we've grown accustomed to in the arid West, creative solutions to our water supply problems are necessary. This bill is a step in the right direction by encouraging efforts to develop, analyze, and ultimately implement those creative solutions. I hope my colleagues will support this modest effort to address New Mexico's water needs.

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

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

S. 1071

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

SECTION 1. STUDY AUTHORIZATION.

(a) AUTHORIZATION.—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation, and in consultation and cooperation with the Arch Hurley Conservancy District and the State Engineer in New Mexico, is authorized to conduct a study to determine the feasibility of implementing a water conservation project that will minimize water losses from the irrigation conveyance works of the Arch Hurley Conservancy District, and to consider—

(1) options for utilizing any saved water made available from the conservation project including the possible conveyance of such water, in accordance with State law, to the Pecos River basin to address water supply issues in that basin;

(2) the impacts that the conservation project could have on the local water supply in and around the Arch Hurley Conservancy District and any appropriate mitigation that may be necessary if the project is implemented; and

(3) appropriate cost-sharing options for implementation of the project based on the use and possible allocation of any conserved water.

(b) REPORT.—

(1) Upon completion of the feasibility study authorized by this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the study.

(2) In developing the report, the Secretary shall utilize reports or any other relevant information supplied by the Arch Hurley Conservancy District or the State Engineer in New Mexico.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated $500,000 to carry out this Act.

(b) COST SHARE.—

(1) The federal share of the costs of the feasibility study shall not exceed 50 percent of the total, except that the Secretary of the Interior is authorized to waive or limit the required non-Federal cost share for the feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the Arch Hurley Conservancy District, that the District is unable to contribute such required share.

(2) The Secretary of the Interior may accept as part of the non-Federal cost share the contribution of such in-kind services by the Arch Hurley Conservancy District as the Secretary determines will contribute substantially toward the conduct and completion of the study.

By Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID) (by request):

S. 1072. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; to the Committee on Environmental and Public Works.

Mr. INHOFE. Mr. President, I am pleased to introduce, by request, President Bush's proposed ''Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003,'' SAFETEA, which reauthorizes the Federal-aid surface transportation program. Joining me are Senators JEFFORDS and BOND.

Although I am not in complete agreement with the President on this proposal, I believe the President deserves the courtesy of getting his proposal introduced.

I do agree with the President's desire to build upon the achievements of the Transportation Equity Act of the 21st Century, TEA–21, of 1998 and the Intermodal Surface Transportation Efficiency Act, ISTEA, of 1991. In the hearings conducted by the Environment and Public Works Committee over the last 12 months, we consistently heard that TEA–21 works.

SAFETEA focuses on reducing highway fatalities and injuries, reducing congestion, protecting the environment, increasing funding flexibility for State and local governments, and providing economic stimulus to the Nation's economy. All very worthy goals. Unfortunately, the funding proposed in the President's bill is woefully inadequate.

As Chairman of the Environment and Public Works Committee, I am looking forward to working with the President and my Congressional colleagues to develop a Senate bill that strengthens the national transportation system.

Mr. JEFFORDS. Mr. President, today, I join my colleagues from the Committee on Environment and Public Works in offering, by request, the Administration's recommended legislation to reauthorize the Nation's surface transportation program. I extend this courtesy, in large measure, out of respect for my long time friend and colleague, Secretary of Transportation Norman Mineta.

Norm and I served together, and worked together, for many years in the House. Norm is a leader on transportation, an author of many key aspects of our transportation law.

In the 107th Congress, as Chairman of the Committee, I reached out to Norm as we began our deliberations on reauthorization. He pledged then that U.S.

DOT would work closely with the Congress, and he kept his word. I appreciate his friendship and assistance.

The administration's proposal is a mixed bag. Its greatest strength is its continuity with its predecessors, ISTEA and TEA–21. These are landmarks in public policy, due in no small measure to the efforts and wisdom of Norm, Senator John Chafee, Senator Pat Moynahan and Congressman BUD SHUSTER. The administration package carries that legacy forward.

Its greatest weakness is its funding levels. The bill sets the right target with its emphasis on safety, but comes up short on the funding to hit that target. It continues programs that have produced better roads and stronger bridges in this country, but then fails to provide the dollars to continue this progress. It does less than is needed to address congestion and not enough to expand freight capacity.

Under Chairman INHOFE's leadership, we have fought for higher funding levels. We will continue that fight. I will not shortchange the Nation. I will not support any legislation that underfunds transportation.

The Administration's bill would modify our approach to environmental protection. My record on clean air, clean water and sound planning is clear and consistent. I want to strengthen our efforts, and will oppose any measure that reduces our vigilance in these areas. Our transportation investments should improve our environment, our air and water quality, should strengthen local economies and enhance our communities.

We will have a robust debate on these matters over the next few months. I look forward to working with my EPW colleagues, with Chairman YOUNG and Mr. OBERSTAR in the House and with Secretary Mineta to renew our surface transportation program for a strong America.

Mr. REID. Mr. President, today I join my colleagues from the Environment and Public Works Committee in introducing the administration's bill by request. I do so largely because of my friendship with and respect for Secretary of Transportation Norman Mineta, whom I served with in my days in the House of Representatives.

I have always been a proponent of infrastructure spending and the economic stimulus and jobs that it creates. For every billion dollars we spend on our Nation's surface transportation infrastructure, we create over 47,000 well-paid skilled jobs. Reauthorizing our Nation's surface transportation laws represents a tremendous opportunity for us to impact our economy in a meaningful, lasting way. Unfortunately, the administration's reauthorization proposal does not take full advantage of this opportunity.

While the bill continues the spirit of its predecessors, ISTEA and TEA–21, the bill is woefully underfunded. The bill correctly places added emphasis on important topics such as safety, but then lacks the funding to make a real and substantial impact in these areas.

The administration's bill also would modify certain environmental provisions and project permitting requirements. TEA–21 and its predecessor, ISTEA, proved we can advance our national transportation goals while preserving our environment. I will not support any provision that undermines essential environmental protections I have spent 20 years in public office trying to preserve. We can increase investment in and improve our Nation's surface transportation system in a timely, thoughtful, and effective way without jeopardizing the environment.

I look forward to the coming reauthorization debate and to working with my colleagues and Secretary Mineta on this most important legislation.

By Mr. SPECTER:

S. 1074. A bill to amend title 38, United States Code, to enhance burial benefits for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SPECTER. Mr. President, I have sought recognition to comment on legislation I am introducing today to ensure that veterans across the Nation have access to burial in national and State cemeteries. This legislation will put in place a comprehensive strategy for addressing what has, and will continue to be, a national priority: providing lasting memorials to our veterans.

Four principles guide this legislation: First, areas with large veterans' populations merit a national cemetery. Second, State cemetery grant funding should encourage the development of State cemeteries to serve areas with smaller veterans' populations. Third, State or national cemeteries should be located within reasonable distances of where veterans lived before death and, presumably, where their families still live. And finally, we need creative ways to finance the maintenance, repair and operational needs of national cemeteries.

This bill sets out clear criteria, based on objective measures of need, that will serve as a guide for future national cemetery construction. It encourages States to participate in the State cemetery grant program by permitting State cemeteries to receive plot allowance money to defray burial expenses for all—not just poor, disabled and wartime—veterans. Lastly, the legislation authorizes VA's National Cemetery Administration, NCA, to enter into lease agreements with public or non-profit organizations who wish to use unused or underutilized land and facilities, and permits proceeds from lease agreements to remain with NCA to augment its operational and cemetery maintenance needs.

Burial in a national cemetery—a perpetual tribute to a veteran's service to the country—is one of the most important benefits we, as a Nation, can provide to veterans and their families. It must be available to veterans, and their families, within reasonable distances to their homes. This legislation would require the Department of Veterans Affairs to establish a national cemetery at sites more than 50 miles away from an open national or State veterans cemetery where 170,000 or more veterans reside. The adoption of this criterion would assure adequate national access to national cemeteries and would require the opening of approximately five new national cemeteries.

Because it is not practical to build national cemeteries to meet the burial needs of every veteran—particularly veterans in more sparsely populated areas—it is important that VA cooperate with the States through administration of its State cemetery grant program, to meet needs in areas where there are smaller veterans' populations. These grants provide up to 100 percent of the costs associated with building, making large repairs at, and expanding State veterans cemeteries. In addition, States are also provided a $300 plot allowance, payable by VA to assist in offsetting maintenance costs, for each poor, disabled, or wartime veteran who is interred in a State cemetery. If, as this legislation would specify, the plot allowance were to be payable for burial of all veterans—not just poor, disabled and wartime veterans—States would be provided with additional maintenance income and further incentive to establish additional State veterans' cemeteries. Clearly, encouraging the construction of additional State cemeteries is a good way to complement VA's National cemetery capacity within the context of a nationwide, comprehensive strategy to meet veterans' burial needs.

Finally, my legislation proposes a creative way for NCA to fund additional maintenance projects at national cemeteries. It would authorize the Secretary to lease undeveloped, unused or underutilized acreage and buildings on NCA lands, and to retain the proceeds from the leases. VA has indicated that portions of many national cemeteries are not suitable for burials due to, for example, rocky or hilly terrain. Such sites, however, might have commercial uses. In addition, there are historic lodges and other buildings on VA lands that, if available for use, could generate revenue. Allowing NCA to utilize these resources to generate revenue would provide VA with an opportunity to put a small dent in the $245 million worth of repairs it needs to undertake to bring the national cemeteries up to appropriate memorial standards. This sort of leasing authority is already extended to VA's hospital system, and it has been successfully utilized on VA's medical campuses. An extension of this authority to VA cemetery facilities is wholly reasonable.

I ask my colleagues for their support of this bill. I reiterate, meeting the burial needs of veterans is a national

priority. It is a powerful reflection of the value we place on military service. And it is an unmistakable message we send to all Americans that service to our country will forever be remembered.

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

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

S. 1074

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Burial Benefits Enhancement Act of 2003''.

SEC. 2. MODIFICATION OF ELIGIBILITY OF STATES FOR BURIAL PLOT ALLOWANCE.

(a) IN GENERAL.—Section 2303(b) of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war'' and inserting ''burial in a national cemetery under section 2402 of this title''; and

(2) in paragraph (2), by striking ''(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)'' and inserting ''is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to the burial of persons dying on or after the date of the enactment of this Act.

SEC. 3. LEASE OF UNUTILIZED OR UNDERUTILIZED PROPERTY OR FACILITIES OF NATIONAL CEMETERY ADMINISTRATION.

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by inserting after section 2406 the following new section:

''§ 2406A. Lease of unutilized or underutilized land or facilities

''(a) Subject to the provisions of this section, the Secretary may lease to such lessee, and upon such terms and conditions as the Secretary considers will be in the public interest, any unutilized or underutilized land or facilities of the United States that are part of the National Cemetery Administration as the Secretary considers appropriate.

''(b) The term of any lease of land or facilities under subsection (a) may not exceed three years.

''(c)(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

''(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration by the lessee of the land or facilities covered by the lease as a part or all of the consideration for the lease.

''(3) Before entering into a lease of land or facilities under subsection (a) to a public or nonprofit organization, the Secretary shall publish in a newspaper of general circulation in the community in which such land or facilities are located appropriate public notice of the intention of the Secretary to enter into the lease.

''(d) Notwithstanding any other provision of law, proceeds from the lease of land or facilities under subsection (a) shall be deposited in the National Cemetery Administration account. Amounts so deposited shall be merged with amounts in such account, and shall be available for the same purposes, and subject to the same conditions and limitations, as the amounts with which merged.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2406 the following new item:

''2406A. Lease of unutilized or underutilized land or facilities.''.

SEC. 4. ESTABLISHMENT OF NATIONAL CEMETERIES FOR GEOGRAPHICALLY UNDERSERVED POPULATIONS OF VETERANS.

(a) IN GENERAL.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 2412. Establishment of national cemeteries: geographically underserved populations of veterans

''(a) Except as provided in subsection (c), the Secretary shall establish a national cemetery in each geographic area identified by the Secretary under subsection (b) in order to ensure that the veterans who reside in such geographic area reside not more than 50 miles from an open national cemetery.

''(b) The Secretary shall identify each geographic area in the United States in which—

''(1) the number of veterans who reside more than 50 miles from an open national cemetery or State cemetery for veterans exceeds 170,000 veterans; or

''(2) the number of veterans who reside more than 50 miles from an open national cemetery or State cemetery for veterans, when combined with the number of veterans who reside within 50 miles of a State cemetery for veterans but are ineligible for burial in such State cemetery due to residency requirements, exceeds 170,000 veterans.

''(c) If the Secretary determines that the expansion of one or more national cemeteries in a geographic area identified under subsection (b) is adequate and appropriate to meet the needs of veterans and their families in such geographic area, the Secretary shall expand such national cemetery or cemeteries in lieu of meeting the requirement for such geographic area under subsection (a).

''(d) A national cemetery established under this section shall be treated as a national cemetery of the National Cemetery Administration under this chapter.

''(e) In this section, the term 'open', with respect to a national cemetery or State cemetery for veterans, means that the national cemetery or State cemetery for veterans has the capacity for each of the following:

''(1) First interment, in-ground casket burials.

''(2) Burial or inurnment of cremated remains.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

''2412. Establishment of national cemeteries: geographically underserved populations of veterans.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 144—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD DECLARE ITS SUPPORT FOR THE RIGHT OF THE PEOPLE OF KOSOVA TO DETERMINE THEIR POLITICAL FUTURE ONCE KOSOVA HAS MADE REQUISITE PROGRESS, AS DEFINED BY UNITED NATIONS BENCHMARKS, IN DEVELOPING DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS PROTECTIONS

Mr. BIDEN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 144

Whereas paragraph 1 of Article 1 of the International Covenant on Civil and Political Rights, to which the United States is a party, recognizes that all peoples have the right of self-determination;

Whereas Kosova was constitutionally defined as an autonomous region in the First National Liberation Conference for Kosova on January 2, 1944, this status was confirmed in the Constitution of the Socialist Federal Republic of Yugoslavia adopted in 1946, and the autonomous status of Kosova was preserved in the amended Yugoslav Constitution adopted in 1974;

Whereas prior to the disintegration of the former Yugoslavia, the autonomous region of Kosova constituted a political and legal entity with its own distinct financial institutions, police force, municipal government, school system, judicial and legal system, hospitals, and other organizations;

Whereas, in 1987, Serbian strongman Slobodan Milosevic rose to power in Yugoslavia on a platform of ultranationalism and anti-Albanian racism, advocating violence and hatred against all non-Slavic peoples and specifically targeting the ethnic Albanians of Kosova;

Whereas Slobodan Milosevic subsequently stripped Kosova of its political autonomy without the consent of the people of Kosova;

Whereas the elected Assembly of Kosova, faced with this illegal act, adopted a Declaration of Independence on July 2, 1990, proclaimed a Republic of Kosova, and adopted a constitution on September 7, 1990, based on the internationally accepted principles of self-determination, equality, and sovereignty;

Whereas in recognition of the de facto dissolution of the Yugoslav federation, the European Community established principles for the recognition of the independence and sovereignty of the republics of the former Socialist Federal Republic of Yugoslavia;

Whereas a popular referendum was held in Kosova from September 26 to 30, 1991, in which 87 percent of all eligible voters cast ballots and 99.87 percent voted in favor of declaring Kosova independent of the Socialist Federal Republic of Yugoslavia;

Whereas, during the occupation of Kosova, which began in 1989 and ended with the North Atlantic Treaty Organization (NATO) military action against the regime of Slobodan Milosevic in 1999, the ethnic Albanians of Kosova were subjected to brutal treatment by the occupying forces, and approximately 400,000 ethnic Albanians were forced to flee to Western Europe and the United States;

Whereas in the spring of 1999 almost 1,000,000 ethnic Albanians were driven out of Kosova and at least 10,000 were murdered by Serbian paramilitary and military forces;

Whereas Slobodan Milosevic was indicted by the International Criminal Tribunal for the Former Yugoslavia and extradited to The Hague in June 2001, to stand trial for war crimes, crimes against humanity, and genocide in Kosova, Bosnia and Herzegovina, and Croatia;

Whereas on June 10, 1999, United Nations Security Council Resolution 1244 mandated an international civil presence in Kosova, ending the decade-long Serbian occupation of Kosova and Milosevic's genocidal war there;

Whereas the people of Kosova, including ethnic Albanians, Serbs, Turks, Roma, Bosniaks, Goranis, and Ashkalis, held free and fair municipal elections in 2000 and 2002 and a general election in 2001 to elect a Parliament, which in turn selected a President and Prime Minister in 2002;

Whereas, with 50 percent of the population in Kosova being under the age of 25, and the unemployment rate currently being between 60 and 70 percent, there is an increasing likelihood of young people entering criminal networks, or working abroad in order to survive unless massive job creation is facilitated by guaranteeing the security of foreign investments through the establishment of the rule of law and functioning institutions in Kosova;

Whereas for the first time since the end of the conflict, refugees from ethnic minority communities in Kosova have started to return to their homes in substantial numbers, although those refugees are still a small fraction of the number of people that left in 1999;

Whereas most ethnic Albanian elected authorities in Kosova recognize that substantial efforts toward reconciliation with ethnic minorities are needed for the long-term security and participation in government institutions of all citizens of Kosova;

Whereas leaders of the Kosova Parliament have publicly committed to developing a western-style democracy in which all citizens, regardless of ethnicity, are granted full human and civil rights and are committed to the return of all refugees, whatever their ethnicity, who fled Kosova during and after the conflict;

Whereas Deputy Prime Minister Nebojsa Covic of Serbia called for the return of Serbian forces to Kosova and for talks on the status of the province;

Whereas, on February 25, 2003, representatives of a Serbian minority coalition in the Kosova Parliament called for the establishment of a Serbian Union in northern Kosova;

Whereas the international community has made clear that it will support neither monoethnic government institutions, nor the partition of Kosova;

Whereas the tragic assassination in Belgrade of Serbian Prime Minister Zoran Djindjic on March 12, 2003, underscored that criminal nationalist elements remain a destabilizing factor in the region and an obstacle to reform efforts;

Whereas the Special Representative of the United Nations Secretary General in Kosova has initiated a dialogue between the authorities in Belgrade and in Pristina on issues of practical concern;

Whereas the Serbian Government on April 17, 2003, declared as ''unacceptable'' the plan put forward by the Special Representative to devolve powers to the elected officials in Kosova;

Whereas following his address to the Organization for Security and Cooperation in Europe Permanent Council on May 8, 2003, the Special Representative of the United Nations Secretary General stated that ''Kosovo Albanians are being more assertive about competencies and status issues while at the same time Kosovo Serbs are concentrating on developing monoethnic structures'';

Whereas Deputy Prime Minister Covic on May 9, 2003, again dismissed the assessment that the time has come to begin to discuss the final status of Kosova;

Whereas United Nations Security Council Resolution 1244 stated that the main responsibilities of the international civil presence in Kosova include facilitating a political process designed to determine Kosova's future status and, in the final stage, overseeing the transfer of authority from Kosova's provisional institutions to institutions established under a political settlement; and

Whereas the only viable option for the future of Kosova is one that reflects both the needs and aspirations of its entire population: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should—

(1) recognize the danger that an unnecessary delay in the resolution of Kosova's final status would pose for the political and economic viability of Kosova and the stability of Southeast Europe;

(2) publicly support the goal of a democratic government in Kosova in which human rights, including the rights of ethnic and religious minorities, are respected;

(3) to achieve that goal, call for holding a referendum, under international supervision, on the future status of Kosova, once Kosova has made further progress in developing institutions of democratic self-government, establishing the rule of law, facilitating the return and reintegration of refugees into local communities, and protecting ethnic minorities, in accordance with the benchmarks established by the United Nations;

(4) work in conjunction with the United Nations, the North Atlantic Treaty Organization, the European Union, the Organization for Security and Cooperation in Europe, and other international organizations to assist Kosova to meet the United Nations benchmarks that are the necessary conditions for holding a referendum on the future status of Kosova and to facilitate the implementation of the form of government determined by the people of Kosova; and

(5) continue to provide assistance, trade, and other programs to encourage the further development of democracy and a free market economic system in Kosova.

Mr. BIDEN. Mr. President, I rise today to introduce a Resolution expressing the sense of the Senate that the United States should declare its support for the right of the people of Kosova to determine their political future, once Kosova has made requisite progress, as defined by United Nations benchmarks, in developing democratic institutions and human rights protections.

In order to put my Resolution into the proper context, I would like briefly to discuss current conditions in the successor states of the former Yugoslavia, an area which has consumed a great deal of my attention for the last decade.

Much progress has been made in this former region of conflict since the fall of Serbian strongman Slobodan Milosevic in 2001 and the subsequent final dissolution of the Yugoslav federation. Slovenia has been invited to join NATO, and last week this body unanimously ratified the accession to NATO of Slovenia and six other candidate countries. Slovenia has also been invited to join the European Union next year.

Two other Yugoslav successor states—Croatia and the former Yugoslav Republic of Macedonia—have joined Albania in signing the U.S.-Adriatic Charter to cooperatively advance their candidacies for NATO membership. Both Croatia and the former Yugoslav Republic of Macedonia have also signed EU Stabilization and Association agreements.

In Macedonia, although tensions that threatened full-scale conflict just two years ago remain, the newly elected coalition government is working to implement fully the Ohrid Framework Agreement of 2001, and the European Union assumed command of peacekeeping operations from NATO on March 31, 2003.

SFOR, the NATO-led international force, continues to maintain stability in Bosnia and Herzegovina in significantly smaller numbers than its original contingent. There is serious discussion about turning over command of the operation to the European Union, a move about which I have some reservations. The European Union Police Mission assumed international police monitoring duties in Bosnia and Herzegovina from the UN on January 1, 2003. The High Representative in Bosnia and Herzegovina, Paddy Ashdown, continues to oversee reform efforts and has the rightly placed special emphasis on strengthening the rule of law.

Serbia and Montenegro, under pressure from the EU, agreed to a constitutional charter that would keep them loosely united for the next three years, formally ending the entity of the Federal Republic of Yugoslavia and setting them on a long-term path toward EU membership. Nonetheless, last week Filip Vujanovic, an advocate of Montenegrin independence, won a sweeping victory in the presidential elections. The runner-up candidate also advocated independence, as does Montenegro's prime minister Milo Djukanovic.

Despite this considerable progress, as a distinguished task force assembled by the Council on Foreign Relations noted in its ''Balkans 2010'' report of December 2002, the goal of regional stability and the promises of democratic transition are not yet fulfilled.

''There is still a risk of backsliding in the region: the security situation in Macedonia remains tenuous; the coalition government in Serbia is irretrievably splintered; and in Kosovo all the political parties are organized around ethnic objectives and pander to nationalist sentiment. In Bosnia and Herzegovina, meanwhile, the elections in October 2002—which resulted in presidential victories for the three main nationalist parties at the expense of their moderate competitors—demonstrated that nationalist feelings remain potent. One reason for these trends is the increasing discontent of local populations whose embrace of the West has failed to bring immediate improvements in their standard of living

. . . Irredentist, criminal and anti-democratic forces will try to exploit people's frustration brought on by the difficulties inherent in transitions.''

Following the tragic assassination of Prime Minister Zoran Djindic on March 12, 2003, the government of Serbia launched a major crackdown on criminal elements and initiated much-needed defense reforms to enhance civilian control over the military. Serbian officials took an important and overdue step by handing over to UN representative in Kosova the remains of 37 ethnic Albanians believed to have been killed during Milosevic's 1998–1999 campaign.

Serbia must continue to step up its cooperation with the International Criminal Tribunal for the Former Yugoslavia, ICTY. The single most significant move the Serbian government could make to prove its commitment to joining the West is to arrest former Bosnian Serb General Ratko Mladic and send him to The Hague. But there are other important measures, such as opening archives and turning over requested documents to the prosecution, that Serbia must take in order to meet its international obligations.

Now, I would like to turn to Kosova, the subject of my resolution. Since the end of hostilities four years ago, the peace has been kept by KFOR, an international peacekeeping force in which United States forces play a kept role and have responsibility for the southeastern sector of the province.

Last year for the first time since the 1999 conflict, refugee returns outnumbered departures, with around 2,700 refugees returning to the province. UN officials predict that the numbers will increase in 2003, and the United States has committed more than $14 million this fiscal year to that end. The Housing and Property Directorate has resolved nearly 2,000 property claims to date and estimates that it will have resolved 9,000 cases by the end of 2003—about one-third of all claims filed.

The Kosovo Protection Corps, the local gendarmerie, is gradually becoming more representative of the ethics diversity in Kosova and more skillful in its policing operations. Crime, and particularly inter-ethnic crime, has been significant reduced, and murders decreased in 2002 by 50 percent over the previous year. The province held elections three times in the past three years, twice for municipal seats and once to select assembly representatives, and in each case OSCE monitors deemed the elections generally free and fair.

Yet much remains to be done. The refugee returns of last year represent only a small fraction of the approximately 237,000 Kosova refugees currently in Serbia, Macedonia, and Albania. Moreover, there are 22,500 internally displaced persons within Kosova who, for various reasons, including loss of property, economic shortage, and fear of retribution or persecution, have been unable or unwilling to return to their homes. Many who have returned also fear for their security, are unable to secure employment, and have little or no access to social and economic opportunities. Formal unemployment hovers around 50 percent. Without the ability to sustain themselves and provide for their families, many young Kosovars have turned to criminal activity. And Kosova continues to provide a haven for traffickers and other criminals active throughout the Balkans.

The head of the UN administration, UNMIK, an experienced German diplomat named Michael Steiner, has established ''benchmarks'' to focus the agenda of Kosova's elected officials pursuant to fulfilling the mandate of UN Security Council Resolution 1244 for progress toward self-administration. These benchmarks include: the existence of effective, representative, and functioning institutions; the enforcement of the rule of law; freedom of movement; respect for the right of all Kosovars to remain and return; the development of a sound basis for a market economy; clarity of property title; normalized dialogue with Belgrade; and reduction and transformation of the Kosovo Protection Corps in line with its mandate.

The UN policy of ''standards before status'' is conceptually sound. Of course, real progress requires resources, and, unfortunately, the international community has not met all of its pledge commitments, and private investment until now has been sparse.

Some argue that foreign capital is hesitant to invest in Kosova as long as its future political status remains undefined. This line, however, confuses cause and effect. The reason that Kosova's final status remains in limbo is because conditions on the ground there do not yet allow the international community to allow a final status to be chosen.

To be sure, there have been serious attempts to move the process along. Mr. Steiner has initiated a dialogue between Pristina and Belgrade on technical issues and has begun the process of devolving many responsibilities onto Kosova's elected Assembly.

Sad to say, both ethnic Albanians and Serbs have undercut these efforts by focusing on final status, rather than on practical progress. Ethnic Albanian representatives in the Kosova Assembly have twice tried to pass a resolution calling for independence but were dissuaded by officials from the UN and the international community who rightly fear that such a move would only increase tensions in the region. Kosovar President Ibrahim Rugova has publicly ruled out any dialogue with Belgrade officials on future status.

The Serbs for their part, have been equally obdurate. Earlier this year, leading Serbian officials made aggressive statements regarding Kosova, including calling on the international community to take up the final status issue and demanding that Serb army forces be allowed to return there. I scarcely need comment that the latter demand is a total non-starter.

The UN Secretary General's report of April 14, 2003, noted that Belgrade continues to support parallel administrative structures in virtually all of municipalities that have a considerable Serb population in direct violation of UN Security Council 1244. Following a meeting with Kosovar Serb leaders on April 16, 2003, Serbian Prime Minister Zivkovic and Deputy Prime Minister Covic issued a statement calling the UN plan to devolve considerable powers to the democratically elected officials in Kosova ''unacceptable,'' and the government in Belgrade is reportedly setting up a Serbian state council to deal with administrative issues in the ethnic Serb communities in Kosova.

So what should we do? there are some who believe we should throw in the towel and declare support for one side or the other. I believe that those who would call for the United States to support either independence for Kosova, or reintegration of Kosova with Serbia, are prescribing a cure worse that the disease, however noble their intentions.

When in doubt it is always wise to fall back upon basic principles. In this case, the basic principle of democracy is self-determination. And self-determination can best be expressed through a referendum, but only after the local Kosova authorities, with the help of the international community, fulfill the United Nations benchmarks.

Let me be perfectly clear about the practical side of the issue. The demographics of Kosova, and the pro-independence stand of all the ethnic Albanian political leaders and parties there, make a future vote for independence nearly inevitable. If that is the will of the people of Kosova when conditions warrant their making a choice, then I will wholeheartedly support it.

But no rationale of catering to immediate economic expediency outweighs the damage a unilateral declaration of independence, or Congressional support thereof, would do to the international regime in Kosova—especially to the credibility of the United Nations Mission there—or to the promising, but fragile crackdown on criminal elements by the new Zivkovic government in Serbia.

The stakes of Balkan stability are simple too high to put the cart before the horse.

In order to meet the UN benchmarks, the leaders of Kosova from all ethnic communities must accelerate the process of building a fully functioning democracy that respects human rights and the rule of law. Agreeing to a process for settling the status issue will give them the political incentive and procedural basis to do so.

The Sense of the Senate resolution I have proposed recognizes the danger that an unnecessary delay in resolution of Kosova's final status would pose. But it also recognizes that the

precondition for resolving the final status issue through self-determination is a democratic government in Kosova in which human rights, including the rights of religious and ethnic minorities, are respected.

Therefore, the Resolution calls for holding a referendum on final status, once requisite progress has been made toward meeting the UN benchmarks, endorses continued cooperation with other international organizations, and supports continued U.S. economic assistance to encourage further development.

Rebuilding a society shattered by a vicious war is a frustrating, time-consuming effort. There is an undeniable temptation to heed the siren song of a declaration of independence. But short-term gratification usually leads to more severe long-term problems, and the case of Kosova is no exception. The international cooperative efforts of KFOR, the UN, the OSCE, and various other governmental and non-governmental bodies are making slow but steady progress. We should continue down this path, which is precisely what my Resolution advocates.

I hope other members will join me in supporting the people of Kosova in their efforts, through concrete political and social progress, to advance a decision on their final political status.

AMENDMENTS SUBMITTED & PROPOSED

SA 623. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table.

SA 624. Mr. BAUCUS proposed an amendment to amendment SA 555 proposed by Mr. GRASSLEY to the bill S. 1054, supra.

SA 625. Mr. HATCH (for himself, Mr. BREAUX, Mrs. LINCOLN, Mr. SMITH, and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 626. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 627. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 628. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 629. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 630. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 631. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 632. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 633. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 634. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 635. Mr. LEVIN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 636. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 637. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1054, supra; which was ordered to lie on the table.

SA 638. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 639. Mr. SESSIONS (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 640. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 641. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 642. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 643. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 644. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 645. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 646. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 647. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 648. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 649. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 650. Mr. KENNEDY (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table.

SA 651. Mr. SCHUMER (for himself, Mr. DEWINE, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

SA 652. Mrs. CLINTON (for herself and Mrs. BOXER) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

SA 653. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table.

SA 654. Mr. BINGAMAN (for himself, Mr. ENZI, Mrs. LINCOLN, Mr. SMITH, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 655. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 656. Mr. DASCHLE proposed an amendment to the bill S. 1054, supra.

SA 657. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 658. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 659. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 660. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, supra; which was ordered to lie on the table.

SA 661. Mr. MCCAIN (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 662. Mr. EDWARDS (for himself, Mr. MCCAIN, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 663. Mr. BREAUX proposed an amendment to the bill S. 1054, supra.

SA 664. Mr. NICKLES (for himself, 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, Mr. THOMAS, Mr. DOMENICI, and Mr. ALLARD) proposed an amendment to the bill S. 1054, supra.

SA 665. Mr. REID (for himself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 666. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 667. Mrs. BOXER proposed an amendment to the bill S. 1054, supra.

SA 668. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 669. Mr. DURBIN proposed an amendment to the bill S. 1054, supra.

SA 670. Mr. SANTORUM (for himself and Mr. NELSON of Nebraska) proposed an amendment to the bill S. 1054, supra.

SA 671. Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table.

SA 672. Mr. REED (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. KERRY, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. SARBANES) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

SA 673. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1054, supra.

SA 674. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table.

SA 675. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1298, supra; which was ordered to lie on the table.

SA 676. Mr. DURBIN proposed an amendment to the bill H.R. 1298, supra.

SA 677. Mr. LEAHY (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 1298, supra; which was ordered to lie on the table.

SA 678. Mr. DORGAN (for himself, Mr. LEAHY, Mr. DASCHLE, Mr. NELSON of Florida, and Mr. HARKIN) proposed an amendment to the bill H.R. 1298, supra.

SA 679. Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1298, supra; which was ordered to lie on the table.

SA 680. Mr. GRASSLEY proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

SA 681. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, and Mr. JOHNSON) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV, tuberculosis, and malaria, and for other purposes.

SA 682. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. SCHUMER, Mr. CORZINE, Mrs. BOXER, Mr. FEINGOLD, and Mr. BIDEN) proposed an amendment to the bill H.R. 1298, supra.

SA 683. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 535, to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty.

SA 684. Mrs. BOXER proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

SA 685. Mr. DODD proposed an amendment to the bill H.R. 1298, supra.

SA 686. Mr. BIDEN (for himself and Mr. LEAHY) proposed an amendment to the bill H.R. 1298, supra.

TEXT OF AMENDMENTS

SA 623. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. ___. $2,500,000,000 INCREASE IN NEW MARKETS TAX CREDIT FOR 2003.

(a) IN GENERAL.—The table contained in paragraph (1) of section 45D(f) (relating to national limitation on amount of investments designated) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) $1,500,000,000 for 2002,

''(C) $4,000,000,000 for 2003,''.

(b) ALLOCATION RULES.—Section 45D(f)(2) (relating to allocation of limitation) is amended by adding at the end the following new flush sentence:

''For purposes of the preceding sentence, $2,500,000,000 of the new markets tax credit limitation for 2003 shall be allocated within 18 months after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 by the Community Development Financial Institutions Fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2002.

On page 19, lines 12 and 13, strike ''(20 percent in the case of taxable years beginning after 2007)'' and insert ''(15 percent in the case of taxable years beginning after 2007 and 20 percent in the case of taxable years beginning after 2008)''.

On page 26, lines 18 and 19, strike ''(80 percent in the case of taxable years beginning after 2007)'' and insert ''(85 percent in the case of taxable years beginning after 2007 and 80 percent in the case of taxable years beginning after 2008)''.

On page 26, lines 21 and 22, strike ''(80 percent in the case of taxable years beginning after 2007)'' and insert ''(85 percent in the case of taxable years beginning after 2007 and 80 percent in the case of taxable years beginning after 2008)''.

SA 624. Mr. BAUCUS proposed an amendment SA 555 proposed by Mr. GRASSLEY to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 2, strike line 13 and insert:

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by

* * * * *

SA 625. Mr. HATCH (for himself, Mr. BREAUX, Mrs. LINCOLN, Mr. SMITH, and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end of title V add the following:

Subtitle D—Provisions Relating To S Corporation Reform and Simplification

PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION

SEC. 541. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

(a) IN GENERAL.—Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

''(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

''(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

''(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

''(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

''(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii), the term 'members of the family' means the common ancestor, lineal descendants of the common ancestor and the spouses of such lineal descendants or common ancestor.

''(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

''(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

''(E) ELECTION.—An election under subparagraph (A)(ii)—

''(i) must be made with the consent of all persons who are shareholders (including those that are family members) in the corporation on the day the election is made,

''(ii) in the case of—

''(I) an electing small business trust, shall be made by the trustee of the trust, and

''(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

''(iii) under regulations, shall remain in effect until terminated, and

''(iv) shall apply only with respect to 1 family in any corporation.''.

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by this Act, is amended—

(1) by inserting ''or under section 1361(c)(1)(A)(ii)'' after ''section 1361(b)(3)(B)(ii)'' in paragraph (1), and

(2) by inserting ''or under section 1361(c)(1)(E)(iii)'' after ''section 1361(b)(3)(C)'' in paragraph (1)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 542. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking ''75'' and inserting ''100''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 543. NONRESIDENT ALIENS ALLOWED AS BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.

(a) IN GENERAL.—Section 1361(e)(1)(A)(i)(I) is amended by inserting ''(including a nonresident alien individual)'' after ''individual''.

(b) CONFORMING AMENDMENT.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: ''This clause shall not apply for purposes of subsection (b)(1)(C).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME

SEC. 544. MODIFICATIONS TO PASSIVE INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Section 26(b)(2)(J) is amended by striking ''25 percent'' and inserting ''60 percent''.

(B) Section 1362(d)(3)(A)(i)(II) is amended by striking ''25 percent'' and inserting ''60 percent''.

(C) The heading for paragraph (3) of section 1362(d) is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(D) Section 1375(b)(1)(A)(i) is amended by striking ''25 percent'' and inserting ''60 percent''.

(E) The heading for section 1375 is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(F) The table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' in the item relating to section 1375 and inserting ''60 percent''.

(b) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1362(d)(3) is amended—

(1) by striking ''annuities,'' and all that follows in subparagraph (C)(i) and inserting ''and annuities.'', and

(2) by striking subparagraphs (C)(iv) and (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART III—TREATMENT OF S CORPORATION SHAREHOLDERS

SEC. 545. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

''(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder's stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

SEC. 546. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 2003.

SEC. 547. DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended by inserting ''(determined without regard to any unexercised (in whole or in part) power of appointment during such period)'' after ''of the trust'' in the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 548. CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART IV—PROVISIONS RELATING TO BANKS

SEC. 549. SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.

(a) IN GENERAL.—Section 4975(d) (relating to exemptions) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; or'', and by adding at the end the following new paragraph:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of stock held by individual retirement accounts on the date of the enactment of this Act.

SEC. 550. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds certain percentage of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term 'passive investment income' shall not include—

''(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

''(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 551. TREATMENT OF QUALIFYING DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) qualifying director shares shall not be treated as a second class of stock, and

''(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

''(2) QUALIFYING DIRECTOR SHARES DEFINED.—For purposes of this subsection, the term 'qualifying director shares' means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

''(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

''(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder's status as a director at the same price as the individual acquired such shares of stock.

''(3) DISTRIBUTIONS.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includible as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.''.

(b) CONFORMING AMENDMENT.—Section 1366(a) is amended by adding at the end the following new paragraph:

''(3) ALLOCATION WITH RESPECT TO QUALIFYING DIRECTOR SHARES.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

PART V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

SEC. 552. RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting ''or under section 1361(b)(3)(B)(ii)'' after ''subsection (a)''in paragraph (1),

(2) by inserting ''or under section 1361(b)(3)(C)'' after ''subsection (d)'' in paragraph (1)(B),

(3) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''small business corporation'' in paragraph (3)(A),

(4) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in paragraph (4), and

(5) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 553. INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting ''and in the case of information returns required under part III of subchapter A of chapter 61'' after ''Secretary''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

PART VI—ADDITIONAL PROVISIONS

SEC. 554. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.

(a) IN GENERAL.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

''(a) IN GENERAL.—If a corporation was an electing small business corporation under

subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation's accumulated earnings and profits (as of the beginning of the first taxable year beginning after December 31, 2003) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 626. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, add the following:

TITLE I—REIT CORRECTIONS

SEC. 101. REVISIONS TO REIT ASSET TEST.

(a) EXPANSION OF STRAIGHT DEBT SAFE HARBOR.—Section 856 (defining real estate investment trust) is amended—

(1) in subsection (c) by striking paragraph (7), and

(2) by adding at the end the following new subsection:

''(m) SAFE HARBOR IN APPLYING SUBSECTION (C)(4)—

''(1) IN GENERAL.—In applying subclause (III) of subsection (c)(4)(B)(iii), except as otherwise determined by the Secretary in regulations, the following shall not be considered securities held by the trust:

''(A) Straight debt securities of an issuer which meet the requirements of paragraph (2).

''(B) Any loan to an individual or an estate.

''(C) Any section 467 rental agreement (as defined in section 467(d)), other than with a person described in subsection (d)(2)(B).

''(D) Any obligation to pay rents from real property (as defined in subsection (d)(1)).

''(E) Any security issued by a State or any political subdivision thereof, the District of Columbia, a foreign government or any political subdivision thereof, or the Commonwealth of Puerto Rico, but only if the determination of any payment received or accrued under such security does not depend in whole or in part on the profits of any entity not described in this subparagraph or payments on any obligation issued by such an entity.

''(F) Any security issued by a real estate investment trust.

''(G) Any other arrangement as determined by the Secretary.

''(2) SPECIAL RULES RELATING TO STRAIGHT DEBT SECURITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A), securities meet the requirements of this paragraph if such securities are straight debt, as defined in section 1361(c)(5) (without regard to subparagraph (B)(iii) thereof).

''(B) SPECIAL RULES RELATING TO CERTAIN CONTINGENCIES.—For purposes of subparagraph (A), any interest or principal shall not be treated as failing to satisfy section 1361(c)(5)(B)(i) solely by reason of the fact that the time of payment of such interest or principal is subject to a contingency, but only if—

''(i) any such contingency does not have the effect of changing the effective yield to maturity, as determined under section 1272, other than a change in the annual yield to maturity which either—

''(I) does not exceed the greater of 1/4 of 1 percent or 5 percent of the annual yield to maturity, or

''(II) results solely from a default or the exercise of a prepayment right by the issuer of the debt, or

''(ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt instruments held by the trust exceeds $1,000,000 and not more than 12 months of unaccrued interest can be required to be prepaid thereunder.

''(C) SPECIAL RULES RELATING TO CORPORATE OR PARTNERSHIP ISSUERS.—In the case of an issuer which is a corporation or a partnership, securities that otherwise would be described in paragraph (1)(A) shall be considered not to be so described if the trust holding such securities and any of its controlled taxable REIT subsidiaries (as defined in subsection (d)(8)(A)(iv)) hold any securities of the issuer which—

''(i) are not described in paragraph (1) (prior to the application of paragraph (1)(C)), and

''(ii) have an aggregate value greater than 1 percent of the issuer's outstanding securities.

''(3) LOOK-THROUGH RULE FOR PARTNERSHIP SECURITIES.—

''(A) IN GENERAL.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii)—

''(i) a trust's interest as a partner in a partnership (as defined in section 7701(a)(2)) shall not be considered a security, and

''(ii) the trust shall be deemed to own its proportionate share of each of the assets of the partnership.

''(B) DETERMINATION OF TRUST'S INTEREST IN PARTNERSHIP ASSETS.—For purposes of subparagraph (A), with respect to any taxable year beginning after the date of the enactment of this subparagraph—

''(i) the trust's interest in the partnership assets shall be the trust's proportionate interest in any securities issued by the partnership (determined without regard to subparagraph (A)(i) and paragraph (4), but not including securities described in paragraph (1)), and

''(ii) the value of any debt instrument shall be the adjusted issue price thereof, as defined in section 1272(a)(4).

''(4) CERTAIN PARTNERSHIP DEBT INSTRUMENTS NOT TREATED AS A SECURITY.—For purposes of applying subclause (III) of subsection (c)(4)(B)(iii).—

''(A) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security to the extent of the trust's interest as a partner in the partnership, and

''(B) any debt instrument issued by a partnership and not described in paragraph (1) shall not be considered a security if at least 75 percent of the partnership's gross income (excluding gross income from prohibited transactions) is derived from sources referred to in subsection (c)(3).

''(5) SECRETARIAL GUIDANCE.—The Secretary is authorized to provide guidance (including through the issuance of a written determination, as defined in section 6110(b)) that an arrangement shall not be considered a security held by the trust for purposes of applying subclause (III) of subsection (c)(4)(B)(iii) notwithstanding that such arrangement otherwise could be considered a security under subparagraph (F) of subsection (c)(5).''.

SEC. 102. CLARIFICATION OF APPLICATION OF LIMITED RENTAL EXCEPTION.

Subparagraph (A) of section 856(d)(8) (relating to special rules for taxable REIT subsidiaries) is amended to read as follows:

''(A) LIMITED RENTAL EXCEPTION.—

''(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in paragraph (2)(B).

''(ii) RENTS MUST BE SUBSTANTIALLY COMPARABLE.—Clause (i) shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents paid by the other tenants of the trust's property for comparable space.

''(iii) TIMES FOR TESTING RENT COMPARABILITY.—The substantial comparability requirement of clause (ii) shall be treated as met with respect to a lease to a taxable REIT subsidiary of the trust if such requirement is met under the terms of the lease—

''(I) at the time such lease is entered into,

''(II) at the time of each extension of the lease, including a failure to exercise a right to terminate, and

''(III) at the time of any modification of the lease between the trust and the taxable REIT subsidiary if the rent under such lease is effectively increased pursuant to such modification.

With respect to subclause (III), if the taxable REIT subsidiary of the trust is a controlled taxable REIT subsidiary of the trust, the term 'rents from real property' shall not in any event include rent under such lease to the extent of the increase in such rent on account of such modification.

''(iv) CONTROLLED TAXABLE REIT SUBSIDIARY.—For purposes of clause (iii), the term 'controlled taxable REIT subsidiary' means, with respect to any real estate investment trust, any taxable REIT subsidiary of such trust if such trust owns directly or indirectly—

''(I) stock possessing more than 50 percent of the total voting power of the outstanding stock of such subsidiary, or

''(II) stock having a value of more than 50 percent of the total value of the outstanding stock of such subsidiary.

''(v) CONTINUING QUALIFICATIONS BASED ON THIRD PARTY ACTIONS.—If the requirements of clause (i) are met at a time referred to in clause (iii), such requirements shall continue to be treated as met so long as there is no increase in the space leased to any taxable REIT subsidiary of such trust or to any person described in paragraph (2)(B).

''(vi) CORRECTION PERIOD.—If there is an increase referred to in clause (v) during any calendar quarter with respect to any property, the requirements of clause (iii) shall be treated as met during the quarter and the succeeding quarter if such requirements are met at the close of such succeeding quarter.''.

SEC. 103. DELETION OF CUSTOMARY SERVICES EXCEPTION.

Subparagraph (B) of section 857(b)(7) (relating to redetermined rents) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), (v), (vi), and (vii) as clauses (ii), (iii), (iv), (v), and (vi), respectively.

SEC. 104. CONFORMITY WITH GENERAL HEDGING DEFINITION.

(a) DEFINITION.—Subparagraph (G) of section 856(c)(5) (relating to treatment of certain hedging instruments) is amended to read as follows:

''(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS—Except to the extent provided by regulations, any income of a real estate investment trust from a hedging transaction (as defined in clause (ii) or (iii) of section 1221(b)(2)(A)) which is clearly identified pursuant to section 1221(a)(7), including gain from the sale or disposition of such a transaction, shall not constitute gross income

under paragraph (2) to the extent that the transaction hedges any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets.''

SEC. 105. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

Clause (i) of section 857(b)(5)(A) (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''90 percent'' and inserting ''95 percent''.

SEC. 106. PROHIBITED TRANSACTIONS PROVISIONS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS—For purposes of this part the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

''(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

''(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property.

''(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

''(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

''(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

''(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

''(vi) the sales price of the property sold by the trust to its taxable REIT subsidiary is not base din whole or in part on the income or profits of the subsidiary or the income or profits that the subsidiary derives from the sale or operation of such property.''

SEC. 107. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 2000.

(b) SECTIONS 105 THROUGH 106—The amendments made by sections 103, 104, 105 and 106 shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE III—REIT SAVINGS PROVISIONS

SEC. 301. REVISIONS TO REIT PROVISIONS

(a) RULES OF APPLICATION FOR FAILURE TO SATISFY SECTION 856(c)(4).—Section 856(c) (relating to definition of real estate investment trust), as amended by section 101, is amended by inserting after paragraph (6) the following new paragraph:

''(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4)—

''(A) DE MINIMIS FAILURE—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the trust's assets at the end of the quarter for which such measurement is done, and

''(II) $10,000,000, and

''(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(B) FAILURES EXCEEDING DE MINIMIS AMOUNT.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) for a particular quarter shall nevertheless be considered to have satisified the requirements of such paragraph for such quarter if—

''(i) such failure involves the ownership of assets the total value of which exceeds the de minimis standard described in subparagraph (A)(i) at the end of the quarter for which such measurement is done,

''(ii) following the corporation, trust, or association's identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

''(iii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect,

''(iv) the corporation, trust, and association pays a tax computed under subparagraph (C), and

''(v)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (ii) within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(C) Tax—For purposes of subparagraph (B)(iv)—

''(i) TAX IMPOSED.—If a corporation, trust, or association elects the application of this subparagraph, there is hereby imposed a tax on the failure described in subparagraph (B) of such corporation, trust, or association. Such tax shall be paid by the corporation, trust, or association.

''(ii) TAX COMPUTED.—The amount of the tax imposed by clause (i) shall be the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (B)(ii) for the period specified in clause (iii) by the highest rate of tax specified in section 11.

''(iii) PERIOD.—For purposes of clause (ii)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

''(iv) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.''.

(b) MODIFICATION OF RULES OF APPLICATION FOR FAILURE TO SATISFY SECTIONS 856(c)(2) or 856(c)(3).—Paragraph (6) of section 856(c) (relating to definition of real estate investment trust) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) following the corporation, trust, or association's identification of the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year, a description of each item of its gross income described in such paragraphs is set forth in a schedule for such taxable year filed in accordance with regulations prescribed by the Secretary, and''.

(c) REASONABLE CAUSE EXCEPTION TO LOSS OF REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS—Subsection (g) of section 856 (relating to termination of election) is amended—

(1) in paragraph (1) by inserting before the period at the end of the first sentence the following: 'unless paragraph (5) applies', and

(2) by adding at the end the following new paragraph:

''(5) ENTITIES TO WHICH PARAGRAPH APPLIES—This paragraph applies to a corporation, trust, or association—

''(A) which is not a real estate investment trust to which the provisions of this part apply for the taxable year due to one or more failures to comply with one or more of the provisions of this part (other than subsection (c)(6) or (c)(7) of section 856),

''(B) such failures are due to reasonable cause and not due to willful neglect, and

''(C) if such corporation, trust, or association pays (as prescribed by the Secretary in regulations and in the same manner as tax) a penalty of $50,000 for each failure to satisfy a provision of this part due to reasonable cause and not willful neglect.''.

(d) DEDUCTION OF TAX PAID FROM AMOUNT REQUIRED TO BE DISTRIBUTED—Subparagraph (E) of section 857(b)(2) is amended by striking '(7)' and inserting '(7) of this subsection, section 856(c)(7)(B)(iii), and section 856(g)(1).'.

(e) EXPANSION OF DEFICIENCY DIVIDEND PROCEDURE—Subsection (e) of section 860 is amended by striking 'or' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '; or', and by adding at the end the following new paragraph:

''(4) a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after date of enactment.

SA 627. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. ___. EXCLUSION OF CERTAIN PUNITIVE DAMAGE AWARDS.

(a) IN GENERAL.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

''(d) EXCLUSION OF PUNITIVE DAMAGES PAID TO A STATE UNDER A SPLIT-AWARD STATUTE.—

''(1) IN GENERAL.—The phrase '(other than punitive damages)' in subsection (a) shall not apply to—

''(A) any portion of an award of punitive damages in a civil action which is paid to a State under a split-award statute, or

''(B) any attorneys' fees or other costs incurred by the taxpayer in connection with obtaining an award of punitive damages to which subparagraph (A) is applicable.

''(2) SPLIT-AWARD STATUTE.—For purposes of this subsection, the term 'split-award statute' means a State law that requires a fixed portion of an award of punitive damages in a civil action to be paid to the State.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to awards made in taxable years ending after the date of the enactment of this Act.

SA 628. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. ___. 5-YEAR EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM WIND.

(a) IN GENERAL.—Section 45(c)(3)(A) (relating to wind facility) is amended by striking ''2004'' and inserting ''2009''.

(b) DELAY IN 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 year 2003 ''37.6%'' shall be substituted for ''35%''.

SA 629. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

Strike section 357.

SA 630. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. ___. 5-YEAR EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM WIND.

Section 45(c)(3)(A) (relating to wind facility) is amended by striking ''2004'' and inserting ''2009''.

On page 19, line 13, strike ''2007'' and insert ''2008''.

On page 26, line 19, strike ''2007'' and insert ''2008''.

On page 26, line 22, strike ''2007'' and insert ''2008''.

SA 631. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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 for the 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%	35.3%
2004 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike section 357.

SA 632. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; 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 10 percent dividends exclusion between December 31, 2003, and December 31, 2007, and a 20 percent dividends exclusion after December 31, 2007.

(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.

SA 633. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MECHANISM TO PROTECT SOCIAL SECURITY

(a) CERTIFICATION.—

(1) IN GENERAL.—Each year, beginning in 2003, when the Final Monthly Treasury Statement for the most recently completed fiscal year is issued, the Secretary of the Treasury shall—

(A) certify whether there was a on-budget balance or surplus in that fiscal year; and

(B) estimate whether there would be an on-budget deficit in any of the succeeding 10 fiscal years if the amendment made by section 102 of this Act with respect to the highest individual income tax rate takes effect January 1 of the following year.

(2) ESTIMATE.—The calculations for the estimate under paragraph (1)(B) shall be consistent with the baseline rules specified in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1995, except for the assumption that these provisions take effect and remain in effect permanently.

(b) DELAY IN ACCELERATION OF REDUCTION OF HIGHEST INDIVIDUAL INCOME TAX RATE.—Notwithstanding any other provision of law or this Act, the amendment made by section 102 of this Act with respect to the highest individual income tax rate shall not take effect until January 1 of the year following—

(1) a certification by the Secretary of the Treasury pursuant to paragraph (a)(1)(A) that no on-budget deficit existed in the preceding fiscal year; and

(2) an estimate by the Secretary of the Treasury pursuant to paragraph (a)(1)(B) that no on-budget deficits will occur in any of the 10 succeeding fiscal years even if such amendment takes effect.

SA 634. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

Subtitle D—Medicare Improvements

SEC. 531. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(3)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to subclause (II), for discharges''; and

(2) by adding at the end the following new subclause:

''(II) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking ''IN DIFFERENT AREAS'';

(B) in the matter preceding clause (i), by striking '', each of'';

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking ''and'' after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

''(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(2) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) of the Social Security Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional adjusted DRG prospective payment rate''; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional DRG prospective payment rate for each region,''.

SEC. 532. INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35.

''(VIII) during fiscal year 2004, ''c'' is equal to 1.85; and

''(IX) on or after October 1, 2004, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section 532(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003'' after ''2000''.

SEC. 533. PERMANENT INCREASE IN MEDICARE PAYMENT FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(f) INCREASE IN PAYMENT FOR SERVICES FURNISHED IN A RURAL AREA.—

''(1) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)) on or after April 1, 2003, the Secretary shall increase the payment amount otherwise made under this section for such services by 10 percent.

''(2) WAIVER OF BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this section applicable to home health services furnished during a period to offset the increase in payments resulting from the application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 2003.

SEC. 534. 3-YEAR EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR SKILLED NURSING FACILITY SERVICES UNDER THE MEDICARE PROGRAM.

(a) 3-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–498), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking '', and before October 1, 2002'' and inserting ''and before October 1, 2005''.

(b) 3-YEAR EXTENSION OF INCREASE FOR SKILLED NURSING FACILITY ADJUSTED FEDERAL PER DIEM RATE THROUGH FISCAL YEAR 2005.—Section 101(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–325), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended—

(1) in the heading, by striking ''AND 2002'' and inserting ''THROUGH 2005''; and

(2) in paragraph (1), by striking ''and 2002'' and inserting ''through 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if this section had been enacted before October 1, 2002. The Secretary of Health and Human Services shall promptly provide for such adjustments in payments as may be required based on such amendments for services furnished during periods before the date of implementation of such amendments.

SEC. 535. TWO-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395*l*(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, and 2004''.

SEC. 536. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR ALL MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act.

SEC. 537. BUDGET PROVISIONS.

(a) INAPPLICABILITY OF SUNSET.—The provisions of section 601(a) shall not apply to the provisions of, and amendments made by, this subtitle.

(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 and 2004, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004, 37.6%.

SA 635. Mr. LEVIN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 15, line 8, strike ''$75,000'' and insert ''$82,500''.

Strike sections 341 and 342 of the bill and insert:

SEC. 341. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such

transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

SEC. 342. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7701(a)(4)(B)(ii)(I) with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which section 7701(a)(4)(B) applies. Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002, except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SA 636. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. ___. FAMILY LEAVE TAX CREDIT; REPEAL OF TAX BENEFITS RELATING TO COMPANY-OWNED LIFE INSURANCE.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended inserting after section 24 the following new section:

"SEC. 24A. FAMILY LEAVE CREDIT.

''(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualified child of the taxpayer an amount equal to $500 ($1,000 in the case of taxable years 2005 and 2006, and $1,500 in the case of taxable years after 2006).

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(i) $110,000 in the case of a joint return,

''(ii) $75,000 in the case of an individual who is not married, and

''(iii) $ 55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

''(c) PORTION OF CREDIT REFUNDABLE.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(1) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

''(2) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the taxpayer's earned income (within the meaning of section 32(c)(2)) over such limitation.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

''(d) QUALIFIED CHILD.—For purposes of this section, the term 'qualified child' means with respect to any taxable year—

''(1) except with respect to an individual described in paragraph (2), any qualifying child (as defined in section 24(c) by substituting 'age of 1' for 'age of 17' in paragraph (1)(B) thereof), and

''(2) any individual adopted by the taxpayer in such year (within the meaning of section 23).

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of a taxable year beginning after 2007, the $1,500 amount under subsection (a) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for calendar year '1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(2) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(A) IN GENERAL.—Subsection (b) of section 24A (relating to family leave credit), as added by paragraph (1), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and sections 23, 24, and 25B) and section 27 for the taxable year.''.

(B) CONFORMING AMENDMENTS.—

(i) The heading for section 24A(b) is amended to read as follows: ''LIMITATIONS.—''.

(B) The heading for section 24A(b)(1) is amended to read as follows: ''LIMITATION BASED ON ADJUSTED GROSS INCOME.—''.

(C) Section 24A(c) is amended by striking ''section 26(a)'' each place it appears and inserting ''subsection (b)(3)''.

(D) Subparagraph (C) of section 25(e)(1) is amended by inserting ''24A,'' after ''24,''.

(E) Section 904(h) is amended by inserting ''24A,'' after ''24,''.

(F) Subsection (d) of section 1400C is amended by inserting ''24A,'' after ''24,''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new item:

''Sec. 24A. Family leave credit.''.

(4) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 2003.

(b) 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.

(c) REPEAL OF DIVIDEND EXCLUSION.—The amendments made by section 201 of this Act are repealed.

SA 637. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. . CHILD SUPPORT ENFORCEMENT.

(a) NO EFFECT ON RIGHTS AND LIABILITIES.—Nothing in this Act shall be construed to affect—

(1) the right of an individual or State to receive any child support payment; or

(2) the obligation of an individual to pay child support.

(b) ALLOWANCE OF BAD DEBT DEDUCTION FOR UNPAID CHILD SUPPORT PAYMENTS.—

(1) IN GENERAL.—Section 166 (relating to deduction for bad debts) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) UNPAID CHILD SUPPORT.—

''(1) IN GENERAL.—In the case of a custodial parent who, as of the close of the taxable year, is owed child support, the amount of unpaid child support shall be deemed a canceled debt as of such date, and shall be allowed as a deduction for such taxable year.

''(2) PRESUMPTION OF WORTHLESSNESS.—Subsection (a) (relating to worthless debts) shall not apply to child support.

''(3) SUBSEQUENT PAYMENTS.—If any unpaid child support with respect to which a deduction was allowed under paragraph (1) is subsequently paid to the custodial parent, the amount of such payment shall not be included in the gross income of the custodial parent, nor shall it be allowed as a deduction to the delinquent debtor. The delinquent debtor shall be neither required nor allowed to file an amended return in any subsequent year to reflect the subsequent payment of unpaid child support.

''(4) FULL DEDUCTION FROM ORDINARY INCOME.—Subsection (d) (relating to the treatment of nonbusiness bad debt as a loss from the sale or exchange of a capital asset) shall not apply to the deductibility of unpaid child support.

''(5) TAX RETURNS.—A custodial parent who wishes to deduct the amount of unpaid child support shall include on the return claiming the deduction the name and taxpayer identification number of each child with respect to whom child support payments to which this subsection applies are required to be paid.

''(6) INFORMATION RETURNS.—

''(A) IN GENERAL.—A custodial parent who wishes to deduct the amount of unpaid child support shall complete Form 1099–CS (or such other form as the Secretary may prescribe) and provide such form to the Secretary, and (if the address is known) to the delinquent debtor, within 45 days following the close of the taxable year for which the deduction is claimed. Failure to so file such form with the Secretary (or, if the address is known, with the delinquent debtor) shall result in disallowance of the deduction for the taxable year.

''(B) CONTENTS OF FORM.—The Form 1099–CS (or such other form as the Secretary may prescribe) shall contain—

''(i) the total amount of child support owed (whether or not paid) for such taxable year,

''(ii) the total amount of unpaid child support as of the last day of such taxable year,

''(iii) the name, address (if known), and taxpayer identification number of the delinquent debtor, and

''(iv) notice that the delinquent debtor is required to include such total amount of unpaid child support in gross income for the delinquent debtor's taxable year which includes the last day of the custodial parent's taxable year.

''(C) DEBTOR'S ADDRESS UNKNOWN.—If the delinquent debtor's address is not known to the custodial parent, the Form 1099–CS (or

such other form as the Secretary may prescribe) shall indicate that fact. In such a case, the Secretary may send such notice if the address is available to the Secretary, and the notice from the custodial parent to the delinquent debtor under subparagraph (A) shall not be required.

''(7) DETERMINATION OF WHETHER CHILD SUPPORT IS PAID.—

''(A) CHILD SUPPORT ENFORCEMENT OFFICE RECORDS AS CONCLUSIVE EVIDENCE OF PAYMENT.—Child support shall be treated as paid if such payment is recorded by the State office of child support enforcement in which the custodial parent is registered.

''(B) TIMELY MAILING AS TIMELY PAYMENT.—A payment received by the State office of child support enforcement in which the custodial parent is registered after the last day of the custodial parent's taxable year shall be treated for the purpose of this subsection as paid on such day if the postmark date falls on or before such day. The rules of section 7502(f) and regulations issued thereunder shall apply for purposes of this subparagraph.

''(8) 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.''.

(2) DEDUCTION FOR NONITEMIZERS.—Section 62(a) of such Code is amended by inserting after paragraph (18) the following new paragraph:

''(19) UNPAID CHILD SUPPORT PAYMENTS.—The deduction allowed by section 166(f).''.

(3) CONFORMING AMENDMENT.—Section 166(d)(2) of such Code is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of the subparagraph (B) and by inserting '', or'' and by adding at the end the following new subparagraph:

''(C) a debt which constitutes unpaid child support payment under subsection (f).''.

(c) 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) DETERMINATION OF WHETHER CHILD SUPPORT IS UNPAID.—

''(A) IN GENERAL.—Child support shall be treated as paid if such payment is recorded by the State office of child support enforcement in which the custodial parent is registered.

''(B) TIMELY MAILING AS TIMELY PAYMENT.—A payment received by the State office of child support enforcement in which the custodial parent is registered after the last day of the custodial parent's taxable year shall be treated for the purpose of this subsection as paid on such day if the postmark date falls on or before such day. The rules of section 7502(f) and regulations issued thereunder shall apply for purposes of this subparagraph.

''(3) 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.

''(4) 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.''.

(d) TAXPAYER INFORMATION REGARDING CHILD SUPPORT NOT BASIS FOR AUDIT.—A discrepancy between the tax returns of a custodial parent and a delinquent debtor concerning whether a payment of child support has been made may not be used or relied upon by the Internal Revenue Service in any way in selecting an individual's tax return for a general audit.

(e) 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.

On page 19, lines 12 and 13, strike ''(20 percent in the case of taxable years beginning after 2007)''.

On page 26, lines 18 and 19, strike ''(80 percent in the case of taxable years beginning after 2007)''.

On page 26, lines 21 and 22, strike ''(80 percent in the case of taxable years beginning after 2007)''.

SA 638. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. INCOME TAX CREDIT TO DISTILLED SPIRITS WHOLESALERS FOR COST OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR WHOLESALER'S AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible wholesaler, the amount of the distilled spirits wholesalers credit for any taxable year is the amount equal to the product of—

''(1) the number of cases of bottled distilled spirits—

''(A) which were bottled in the United States, and

''(B) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person who holds—

''(1) a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits, or

''(2) a basic permit under such Act as a distiller, rectifier, blender or warehouser and bottler of distilled spirits and acts as a wholesaler selling distilled spirits to a State agency.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case

for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX BASED ON CASE OF 12 80-PROOF 750ML BOTTLES.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(4) NUMBER OF CASES IN LOT.—For purposes of this section, the number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) in the case of an eligible wholesaler (as defined in section 5011(b)), the distilled spirits wholesaler credit determined under section 5011(a).''.

(2) Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.''.

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for wholesaler's average cost of carrying excise tax.''.

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

SA 639. Mr. SESSIONS (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Viz:

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.

SA 640. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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 for the 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%	38.6%
2004 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike title II.

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

SEC. 529. REFUND OF EMPLOYEE PAYROLL TAXES.

(a) PAYMENT OF REFUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each individual an amount equal to the lesser of—

(A) $765, or

(B) the amount of the individual's social security taxes for 2001.

(2) PAYMENT IN INSTALLMENTS.—The Secretary of the Treasury shall make the payment under paragraph (1) in two equal installments—

(A) the first of which shall be paid on the date which is 2 months after the date of the enactment of this Act, and

(B) the second of which shall be paid on December 1, 2003.

The Secretary may, after notice to the Senate and House of Representatives, make adjustments in the timing of each installment to the extent the adjustments are administratively necessary.

(3) NO INTEREST.—No interest shall be allowed on any payment required by this subsection.

(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—No payment shall be made under this subsection to—

(A) any estate or trust,

(B) any nonresident alien, or

(C) any individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year beginning in 2001.

(5) SOCIAL SECURITY TAXES.—For purposes of this subsection—

(A) IN GENERAL.—The term ''social security taxes'' has the meaning given such term by section 24(d)(2) of the Internal Revenue Code of 1986.

(B) STATE AND LOCAL EMPLOYEES NOT COVERED BY SOCIAL SECURITY SYSTEM.—In the case of any individual—

(i) whose service is not treated as employment by reason of section 3121(b)(7) of such Code (relating to exemption for State and local employees), and

(ii) who, without regard to this subparagraph, has no social security taxes for 2001,

the term ''social security taxes'' shall include the individual's employee contributions to a governmental pension plan by reason of the service described in clause (i).

(b) 2002 REFUND FOR INDIVIDUALS NOT RECEIVING FULL 2001 REFUND.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. REFUND OF CERTAIN 2002 PAYROLL TAXES.

''(a) IN GENERAL.—Each eligible individual shall be treated as having made a payment against the tax imposed by chapter 1 for such individual's first taxable year beginning in 2002 in an amount equal to the payroll tax refund amount for such taxable year.

''(b) PAYROLL TAX REFUND AMOUNT.—For purposes of subsection (a), the payroll tax refund amount is the excess (if any) of—

''(1) the lesser of—

''(A) $765, or

''(B) the amount of the individual's social security taxes for 2002, over

''(2) the amount of the payment to the individual under section 529(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

''(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual other than—

''(1) any estate or trust,

''(2) any nonresident alien, or

''(3) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in 2002.

''(d) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before December 31, 2003.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.

''(f) SOCIAL SECURITY TAXES.—For purposes of this section, the term 'social security taxes' has the meaning given such term by section 529(a)(5) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.''

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

''Sec. 6429. Refund of certain 2002 payroll taxes.''

SA 641. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, insert:

SEC. ___. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL BUSINESSES.

(a) IN GENERAL.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by adding at the end the following new section:

''SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR CERTAIN SMALL BUSINESSES.

''(a) IN GENERAL.—An eligible small business may elect to pay the tax imposed by chapter 1 in 4 equal installments.

''(b) LIMITATION.—The maximum amount of tax which may be paid in installments under this section for any taxable year shall not exceed whichever of the following is the least:

''(1) The tax imposed by chapter 1 for the taxable year.

''(2) The amount contributed by the taxpayer into a BRIDGE Account during such year.

''(3) The excess of $250,000 over the aggregate amount of tax for which an election under this section was made by the taxpayer (or any predecessor) for all prior taxable years.

''(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, any person if—

''(A) such person meets the active business requirements of section 1202(e) throughout such taxable year,

''(B) the taxpayer has gross receipts of $10,000,000 or less for the taxable year,

''(C) the gross receipts of the taxpayer for such taxable year are at least 10 percent greater than the average annual gross receipts of the taxpayer (or any predecessor) for the 2 prior taxable years, and

''(D) the taxpayer uses an accrual method of accounting.

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of this subsection.

''(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME FOR PAYMENT OF INTEREST.—

''(1) DATE FOR PAYMENT OF INSTALLMENTS.—

''(A) IN GENERAL.—If an election is made under this section for any taxable year, the first installment shall be paid on or before the due date for such installment and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

''(B) DUE DATE FOR FIRST INSTALLMENT.—The due date for the first installment for a taxable year shall be whichever of the following is the earliest:

''(i) The date selected by the taxpayer.

''(ii) The date which is 2 years after the date prescribed by section 6151(a) for payment of the tax for such taxable year.

''(2) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

''(A) INTEREST FOR PERIOD BEFORE DUE DATE OF FIRST INSTALLMENT.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the period before the due date for the first installment shall be paid annually.

''(B) INTEREST DURING INSTALLMENT PERIOD.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after such period shall be paid at the same time as, and as a part of, each installment payment of the tax.

''(C) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e)(3) applies for a taxable year which is assessed after the due date for the first installment for such year, interest attributable to the period before such due date, and interest assigned under subparagraph (B) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

''(e) SPECIAL RULES.—

''(1) APPLICATION OF LIMITATION TO PARTNERS AND S CORPORATION SHAREHOLDERS.—

''(A) IN GENERAL.—In applying this section to a partnership which is an eligible small business—

''(i) the election under subsection (a) shall be made by the partnership,

''(ii) the amount referred to in subsection (b)(1) shall be the sum of each partner's tax which is attributable to items of the partnership and assuming the highest marginal rate under section 1, and

''(iii) the partnership shall be treated as the taxpayer referred to in paragraphs (2) and (3) of subsection (b).

''(B) OVERALL LIMITATION ALSO APPLIED AT PARTNER LEVEL.—In the case of a partner in a partnership, the limitation under subsection (b)(3) shall be applied at the partnership and partner levels.

''(C) SIMILAR RULES FOR S CORPORATIONS.—Rules similar to the rules of subparagraphs (A) and (B) shall apply to shareholders in an S corporation.

''(2) ACCELERATION OF PAYMENT IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the taxpayer ceases to meet the requirement of subsection (c)(1)(A), or

''(ii) there is an ownership change with respect to the taxpayer,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid on or before the due date for filing the return of tax imposed by chapter 1 for the first taxable year following such cessation.

''(B) OWNERSHIP CHANGE.—For purposes of subparagraph, in the case of a corporation, the term 'ownership change' has the meaning given to such term by section 382. Rules similar to the rules applicable under the preceding sentence shall apply to a partnership.

''(3) PRORATION OF DEFICIENCY TO INSTALLMENTS.—Rules similar to the rules of section 6166(e) shall apply for purposes of this section.

''(f) BRIDGE ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'BRIDGE Account' means a trust created or organized in the United States for the exclusive benefit of an eligible small business, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deferral under subsection (b) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) Amounts in the trust may be used only—

''(i) as security for a loan to the business or for repayment of such loan, or

''(ii) to pay the installments under this section.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a BRIDGE Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(3) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a BRIDGE Account on the last day of a taxable year if such payment is made on account of such taxable year and is made within 3½ months after the close of such taxable year.

''(g) REPORTS.—The Secretary may require such reporting as the Secretary determines to be appropriate to carry out this section.

''(h) APPLICATION OF SECTION.—This section shall apply to taxes imposed for taxable years beginning after December 31, 2002, and before January 1, 2006.''.

(b) PRIORITY OF LENDER.—Subsection (b) of section 6323 (relating to protection for certain interests even though notice filed) is amended by adding at the end the following new paragraph:

''(11) LOANS SECURED BY BRIDGE ACCOUNTS.—With respect to a BRIDGE account (as defined in section 6168(f)) with any bank (as defined in section 408(n)), to the extent of any loan made by such bank without actual notice or knowledge of the existence of such lien, as against such bank, if such loan is secured by such account.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 is amended by adding at the end the following new item:

''Sec. 6168. Extension of time for payment of tax for certain small businesses.''.

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

SA 642. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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 for the 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%	38.6%
2004 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

Strike title II.

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

SEC. ___. MINIMUM TAX NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME UNDER THRESHOLD AMOUNT.

(a) EXEMPTION.—Section 55 is amended by adding at the end the following:

''(e) EXCLUSION OF INDIVIDUALS.—

''(1) IN GENERAL.—In the case of any natural person, no tax shall be imposed by this section if the adjusted gross income of the taxpayer for the taxable year does not exceed the threshold amount.

''(2) THRESHOLD AMOUNT.—For purposes of this subsection, the term 'threshold amount' means—

''(A) $100,000 in the case of—

''(i) a joint return, or

''(ii) a surviving spouse,

''(B) $70,000 in the case of an individual who—

''(i) is not married, and

''(ii) is not a surviving spouse, and

''(C) $50,000 in the case of a married individual filing a separate return.''

(b) CONFORMING AMENDMENT.—Section 55(a) is amended by striking ''There'' and inserting ''Except as provided in subsection (e), there''.

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

SA 643. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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 for the 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%	38.6%
2004 and 2005	25.0%	28.0%	33.0%	37.6%
2006 and thereafter	25.0%	28.0%	33.0%	35.0%''.

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

SEC. . INCOME TAX CREDIT FOR EMPLOYERS HIRING NEW EMPLOYEES OR INCREASING WAGES IN 2003.

(a) IN GENERAL.—Subpart F of part IV of subchapter A of chapter 1 (relating to rules for computing work opportunity credit) is amended by inserting after section 51A the following new section:

''SEC. 51B. REFUND OF PAYROLL TAXES ATTRIBUTABLE TO NEW EMPLOYEES AND INCREASED WAGES DURING 2003.

''(a) GENERAL RULE.—In the case of an employee's first taxable year beginning in 2003, the amount of the work opportunity credit determined under section 51 (without regard to this section) for the taxable year shall be increased by the increased wages payroll tax rebate amount.

''(b) INCREASED WAGES PAYROLL TAX REBATE AMOUNT.—For purposes of this section, the term 'increased wages payroll tax rebate amount' means an amount equal to 10 percent of the excess (if any) of—

''(1) the wages paid or incurred by the employer with respect to employment during 2003, over

''(2) the sum of—

''(A) the wages paid or incurred by the employer with respect to employment during 2002, plus

''(B) an amount equal to the amount determined under subparagraph (A) multiplied by a percentage equal to the percentage change in the contribution and benefit base under section 230 of the Social Security Act from 2002 to 2003.

''(c) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) WAGES.—

''(A) IN GENERAL.—The term 'wages' has the meaning given such term by section 3121(a).

''(B) SPECIAL ROLE FOR RAILROAD EMPLOYERS.—In the case of any employer subject to tax under chapter 22 with respect to any employee, the term 'wages' includes compensation within the meaning of section 3231(e).

''(2) PREDECESSORS.—Any reference in this section to an employer shall include a reference to a predecessor.

''(3) OTHER RULES.—Rules similar to the rules of sections 51(k) and 52 shall apply.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations for the application of this section in the case of acquisitions and dispositions.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 51A the following new item:

''Sec. 51B. Refund of payroll taxes attributable to new employees and increased wages during 2003.''

SA 644. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the end, insert the following:

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions of Expiring Provisions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2002.

SEC. 702. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR 2000, 2001, 2002, 2003, AND 2004.—'', and

(2) by striking ''during 2000, 2001, 2002, or 2003,'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000, 2001, 2002, or 2003'' and inserting ''during 2000, 2001, 2002, 2003, or 2004''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

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

SEC. 703. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2002.

SEC. 704. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 705. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2002.

SEC. 706. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2004'' and inserting ''2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 707. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, 2001, 2002, and 2003'' and inserting ''2000, 2001, 2002, 2003, and 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 708. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2002.

SEC. 709. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXTENSION OF DEDUCTION.—Section 170(e)(6)(G) (relating to termination) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2002.

SEC. 710. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively.

(2) in subsection (e), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) CONFORMING AMENDMENTS.—Clause (iii) of section 280F(a)(1)(C) is amended by striking ''2007'' and inserting ''2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002.

SEC. 711. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2003,'' and inserting ''December 31, 2004,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2004'', ''2005'', and ''2006'', respectively, and inserting ''2005'', ''2006'', and ''2007'', respectively, and

(2) in subsection (f), by striking ''December 31, 2006'' and inserting ''December 31, 2007''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2002.

SEC. 712. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''during 2002 or 2003'' and inserting ''during 2002, 2003, or 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 713. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, 2001, or 2002'' each place it appears and inserting ''1998, 1999, 2001, 2002, or 2003''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 714. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''2003'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2002.

SEC. 715. DISTRICT OF COLUMBIA INVESTMENT INCENTIVES.

(a) IN GENERAL.—The following provisions are amended by striking ''2003'' each place it appears and inserting ''2004'':

(1) Section 1400(f).

(2) Section 1400A(b).

(b) ZERO CAPITAL GAINS RATE.—Section 1400B (relating to zero percent capital gains rate) is amended by striking ''2004'' each place it appears and inserting ''2005''.

(c) EXTENSION OF DC HOMEBUYER CREDIT.—Section 1400C(i) (relating to application of section) is amended by striking ''2004'' and inserting ''2005''.

Subtitle B—Delay of Dividend Exclusion

SEC. 721. DELAY OF DIVIDEND EXCLUSION.

(a) IN GENERAL.—Subparagraph (B) of section 116(a)(2) (relating to partial exclusion of

dividend received by individuals), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2009''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SA 645. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. . INCREASED BONUS DEPRECIATION.

(a) IN GENERAL.—Subsection (k) of section 168 (relating to accelerated cost recovery system) is amended—

(1) by adding at the end of paragraph (1) the following new flush sentence:

''In the case of any qualified property acquired by the taxpayer pursuant to a written binding contract which was entered into on or after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, subparagraph (A) shall be applied by substituting '50 percent' for '30 percent'.'',

(2) by striking ''September 11, 2004'' each place it appears and inserting ''January 1, 2005'',

(3) by striking ''SEPTEMBER 11, 2004'' and inserting ''JANUARY 1, 2005'', and

(4) by striking ''PRE-SEPTEMBER 11, 2004'' and inserting ''PRE-JANUARY 1, 2005''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for clause (i) of section 1400L(b)(2)(C) is amended by striking ''30 PERCENT ADDITIONAL'' and inserting ''ADDITIONAL''.

(2) Section 1400L(b)(2)(D) is amended by inserting ''(as in effect on the day after the date of the enactment of this section)'' after ''section 168(k)(2)(D)''.

(c) REVISION OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.—Section 116(a)(2)(B), as added by section 201 of this Act, is amended by striking ''2007'' and inserting ''2010''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired on or after the date of the enactment of this Act

(2) REVISION.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2006.

SA 646. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. ___. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

''SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

''(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

''(1) in the case of—

''(A) any eligible wholesaler—

''(i) the number of cases of bottled distilled spirits—

''(I) which were bottled in the United States, and

''(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

''(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

''(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

''(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

''(c) AVERAGE TAX-FINANCING COST.—

''(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

''(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

''(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

''(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the distilled spirits credit determined under section 5011(a).''.

(2) Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before January 1, 2003.''.

(3) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

''Sec. 5011. Income tax credit for average cost of carrying excise tax.''.

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

SA 647. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

Subtitle D—Medicare Improvements

SEC. 531. INCREASE IN LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35.

''(VIII) during fiscal year 2004, ''c'' is equal to 1.85; and

''(IX) on or after October 1, 2004, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section 531(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003'' after ''2000''.

SEC. 532. PERMANENT INCREASE IN MEDICARE PAYMENT FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(f) INCREASE IN PAYMENT FOR SERVICES FURNISHED IN A RURAL AREA.—

''(1) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)) on or after April 1, 2003, the Secretary shall increase the payment amount otherwise made under this section for such services by 10 percent.

''(2) WAIVER OF BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this section applicable to home health services furnished during a period to offset the increase in payments resulting from the application of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 2003.

SEC. 533. 3-YEAR EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR SKILLED NURSING FACILITY SERVICES UNDER THE MEDICARE PROGRAM.

(a) 3-YEAR EXTENSION OF TEMPORARY INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE.—Section 312(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–498), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking '', and before October 1, 2002'' and inserting ''and before October 1, 2005''.

(b) 3-YEAR EXTENSION OF INCREASE FOR SKILLED NURSING FACILITY ADJUSTED FEDERAL PER DIEM RATE THROUGH FISCAL YEAR 2005.—Section 101(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–325), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended—

(1) in the heading, by striking ''AND 2002'' and inserting ''THROUGH 2005''; and

(2) in paragraph (1), by striking ''and 2002'' and inserting ''through 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if this section had been enacted before October 1, 2002. The Secretary of Health and Human Services shall promptly provide for such adjustments in payments as may be required

based on such amendments for services furnished during periods before the date of implementation of such amendments.

SEC. 534. TWO-YEAR EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) of the Social Security Act (42 U.S.C. 1395*l*(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2003, and 2004''.

SEC. 535. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR ALL MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking '', to an individual who receives'' and all that follows before the semicolon at the end and inserting ''to an individual who has received an organ transplant''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this Act.

SEC. 536. BUDGET PROVISIONS.

(a) INAPPLICABILITY OF SUNSET.—The provisions of section 601(a) shall not apply to the provisions of, and amendments made by, this subtitle.

(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 and 2004, the following percentages shall be substituted for such years:

(1) For 2003, 38.6%.

(2) For 2004, 37.6%.

SA 648. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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.

SA 649. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place insert the following:

SEC. . CITRUS CANKER TREE RELIEF.

(a) RATABLE INCLUSION.

(1) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

''SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

''(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10-year period beginning with the taxable year in which the payment is received or accrued by the taxpayer. Such election shall be made on the return of tax for such taxable year in such manner as the Secretary prescribed, and, once made shall be irrevocable.

''(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00–37–4).''

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter is amended by inserting after the item relating to section 1301 the following new item:

SEC. 1302. RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.''.

(b) EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (1) and by inserting after subsection (j) the following new subsection:

''(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause reads: '4 years after close of the first taxable year in which any part of the gain upon conversion is realized, or such additional period after the close of such taxable year as determined appropriate by the Secretary on a regional basis if a State or Federal plant health authority determines with respect to such region that the land on which such trees grew is not free from the bacteria that causes citrus tree canker'.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SA 650. Mr. KENNEDY (for himself, Mr. FEINGOLD, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I) approved by the Food and Drug Administration;

''(II) authorized for marketing by the European Commission;

''(III) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(IV) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used.

''(iii) INTELLECTUAL PROPERTY PROTECTIONS.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, at the lowest possible price may include any product in compliance with—

''(I) the intellectual property laws of the country where the product is manufactured;

''(II) the intellectual property laws of the country where the product will be used; and

''(III) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iv) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(v) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

SA 651. Mr. SCHUMER (for himself, Mr. DEWINE, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1054, to

provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. ___. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—

(1) IN GENERAL.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(g) EXPANSION OF DESIGNATED AREAS.—

''(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

''(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

''(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

''(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

''(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

''(B) AREA.—An area is described in this subparagraph if—

''(i) the area is adjacent to at least 1 other area designated as a renewal community,

''(ii) the area has a population less than the population required under subsection (c)(2)(C), and

''(a) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or (b) the area contains a population of less than 100 people.

''(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

(b) CHANGE OF TOP INCOME RATE.—

(1) IN GENERAL.—The table in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001), as amended by section 102 of this Act, is amended by striking ''35.0%'' in the last column and inserting ''37.6%''.

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

(3) APPLICATION OF EGTRRA.—The amendment made by this subsection shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 652. Mrs. CLINTON (for herself and Mrs. BOXER) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes: as follows:

On page 23, line 24, insert before the semicolon the following: '', including the pursuit of sexual relations with adolescent girls''.

On page 24, strike lines 2 through 4, and insert the following: ''developed to address the access of women and adolescent girls to employment opportunities, income, education and training, productive resources, and microfinance programs;''.

On page 27, strike lines 19 through 23, and insert the following:

(W) An analysis of strategies to reduce deaths from cervical cancer caused by high risk strains of human papillomavirus in women over 30 living in sub-Saharan Africa.

(X) A description of a comprehensive 5-year global AIDS plan that shall be developed by the President to address issue effecting, and promote specific strategies to overcome, the extreme vulnerability of adolescent girls to HIV infection, including self esteem, access to education, safe employment and livelihood opportunities, pressures to marry at an early age and bear children, and norms that do not allow for safe and supportive family life and marriages.

(Y) A description of the programs, and the number of women and girls reached through these programs—

(i) to increase women's access to currently available prevention technologies and the steps taken to increase the availability of such technologies;

(ii) that provide prevention education and training for women and girls;

(iii) addressing violence and coercion; and

(iv) increasing access to treatment.

(Z) A description of the progress made on developing a safe, effective, and user-friendly microbicide.

On page 51, line 8, strike ''and''.

On page 51, line 12, strike the period and insert a semicolon.

On page 51, between lines 12 and 13, insert the following:

''(I) assistance for programs to dramatically increase women's access to currently available female-controlled prevention technologies and to microbicides when these become available, and for the training and skills needed to use these methods effectively;

''(J) assistance for research to develop safe, effective, and usable microbicides;

''(K) assistance for programs to provide comprehensive education for women and girls, including health education that emphasizes skills building on negotiation and the prevention of sexually transmitted infections and other related reproductive health risks and strategies that emphasize the delay of sexual debut;

''(L) assistance for strategies to prevent and address gender-based violence and sexual coercion of women and minors;

''(M) assistance to reduce the vulnerability of HIV/AIDS for women, young people, and children who are refugees or internally displaced persons; and

''(N) assistance for community-based strategies to reduce the stigma faced by women affected by HIV and AIDS.

On page 52, line 3, strike ''; and'' and insert a semicolon.

On page 52, line 10, strike the period and insert a semicolon.

On page 52, between lines 10 and 11, insert the following:

''(D) assistance for programs that promote equitable access to treatment and care for all women, by—

''(i) reducing economic and social barriers faced disproportionately by women;

''(ii) directly increase women's access to affordable drugs; and

''(iii) providing adequate pre- and post-natal care to pregnant women and mothers infected with HIV or living with AIDS to prevent an increase in the number of AIDS orphans; and

''(E) assistance to increase resources for households headed by females caring for AIDS orphans.

On page 81, after line 24, add the following:

(9) At the United Nations Special Session on HIV/AIDS in June 2001, the United States also committed itself to the specific goals with respect to reducing HIV prevalence among youth, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

SA 653. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 15, line 18, insert '', plus 50 percent of the aggregate cost not otherwise taken into account for such taxable year for section 179 property placed in service after the date of the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, and before January 1, 2005'' after ''$75,000''.

On page 19, line 13, strike ''2007'' and insert ''2010''.

On page 26, line 19, strike ''2007'' and insert ''2010''.

On page 26, line 22, strike ''2007'' and insert ''2010''.

SA 654. Mr. BINGAMAN (for himself, Mr. ENZI, Mrs. LINCOLN, Mr. SMITH, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

At the end of subtitle F of title III, add the following:

SEC. ___. MEDICAID DSH ALLOTMENTS.

(a) TEMPORARY INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(A) by striking ''In the case of'' and inserting the following:

''(A) IN GENERAL.—In the case of''; and

(B) by adding at the end the following:

''(B) TEMPORARY INCREASE IN FLOOR FOR FISCAL YEAR 2004.—During the period that begins on October 1, 2003, and ends on September 30, 2004, subparagraph (A) shall be applied—

''(i) by substituting 'fiscal year 2002' for 'fiscal year 1999';

''(iii) by substituting 'Centers for Medicare & Medicaid Services' for 'Health Care Financing Administration';

''(ii) by substituting 'August 31, 2003' for 'August 31, 2000';

''(iv) by substituting '3 percent' for '1 percent' each place it appears;

''(v) by substituting 'fiscal year 2004' for 'fiscal year 2001'; and

''(vi) without regard to the second sentence.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2003, and apply to DSH allotments under title XIX of the Social Security Act only with respect to fiscal year 2004.

(b) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

''(6) ALLOTMENT ADJUSTMENT FOR CERTAIN STATES.—

''(A) TENNESSEE.—Only with respect to fiscal year 2004, if the statewide waiver approved under section 1115 for the State of Tennessee with respect to the requirements of this title (as in effect on the date of enactment of this paragraph) is revoked or terminated, the Secretary shall—

''(i) permit the State of Tennessee to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

''(ii) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 that provides for the maximum amount (permitted consistent with paragraph (3)(B)(ii)) that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

''(B) HAWAII.—The Secretary shall compute a DSH allotment for the State of Hawaii for each of fiscal year 2004 in the same manner as DSH allotments are determined with respect to those States to which paragraph (5) applies (but without regard to the requirement under such paragraph that total expenditures under the State plan for disproportionate share hospital adjustments for any fiscal year exceeds 0).''.

(2) TREATMENT OF INSTITUTIONS FOR MENTAL DISEASES.—Section 1923(h)(1) of the Social Security Act (42 U.S.C. 1396r–4(h)(1)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''Payment'' and inserting ''Subject to paragraph (3), payment''; and

(B) by adding at the end the following:

''(3) SPECIAL RULE.—The limitation of paragraph (1) shall not apply in the case of Tennessee with respect to fiscal year 2004 in the case of a revocation or termination of its statewide waiver described in subsection (f)(6)(A).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if enacted on October 1, 2002.

SA 655. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. ___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 656. Mr. DASCHLE proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike all after the enacting clause up to subtitle D and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Jobs, Opportunity, and Prosperity Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

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Sec. 101. Tax credit for every working American.

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TITLE I—TAX CREDIT FOR EVERY WORKING AMERICAN

SEC. 101. TAX CREDIT FOR EVERY WORKING AMERICAN.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to each eligible taxpayer an amount equal to 10 percent of the eligible portion of the taxpayer's adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for a taxable year beginning in 2002.

(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term ''eligible taxpayer'' means any individual other than—

(1) any estate or trust,

(2) any nonresident alien, or

(3) any individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year beginning in 2003.

(c) ELIGIBLE PORTION.—For purposes of this section—

(1) IN GENERAL.—With respect to each eligible taxpayer, the eligible portion shall be equal to the sum of—

(A) $3,000 ($6,000 in the case of a taxpayer filing a joint return under section 6013 of such Code), plus

(B) $3,000 for each qualifying child of the taxpayer, not to exceed $6,000.

(2) QUALIFYING CHILD.—The term ''qualifying child'' has the meaning given such term by section 24(c) of such Code.

(d) REMITTANCE OF PAYMENT.—The Secretary of the Treasury shall remit the payment described in subsection (a) to the taxpayer as soon as practicable after the date of the enactment of this section.

TITLE II—CHILD TAX CREDIT

SEC. 201. ACCELERATION OF INCREASE IN, AND REFUNDABILITY OF, CHILD TAX CREDIT.

(a) ACCELERATION OF INCREASE IN CREDIT.—The table contained in section 24(a)(2) (relating to per child amount) is amended to read as follows:

''In the case of any taxable year beginning in—	**The per child amount is—**
2003	$ 700
2004, 2005, 2006, 2007, 2008, or 2009	800
2010 or thereafter	1,000.''.

(b) EXPANSION OF CREDIT REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(c) ADVANCE PAYMENT OF PORTION OF INCREASED CREDIT IN 2003.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end the following new section:

''SEC. 6429. ADVANCE PAYMENT OF PORTION OF INCREASED CHILD CREDIT FOR 2003.

''(a) IN GENERAL.—Each taxpayer who claimed a credit under section 24 on the return for the taxpayer's first taxable year beginning in 2002 shall be treated as having made a payment against the tax imposed by chapter 1 for such taxable year in an amount equal to the child tax credit refund amount (if any) for such taxable year.

''(b) CHILD TAX CREDIT REFUND AMOUNT.—For purposes of this section, the child tax credit refund amount is the amount by which the aggregate credits allowed under part IV of subchapter A of chapter 1 for such first taxable year would have been increased if—

''(1) the per child amount under section 24(a)(2) for such year were $700,

''(2) only qualifying children (as defined in section 24(c)) of the taxpayer for such year who had not attained age 17 as of December 31, 2003, were taken into account, and

''(3) section 24(d)(1)(B)(ii) did not apply.

''(c) TIMING OF PAYMENTS.—In the case of any overpayment attributable to this section, the Secretary shall, subject to the provisions of this title, refund or credit such overpayment as rapidly as possible and, to the extent practicable, before October 1, 2003. No refund or credit shall be made or allowed under this section after December 31, 2003.

''(d) COORDINATION WITH CHILD TAX CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this subsection and section 26) be allowed under section 24 for the taxpayer's first taxable year beginning in 2003 shall be reduced (but not below zero) by the payments made to the taxpayer under this section. Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a payment under this section with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return.

''(e) NO INTEREST.—No interest shall be allowed on any overpayment attributable to this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

''Sec. 6429. Advance payment of portion of increased child credit for 2003.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

TITLE III—MARRIAGE PENALTY RELIEF

SEC. 301. ACCELERATION OF MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(b)(2)(B) (relating to joint returns) is amended by striking '''increased by—'' and all that follows and inserting ''increased by $3,000.''.

(b) INFLATION ADJUSTMENT.—Clause (ii) of section 32(j)(1)(B) (relating to inflation adjustments) is amended to read as follows:

''(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(c) CONFORMING AMENDMENT.—Section 303(i)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''2004'' and inserting ''2003''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (c) shall take effect on January 1, 2003.

SEC. 302. ACCELERATION OF INCREASE IN STANDARD DEDUCTION FOR MARRIED TAXPAYERS FILING JOINT RETURNS.

(a) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

''(i) a joint return, or

''(ii) a surviving spouse (as defined in section 2(a)),

''(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

''(C) $3,000 in any other case.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 63(c)(4) is amended by striking ''(2)(D)'' each place it occurs and inserting ''(2)(C)''.

(2) Section 63(c) is amended by striking paragraph (7).

(3) 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.

TITLE IV—BUSINESS TAX CUT

SEC. 401. SMALL BUSINESS TAX CREDIT FOR 50 PERCENT OF HEALTH PREMIUMS.

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

''SEC. 45G. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to—

''(1) 50 percent in the case of an employer with less than 26 qualified employees,

''(2) 40 percent in the case of an employer with more than 25 but less than 36 qualified employees, and

''(3) 30 percent in the case of an employer with more than 35 but less than 51 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed the maximum employer contribution for self-only coverage or family coverage (as applicable) determined under section 8906(a) of title 5, United States Code, for the calendar year in which such taxable year begins.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4)) to all qualified employees of the employer.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of not less than 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under clause (i) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by paragraph (1) of section 9832(b) (determined by disregarding the last sentence of paragraph (2) of such section).

''(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of an employer who, with respect to any period,

is not provided health insurance coverage under—

''(A) a health plan of the employee's spouse,

''(B) title XVIII, XIX, or XXI of the Social Security Act,

''(C) chapter 17 of title 38, United States Code,

''(D) chapter 55 of title 10, United States Code,

''(E) chapter 89 of title 5, United States Code, or

''(F) any other provision of law.

''(4) EMPLOYEE—The term 'employee'—

''(A) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000 of compensation from the employer during such year,

''(B) does not include an employee within the meaning of section 401(c)(1), and

''(C) includes a leased employee within the meaning of section 414(n).

''(5) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the employee health insurance expenses credit determined under section 45G.''.

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR EMPLOYEE HEALTH INSURANCE CREDIT.—

''(A) IN GENERAL.—In the case of the employee health insurance credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the employee health insurance credit).

''(B) EMPLOYEE HEALTH INSURANCE CREDIT.—For purposes of this subsection, the term 'employee health insurance credit' means the credit allowable under subsection (a) by reason of section 45G(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the employee health insurance credit)''.

(d) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Employee health insurance expenses.''.

(f) EMPLOYER OUTREACH.—The Internal Revenue Service shall, in conjunction with the Small Business Administration, develop materials and implement an educational program to ensure that business personnel are aware of—

(1) the eligibility criteria for the tax credit provided under section 45G of the Internal Revenue Code of 1986 (as added by this section),

(2) the methods to be used in calculating such credit,

(3) the documentation needed in order to claim such credit, and

(4) any available health plan purchasing alliances established under title II,

so that the maximum number of eligible businesses may claim the tax credit.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 402. INCREASED BONUS DEPRECIATION.

(a) IN GENERAL.—Subsection (k) of section 168 (relating to accelerated cost recovery system) is amended—

(1) by adding at the end of paragraph (1) the following new flush sentence:

''In the case of any qualified property acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2002, subparagraph (A) shall be applied by substituting '50 percent' for '30 percent'.'',

(2) by striking ''September 11, 2004'' each place it appears and inserting ''January 1, 2004'',

(3) by striking ''SEPTEMBER 11, 2004'' and inserting ''JANUARY 1, 2004'', and

(4) by striking ''PRE-SEPTEMBER 11, 2004'' and inserting ''PRE-JANUARY 1, 2004''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for clause (i) of section 1400L(b)(2)(C) of the Internal Revenue Code of 1986 is amended by striking ''30 PERCENT ADDITIONAL'' and inserting ''ADDITIONAL''.

(2) Section 1400L(b)(2)(D) of such Code is amended by inserting ''(as in effect on the day after the date of the enactment of this section)'' after ''section 168(k)(2)(D)''.

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

SEC. 403. MODIFICATIONS TO EXPENSING UNDER SECTION 179.

(a) INCREASE OF AMOUNT WHICH MAY BE EXPENSED.—

(1) 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 ($75,000 in the case of any taxable year beginning in 2003).''

(2) INCREASE IN PHASEOUT THRESHOLD.—Paragraph (2) of section 179(b) is amended by striking ''$200,000'' and inserting ''$200,000 ($325,000 in the case of any taxable year beginning in 2003)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2002.

SEC. 404. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service,

after December 31, 2002.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2002, by a person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next

generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

''(A) a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by one or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2002, and before January 1, 2004.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means an individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in

dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following:

''Sec. 48A. Broadband internet access credit.''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17) and (24) of section 48A(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48A—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) PENALTIES FOR SUBMISSION OF FALSE INFORMATION.—The Secretary of the Treasury shall designate appropriate penalties for knowingly submitting false information on the form described in subparagraph (A)(i).

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

TITLE V—STATE FISCAL RELIEF

SEC. 501. GENERAL REVENUE SHARING WITH STATES AND THEIR LOCAL GOVERNMENTS.

(a) APPROPRIATION.—There is authorized to be appropriated and is appropriated to carry out this section $20,000,000,000 for fiscal year 2003.

(b) ALLOTMENTS.—From the amount appropriated under subsection (a) for fiscal year 2003, the Secretary of the Treasury shall, as soon as practicable after the date of the enactment of this Act, allot to each of the States as follows, except that no State shall receive less than ½ of 1 percent of such amount:

(1) STATE LEVEL.—$16,000,000,000 shall be allotted among such States on the basis of the relative population of each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) LOCAL GOVERNMENT LEVEL.—$4,000,000,000 shall be allotted among such States as determined under paragraph (1) for distribution to the various units of general local government within such States on the basis of the relative population of each such unit within each such State, as determined by the Secretary on the basis of the most recent satisfactory data.

(c) DEFINITIONS.—For purposes of this section—

(1) STATE.—The term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 502. TEMPORARY STATE FMAP RELIEF.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (e), if the FMAP determined without regard to this subsection for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(c) GENERAL 4.95 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND EACH CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 4.95 percentage points.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (f), with respect to the third and

fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 9.90 percent of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) the percentage described in the third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (relating to amounts expended as medical assistance for services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act)).

(f) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (c) or an increase in a cap amount under subsection (d) in the first calendar quarter (and any subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on July 1, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of October 1, 2004, this section is repealed.

TITLE VI—UNEMPLOYMENT COMPENSATION

Subtitle A—Extension and Enhancement of Temporary Extended Unemployment Compensation

SEC. 601. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3), is amended—

(1) in subsection (a)(2), by striking ''before June 1'' and inserting ''on or before November 30'';

(2) in subsection (b)(1), by striking ''May 31, 2003'' and inserting ''November 30, 2003'';

(3) in subsection (b)(2)—

(A) in the heading, by striking ''MAY 31, 2003'' and inserting ''NOVEMBER 30, 2003''; and

(B) by striking ''May 31, 2003'' and inserting ''November 30, 2003''; and

(4) in subsection (b)(3), by striking ''August 30, 2003'' and inserting ''February 28, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 602. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(A) in subparagraph (A), by striking ''50 percent'' and inserting ''100 percent''; and

(B) in subparagraph (B), by striking ''13 times'' and inserting ''26 times''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 601(a), is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation payable by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 (117 Stat. 3) and section 601(a)(4) and as redesignated by paragraph (2), is amended by striking ''February 28, 2004'' and inserting ''May 29, 2004''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED ALL TEUC AND TEUC–X AMOUNTS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual whose temporary extended unemployment account has, prior to the date of enactment of this Act, been both augmented under such section 203(c) and exhausted of all amounts by which it was so augmented, the determination shall be made as of such date of enactment.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

(5) NO EFFECT ON PROVISIONS RELATED TO DISPLACED AIRLINE RELATED WORKERS.—The amendments made by this section and section 601 shall have no effect on the provisions of section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11).

Subtitle B—Temporary Enhanced Regular Unemployment Compensation

SEC. 611. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Subject to paragraph (3), any agreement under subsection (a) shall provide that the State agency of the State,

in addition to any amounts of regular compensation to which an individual may be entitled under the State law, shall make payments of temporary enhanced regular unemployment compensation to an individual in an amount and to the extent that the individual would be entitled to regular compensation if the State law were applied with the modifications described in paragraph (2).

(2) MODIFICATIONS DESCRIBED.—The modifications described in this paragraph are as follows:

(A) In the case of an individual who is not eligible for regular compensation under the State law because of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for compensation shall be determined by applying a base period ending at the close of the most recently completed calendar quarter.

(B) In the case of an individual who is not eligible for regular compensation under the State law because such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, less than full-time work, then compensation shall not be denied by such State to an otherwise eligible individual who seeks less than full-time work or fails to accept full-time work.

(3) REDUCTION OF AMOUNTS OF REGULAR COMPENSATION AVAILABLE FOR INDIVIDUALS WHO SOUGHT PART-TIME WORK OR FAILED TO ACCEPT FULL-TIME WORK.—Any agreement under subsection (a) shall provide that the State agency of the State shall reduce the amount of regular compensation available to an individual who has received temporary enhanced regular unemployment compensation as a result of the application of the modification described in paragraph (2)(B) by the amount of such temporary enhanced regular unemployment compensation.

(c) COORDINATION RULE.—The modifications described in subsection (b)(2) shall also apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

SEC. 612. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced regular unemployment compensation; and

(2) 100 percent of any regular compensation which is paid to individuals by such State by reason of the fact that its State law contains provisions comparable to the modifications described in subparagraphs (A) and (B) of section 611(b)(2), but only to the extent that those amounts would, if such amounts were instead payable by virtue of the State law's being deemed to be so modified pursuant to section 611(b)(1), have been reimbursable under paragraph (1).

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 613. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account (as so established), or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and certified by the Secretary to the Secretary of the Treasury.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 614. DEFINITIONS.

For purposes of this title, the terms ''compensation'', ''base period'', ''regular compensation'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 615. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before July 1, 2004.

(b) PHASE-OUT OF TERUC.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has established eligibility for temporary enhanced regular unemployment compensation, but who has not exhausted all rights to such compensation, as of the last day of the week ending before July 1, 2004, such compensation shall continue to be payable to such individual for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after December 31, 2004.

SEC. 616. COORDINATION WITH THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—The Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended—

(1) in section 202(b)(1), by inserting '', and who have exhausted all rights to temporary enhanced regular unemployment compensation'' before the semicolon at the end;

(2) in section 202(b)(2), by inserting '', temporary enhanced regular unemployment compensation,'' after ''regular compensation'';

(3) in section 202(c), by inserting ''(or, as the case may be, such individual's rights to temporary enhanced regular unemployment compensation)'' after ''State law'' in the matter preceding paragraph (1);

(4) in section 202(c)(1), by inserting ''and no payments of temporary enhanced regular unemployment compensation can be made'' after ''under such law'';

(5) in section 202(d)(1), by inserting ''or the amount of any temporary enhanced regular unemployment compensation (including dependents' allowances) payable to such individual for such a week,'' after ''total unemployment'';

(6) in section 202(d)(2)(A), by inserting '', or, as the case may be, to temporary enhanced regular unemployment compensation,'' after ''State law'';

(7) in section 203(b)(1)(A), by inserting ''plus the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''under such law''; and

(8) in section 203(b)(2), by inserting ''or the amount of any temporary enhanced regular unemployment compensation payable to such individual for such week,'' after ''total unemployment''.

(b) AMOUNT OF TEUC OFFSET BY AMOUNT OF TERUC.—Section 203(b)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

''minus the number of weeks in which the individual was entitled to temporary enhanced regular unemployment compensation as a result of the application of the modification described in section 611(b)(2)(A) of the Jobs, Opportunity, and Prosperity Act of 2003 (relating to the alternative base period) multiplied by the individual's average weekly benefit amount for the benefit year.''.

(c) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION DEFINED.—Section 207 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

''SEC. 207. DEFINITIONS.

''In this title:

''(1) GENERAL DEFINITIONS.—The terms 'compensation', 'regular compensation', 'extended compensation', 'additional compensation', 'benefit year', 'base period', 'State', 'State agency', 'State law', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) TEMPORARY ENHANCED REGULAR UNEMPLOYMENT COMPENSATION.—The term 'temporary enhanced regular unemployment

compensation' means temporary enhanced regular unemployment benefits payable under title II of the Jobs, Opportunity, and Prosperity Act of 2003.''.

TITLE V—LONG-TERM FISCAL DISCIPLINE

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—A lessor of tangible property subject to a lease shall be treated as satisfying the requirements of paragraph (1)(B)(ii) with respect to the leased property if such lease satisfies such requirements as provided by the Secretary.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 702. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be

consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 703. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 704. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 705. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 706. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 707. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

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

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in

cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 708. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 709. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 710. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 711. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 712. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 713. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 714. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

SEC. 715. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 717. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2002, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 721. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''.

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: ''The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''..

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

Subtitle C—Provisions to Discourage Corporate Expatriation

SEC. 731. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the

extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

''(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

''(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

''(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

''(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

''(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

''(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

''(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

''(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

''(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

''(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

''(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

''(E) TAX COURT REVIEW.—

''(i) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by an acquired entity receiving a notice under subparagraph (B)(iii) to determine whether the issuance of the notice was an abuse of discretion, but only if the action is brought within 30 days after the date of the mailing (determined under rules similar to section 6213) of the notice.

''(ii) COURT ACTION.—The Tax Court shall issue its decision within 30 days after the filing of the action under clause (i) and may order the Secretary to issue a notice described in subparagraph (B)(ii).

''(iii) REVIEW.—An order of the Tax Court under this subparagraph shall be reviewable in the same manner as any other decision of the Tax Court.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking ''and'' at the end of subparagraph (C), by inserting ''and'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,''.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking ''or (D)'' and inserting '', (D), or (E)''.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(e) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 732. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, and

''(2) any specified stock compensation which is sold, exchanged, or distributed during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation or any member of the expanded affiliated group which includes such corporation, or

''(B) would be subject to such requirements if such corporation or member were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 733. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle D—Imposition of Customs User Fees

SEC. 741. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2013''.

Subtitle E—Budget Points of Order

SEC. 751. EXTENSION OF PAY-AS-YOU-GO ENFORCEMENT IN THE SENATE.

Section 2 of Senate Resolution 304 (107th Congress) is amended—

(1) in subsection (a)(1), by striking ''April 15, 2003'' and inserting ''the end of the 108th Congress''; and

(2) in subsection (b)(1)(B), by striking ''April 15, 2003'' and inserting ''at the end of the 108th Congress''.

SEC. 752. APPLICATION OF EGTRRA SUNSET TO VARIOUS TITLES.

Each amendment made by titles II and III shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SEC. 753. SUNSET.

(a) IN GENERAL.—Except as otherwise provided, the provisions of, and amendments made, by this Act 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.

(b) EXCEPTIONS.—Subsection (a) shall not apply to this title and titles II and III.

SA 657. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. __. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: ''For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

SA 658. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

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

SEC. . EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from sites for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance.''.

(b) CONFORMING AMENDMENT.—Section 4041(l) is amended by striking ''(f) or (g)'' and inserting ''(f), (g), or (i)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after June 30, 1997, and before August 1, 2005.

SA 659. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. . MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) IN GENERAL.—Subsection (g) of section 1400L is amended to read as follows:

''(g) MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

''(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

''(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' but only if substantially all of the use of the replacement property is in the City of New York, New York.''.

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

On page 19, line 13, strike ''2007'' and insert ''2008''.

SA 660. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; which was ordered to lie on the table; as follows:

On page 19, line 13, strike ''2007'' and insert ''2008''.

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

SEC. ___. TAX TREATMENT OF FOREIGN CORPORATIONS RELOCATING TO WORLD TRADE CENTER AREA.

(a) IN GENERAL.—Subchapter Y of chapter 1 (relating to New York Liberty Zone benefits) is amended by adding at the end the following new section:

''SEC. 1400M. NO ADDITIONAL CORPORATE INCOME TAXES ON FOREIGN CORPORATIONS RELOCATING HEADQUARTERS OPERATIONS TO NEW YORK LIBERTY ZONE.

''(a) GENERAL RULE.—If there is a qualified headquarters relocation of an eligible foreign corporation, any qualified headquarters activities of the corporation conducted in the New York Liberty Zone shall be treated as conducted outside the United States for purposes of determining—

''(1) the amount of any tax imposed by this chapter, or the amount of withholding tax under chapter 3, on the corporation, or

''(2) whether the corporation has a permanent establishment within the United States for purposes of any applicable income tax treaty between the United States and any foreign country.

''(b) QUALIFIED HEADQUARTERS RELOCATION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified headquarters relocation' means any relocation of an eligible foreign corporation's qualified headquarters activities to the New York Liberty Zone but only if the corporation with respect to such relocation—

''(A) before September 11, 2007, enters into a contract—

''(i) under which the corporation agrees to acquire, lease, sublease, or otherwise occupy office space located in the New York Liberty Zone for use in the conduct of the activities to be relocated, and

''(ii) which requires a substantial financial commitment or provides a substantial cancellation penalty, and

''(B) before September 11, 2009—

''(i) transfers to the New York Liberty Zone qualified headquarters activities meeting the requirements of paragraph (2), and

''(ii) locates employees in the New York Liberty Zone in accordance with the requirements of paragraph (3).

''(2) TRANSFER OF QUALIFIED HEADQUARTERS ACTIVITIES.—The requirements of this paragraph are met if the transfer of qualified headquarters activities includes at least the transfer of a substantial part of the following activities which the eligible foreign corporation was performing for members of its expanded affiliated group immediately before the requirement of paragraph (1)(A) is met:

''(A) The activities described in clause (ii) of subsection (c)(2)(A).

''(B) High-level activities described in clause (iii) of subsection (c)(2)(A).

''(C) The activities described in clause (iv) of subsection (c)(2)(A).

''(3) TRANSFER OF EMPLOYEES.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the eligible foreign corporation locates in the New York Liberty Zone a number of employees equal to or greater than the lesser of—

''(i) 200 employees, or

''(ii) the greater of—

''(I) 10 percent of the employees of the corporation and the members of its expanded affiliated group for which the corporation performs headquarters activities (as of the date the requirements of paragraph (1)(B) are first met), or

''(II) 50 employees.

''(B) HIGH-LEVEL EMPLOYEES.—The requirements of this paragraph shall be treated as met only if the eligible foreign corporation locates in the New York Liberty Zone at least—

''(i) 50 percent of the senior officers of the corporation, and

''(ii) 50 percent of the senior business development personnel of the corporation.

''(C) CURRENT U.S. EMPLOYEES NOT COUNTED.—For purposes of determining whether the requirements of this paragraph are first met, and continue to be met during the 2-year period after the date on which the requirements are first met, there shall not be taken into account any individual who was an employee of the eligible foreign corporation or any member of its expanded affiliated group who was located in the United States at any time during the 1-year period ending on the later of—

''(i) the date the requirements of subsection (b)(1)(B) are first met, or

''(ii) the date the employee is first located in the New York Liberty Zone.

Any period during which an individual was located in the New York Liberty Zone solely as part of a qualified headquarters relocation

shall not be taken into account for purposes of the preceding sentence.

''(D) LOCATED.—An employee shall be treated as located in the New York Liberty Zone or the United States for any period if the services performed by the employee during the period are performed primarily in the New York Liberty Zone or the United States, respectively.

''(c) ELIGIBLE FOREIGN CORPORATION; QUALIFIED HEADQUARTERS ACTIVITIES.—For purposes of this section—

''(1) ELIGIBLE FOREIGN CORPORATION.—The term 'eligible foreign corporation' means a foreign corporation which—

''(A) performs qualified headquarters activities for 1 or more members of an expanded affiliated group including such corporation, and

''(B) agrees to furnish to the Secretary (at such time and in such manner as the Secretary may prescribe) such information as the Secretary may require to carry out this section, including the gross revenue of the corporation derived from qualified headquarters activities.

''(2) QUALIFIED HEADQUARTERS ACTIVITIES.—

''(A) IN GENERAL.—The term 'qualified headquarters activities' means, with respect to any eligible foreign corporation—

''(i) the ownership and management of any member of the expanded affiliated group of which it is a member,

''(ii) the conduct of any treasury function of a member of the expanded affiliated group of which it is a member, including the borrowing of funds, financing of members of the group and related entities, and investment of excess corporate funds, but not including the taking of deposits from, or the making of loans to, the public,

''(iii) marketing and branding functions,

''(iv) senior business management and development, and

''(v) any other activity incidental to any activity described in clauses (i) through (iv).

''(B) CERTAIN ACTIVITIES PREVIOUSLY CONDUCTED IN U.S. NOT INCLUDED.—

''(i) IN GENERAL.—Such term shall not include any activity which the eligible foreign corporation or any member of its expanded affiliated group engaged in through an office or fixed place of business in the United States at any time during the 3-year period ending on the date the requirements of subsection (b)(1)(B) are first met.

''(ii) EXCEPTION FOR RELOCATION ACTIVITIES.—The conduct of any activity as part of a qualified headquarters relocation shall not be taken into account in determining whether clause (i) applies to the activity.

''(iii) EXCLUSION CEASES TO APPLY IF ACTIVITY NOT CONDUCTED IN U.S. FOR 5 YEARS.—

''(I) IN GENERAL.—Clause (i) shall not apply to any activity conducted in the New York Liberty Zone during the taxable year described in subclause (II) or any succeeding taxable year.

''(II) APPLICABLE TAXABLE YEAR.—A taxable year is described in this subclause with respect to any activity if such year is the first taxable year in which ends a consecutive 5-year period which begins after the date the requirements of subsection (b)(1)(B) are first met and during which the eligible foreign corporation or any member of its expanded affiliated group did not engage in such activity through an office or fixed place of business within the United States.

''(iv) SPECIAL RULES FOR ACQUIRED ENTITIES.—

''(I) IN GENERAL.—If an acquired entity engaged in an activity described in subparagraph (A) through an office or fixed place of business in the United States (other than an activity which was a qualified headquarters activity of the acquired entity for purposes of subsection (a)) at any time during the 1-year period preceding the first date on which the acquired entity became a member of the expanded affiliated group of the eligible foreign corporation, such activity shall be treated as an activity engaged in by the eligible foreign corporation on the day preceding the first day the requirements of subsection (b)(1)(B) are met.

''(II) ACTIVITIES NOT CONDUCTED IN U.S FOR 5 YEARS.—If subclause (I) applies to an activity, clause (iii) shall be applied to the activity by substituting the date the acquired entity became a member of the expanded affiliated group of the eligible foreign corporation for the first day the requirements of subsection (b)(1)(B) are met.

''(III) ACQUIRED ENTITY.—The term 'acquired entity' means any corporation or partnership which became a member of the eligible foreign corporation's expanded affiliated group after the first date the requirements of subsection (b)(1)(B) are met.

''(v) PREDECESSOR ENTITIES.—For purposes of this subparagraph, any activity conducted by a predecessor or related person with respect to a member of an expanded affiliated group shall be treated as conducted by the member.

''(d) TERMINATION AND RECAPTURE OF TAX BENEFITS.—

''(1) IN GENERAL.—This section shall not apply to any qualified headquarters activities of an eligible foreign corporation for any taxable year if the corporation at any time during the taxable year or any preceding taxable year fails to—

''(A) conduct the qualified headquarters activities described in subsection (b)(2), or

''(B) meet the requirements of subsection (b)(3).

The Secretary may waive the application of this paragraph in the case of a de minimis or inadvertent failure which is corrected within a reasonable period of time after discovery.

''(2) RECAPTURE OF TAX ON CERTAIN ELIGIBLE FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—In addition to any tax imposed by this chapter for the first taxable year during which this section does not apply to an eligible foreign corporation by reason of paragraph (1), there is hereby imposed on the eligible foreign corporation a tax equal to the recapture amount described in subparagraph (B).

''(B) RECAPTURE AMOUNT.—

''(i) IN GENERAL.—The recapture amount described in this subparagraph shall be the sum of the amounts determined for each of the 4 taxable years preceding the first taxable year to which this section does not apply by reason of paragraph (1) by multiplying the qualified tax benefits for each such year by the following recapture percentage:

''In the case of—	The recapture percentage is—
The immediately preceding taxable year.	80%
The second preceding taxable year	60%
The third preceding taxable year ...	40%
The fourth preceding taxable year	20%.

''(ii) QUALIFIED TAX BENEFITS.—For purposes of this subparagraph, the term 'qualified tax benefits' means, with respect to any taxable year described in clause (i), an amount equal to the excess (if any) of—

''(I) the amount of the tax liability which a foreign corporation would have had for the taxable year under this chapter and chapter 3 if this section had not applied, over

''(II) the amount of such tax liability for such corporation for such taxable year without regard to this paragraph.

''(C) INTEREST.—

''(i) IN GENERAL.—In addition to the tax imposed by subparagraph (A), an eligible foreign corporation shall pay interest on the recapture amount.

''(ii) CALCULATION OF INTEREST.—The amount of interest under clause (i) shall be determined—

''(I) at the underpayment rate specified in section 6621,

''(II) separately for each taxable year, and

''(III) for the period beginning on the due date for the tax return of the corporation for such taxable year (without regard to extensions) and ending on the due date for the tax return of the corporation for the first taxable year to which this section ceases to apply.

''(e) EXPANDED AFFILIATED GROUP.—For purposes of this section—

''(1) IN GENERAL.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to paragraphs (2) and (3) of section 1504(b), except that section 1504(a) shall be applied by substituting '50 percent' for '80 percent' each place it appears.

''(2) PARTNERSHIPS.—Such term includes any partnership in which the eligible foreign corporation or its expanded affiliated group owns directly or indirectly more than 50 percent of the capital or profit interests.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) which exclude from qualified headquarters activities any activities of a type not ordinarily performed by a corporation performing headquarters activities,

''(2) to apply this section in the case of eligible foreign corporations that conduct activities in the United States other than qualified headquarters activities, and

''(3) which prevent qualified foreign corporations from expanding the benefits available by reason of this paragraph through intercompany transactions.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter Y of chapter 1 is amended by adding at the end the following new item:

''Sec. 1400M. No additional corporate income taxes on foreign corporations relocating headquarters operations to New York Liberty Zone.''

SA 661. Mr. MCCAIN (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, insert the following:

TITLE VI—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 600. SHORT TITLE.

This title may be cited as the ''Armed Forces Tax Fairness Act of 2003''.

SEC. 601. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property

shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 602. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 603. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'', and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 604. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting '', or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 605. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 606. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

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

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 607. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

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

SEC. 608. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 609. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

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

SEC. 610. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting ''**, ASTRONAUTS,**'' after ''**FORCES**''.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting '', **DEATHS OF ASTRONAUTS**,'' after ''**FORCES**''.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

SA 662. Mr. EDWARDS (for himself, Mr. MCCAIN, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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.

SA 663. Mr. BREAUX proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike Sec. 350;

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

SA 664. Mr. NICKLES (for himself, 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, Mr. THOMAS, Mr. DOMENICI, and Mr. ALLARD) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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''.

SA 665. Mr. REID (for himself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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

SEC. ___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3)(A).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, and on or before December 31, 2004.

SA 666. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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 for the 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.

SA 667. Mrs. BOXER proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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.

SA 668. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; 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.

SA 669. Mr. DURBIN proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place, insert the following:

SEC. ___. HEALTH CARE COVERAGE FOR CAREGIVERS

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—HEALTH CARE COVERAGE FOR CAREGIVERS

''SEC. 2901. PURPOSE; STATE PLANS.

''(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to—

''(1) expand the availability of health insurance coverage to those individuals involved in providing care for children, the disabled, and the elderly; and

(2) provide incentives to attract and retain quality caregivers.

''(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2905 unless the State has submitted to the Secretary under section 2906 a plan that—

''(1) sets forth how the State intends to use the funds provided under this title to provide health insurance or health care assistance through title XIX of the Social Security Act, or other State or local health care assistance or insurance programs, or to provide assistance through the Federal Employees Health Benefits Program if permitted under law, to eligible caregivers consistent with the provisions of this title, and

''(2) has been approved under section 2906.

''(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 2904.

''(d) EFFECTIVE DATE.—No State is eligible for payments under section 2905 for health care assistance for coverage provided for periods beginning before October 1, 2003.

''SEC. 2902. GENERAL CONTENTS OF STATE PLAN; ELIGIBILITY; OUTREACH.

''(a) GENERAL BACKGROUND AND DESCRIPTION.—A State plan shall include a description, consistent with the requirements of this title, of—

''(1) the extent to which, and manner in which, eligible caregivers in the State, currently have creditable health coverage (as defined in section 2910(c)(2));

''(2) current State efforts to provide or obtain creditable health coverage for eligible caregivers, including the steps the State is taking to identify and enroll all such caregivers who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;

''(3) how the plan is designed to be coordinated with such efforts to increase coverage of such caregivers under creditable health coverage;

''(4) the health care assistance provided under the plan for eligible caregivers and the dependent children of such caregivers, including the proposed methods of delivery, and utilization control systems;

''(5) eligibility standards consistent with subsection (b);

''(6) outreach activities consistent with subsection (c); and

''(7) methods (including monitoring) used—

''(A) to assure the quality and appropriateness of care provided under the plan, and

''(B) to assure access to covered services, including emergency services.

''(b) GENERAL DESCRIPTION OF ELIGIBILITY STANDARDS AND METHODOLOGY.—

''(1) ELIGIBILITY STANDARDS.—

''(A) IN GENERAL.—The plan shall include a description of the standards used to determine the eligibility of caregivers for health care assistance under the plan. Such standards may include (to the extent consistent with this title) those relating to the geographic areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status (so long as any standard relating to such status does not restrict eligibility), access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

''(B) LIMITATIONS ON ELIGIBILITY STANDARDS.—Such eligibility standards—

''(i) shall, within any defined group of covered eligible caregivers, not cover such caregivers with a higher family income without covering caregivers with a lower family income, and

''(ii) may not deny eligibility based on a caregiver having a preexisting medical condition.

''(2) METHODOLOGY.—The plan shall include a description of methods of establishing and continuing eligibility and enrollment.

''(3) ELIGIBILITY SCREENING; COORDINATION WITH OTHER HEALTH COVERAGE PROGRAMS.—The plan shall include a description of procedures to be used to ensure—

''(A) through both intake and followup screening, that only eligible caregivers are furnished health care assistance under the State plan;

''(B) that eligible caregivers found through the screening to be eligible for medical assistance under the State medicaid plan under title XIX of the Social Security Act are enrolled for such assistance under such plan;

''(C) that the insurance provided under the State plan does not substitute for coverage under group health plans;

''(D) the provision of health care assistance to eligible caregivers in the State who are Indians (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))); and

''(E) coordination with other public and private programs providing creditable coverage for eligible caregivers.

''(4) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to health care assistance under a State plan.

''(c) OUTREACH AND COORDINATION.—A State plan shall include a description of the procedures to be used by the State to accomplish the following:

''(1) OUTREACH.—Outreach to caregivers likely to be eligible for health care assistance under the plan or under other public or private health coverage programs to inform such care givers of the availability of, and to assist them in enrolling in, such a program.

''(2) COORDINATION WITH OTHER HEALTH INSURANCE PROGRAMS.—Coordination of the administration of the State program under this title with other public and private health insurance programs.

''(d) PAYMENT OR PREMIUMS.—Nothing in this title shall be construed to prohibit a State from paying the eligible caregiver's share of premiums required for health care assistance provided to the caregiver under the State plan.

''SEC. 2903. COVERAGE REQUIREMENTS FOR HEALTH CARE ASSISTANCE.

''The health care assistance provided to an eligible caregiver under the plan in the form described in paragraph (1) of section 2901(a) shall consist of any of the types of coverage, the benchmark benefit packages, the categories of services, existing programs, the cost sharing requirements, and the preexisting condition limitations described in section 2103 of the Social Security Act, and shall provide coverage for the dependent children of the eligible caregiver.

''SEC. 2904. ALLOTMENTS.

''(a) APPROPRIATION.—For purpose of enabling States to provide assistance under this title, there is appropriated, out of any money in the Treasury not otherwise appropriated, $3,500,000,000 for each of fiscal years 2004 through 2011.

''(b) ALLOTMENTS TO 50 STATES AND DISTRICT OF COLUMBIA.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, reduced by the amount of allotments made under subsection (c) for such fiscal year, the Secretary shall allot to each State an amount the bears that same ratio to such available amount as the population of the State in such fiscal year bears to the total populations of all States in such fiscal year.

''(5) ADJUSTMENT FOR GEOGRAPHIC VARIATIONS IN HEALTH COSTS.—In making allotments under this subsection, the Secretary shall adjust a State's allotment based on section 2104(b)(3) of the Social Security Act to reflect the geographic variations in health costs.

''(c) ALLOTMENTS TO TERRITORIES.—

''(1) IN GENERAL.—Of the amount available for allotment under subsection (a) for a fiscal year, the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

''(2) PERCENTAGE.—The percentage specified in this paragraph for—

''(A) Puerto Rico is 91.6 percent,

''(B) Guam is 3.5 percent,

''(C) the Virgin Islands is 2.6 percent,

''(D) American Samoa is 1.2 percent, and

''(E) the Northern Mariana Islands is 1.1 percent.

''(3) COMMONWEALTHS AND TERRITORIES.—A commonwealth or territory described in this paragraph is any of the following if it has a State plan approved under this title:

''(A) Puerto Rico.

''(B) Guam.

''(C) The Virgin Islands.

''(D) American Samoa.

''(E) The Northern Mariana Islands.

''(d) 3-YEAR AVAILABILITY OF AMOUNTS ALLOTTED.—Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year; except that amounts reallotted to a State under subsection (e) shall be available for expenditure by the State through the end of the fiscal year in which they are reallotted.

''(e) PROCEDURE FOR REDISTRIBUTION OF UNUSED ALLOTMENTS.—The Secretary shall determine an appropriate procedure for redistribution of allotments from States that were provided allotments under this section for a fiscal year but that do not expend all of the amount of such allotments during the period in which such allotments are available for expenditure under subsection (d), to States that have fully expended the amount of their allotments under this section.

''SEC. 2905. PAYMENTS TO STATES.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this title, from its allotment for a fiscal year under section 2904, an amount for each quarter equal to the enhanced FMAP of expenditures in the quarter—

''(1) for health care assistance under the plan for eligible caregivers in the form of providing health benefits coverage that meets the requirements of section 2903; and

''(2) only to the extent permitted consistent with subsection (c)—

''(A) for payment for other health care assistance for such caregivers;

''(B) for expenditures for health services initiatives under the plan for improving the health of such caregivers;

''(C) for expenditures for outreach activities as provided in section 2902(c)(1) under the plan; and

''(D) for other reasonable costs incurred by the State to administer the plan.

''(b) ENHANCED FMAP.—For purposes of subsection (a), the 'enhanced FMAP', for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b) of the Social Security Act) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent.

''(c) LIMITATION ON CERTAIN PAYMENTS FOR CERTAIN EXPENDITURES.—

''(1) GENERAL LIMITATIONS.—Funds provided to a State under this title shall only be used to carry out the purposes of this title (as described in section 2901).

''(2) USE OF NON-FEDERAL FUNDS FOR STATE MATCHING REQUIREMENT.—Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a).

''(3) OFFSET OF RECEIPTS ATTRIBUTABLE TO PREMIUMS AND OTHER COST-SHARING.—For purposes of subsection (a), the amount of the expenditures under the plan shall be reduced by the amount of any premiums and other cost-sharing received by the State.

''(4) PREVENTION OF DUPLICATIVE PAYMENTS.—

''(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health care assistance provided for an eligible caregiver under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health care assistance under the plan.

''(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as otherwise provided by law, no payment shall be made to a State under this section for expenditures for health care assistance provided for an eligible caregiver under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

''(d) MAINTENANCE OF EFFORT.—

''(1) IN MEDICAID ELIGIBILITY STANDARDS.—No payment may be made under subsection (a) with respect to health care assistance

provided under a State plan if the State adopts income and resource standards and methodologies for purposes of determining a caregiver's eligibility for medical assistance under the State plan under title XIX of the Social Security Act that are more restrictive than those applied as of June 1, 1997.

''(2) IN AMOUNTS OF PAYMENT EXPENDED FOR CERTAIN STATE-FUNDED HEALTH INSURANCE PROGRAMS.—

''(A) IN GENERAL.—The amount of the allotment for a State in a fiscal year (beginning with fiscal year 2004) shall be reduced by the amount by which—

''(i) the total of the State health insurance expenditures for caregivers in the preceding fiscal year, is less than

''(ii) the total of such expenditures in fiscal year 2003.

''(B) STATE HEALTH INSURANCE EXPENDITURES FOR CAREGIVERS.—The term 'State health insurance expenditures for caregivers' means the following:

''(i) The State share of expenditures under this title.

''(ii) The State share of expenditures under title XIX of the Social Security Act that are attributable to an enhanced FMAP under section 1905(u) of such Act.

''(iii) State expenditures under health benefits coverage under an existing comprehensive State-based program.

''(e) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

''(f) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section or subsections (d) and (e) of section 2904 shall be construed as preventing a State from claiming as expenditures in the quarter expenditures that were incurred in a previous quarter.

''SEC. 2906. PROCESS FOR SUBMISSION, APPROVAL, AND AMENDMENT OF STATE PLANS.

''(a) INITIAL PLAN.—

''(1) IN GENERAL.—As a condition of receiving payment under section 2905, a State shall submit to the Secretary a State plan that meets the applicable requirements of this title.

''(2) APPROVAL.—Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

''(A) shall be approved for purposes of this title, and

''(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 2003.

''(b) PLAN AMENDMENTS.—The provisions of section 2106(b) of the Social Security Act shall apply with respect to the amendment of a State plan under this title.

''(c) DISAPPROVAL OF PLANS AND PLAN AMENDMENTS.—

''(1) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this title.

''(2) 90-DAY APPROVAL DEADLINES.—A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

''(3) CORRECTION.—In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

''(d) PROGRAM OPERATION.—

''(1) IN GENERAL.—The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this title.

''(2) VIOLATIONS.—The Secretary shall establish a process for enforcing requirements under this title. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

''(e) CONTINUED APPROVAL.—An approved State caregivers health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this title.

''SEC. 2907. STRATEGIC OBJECTIVES AND PERFORMANCE GOALS; PLAN ADMINISTRATION.

''(a) STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.—

''(1) DESCRIPTION.—A State plan shall include a description of—

''(A) the strategic objectives,

''(B) the performance goals, and

''(C) the performance measures,

the State has established for providing health care assistance to eligible caregivers under the plan and otherwise for maximizing health benefits coverage for other caregivers generally in the State.

''(2) STRATEGIC OBJECTIVES.—Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among eligible caregivers.

''(3) PERFORMANCE GOALS.—Such plan shall specify 1 or more performance goals for each such strategic objective so identified.

''(4) PERFORMANCE MEASURES.—Such plan shall describe how performance under the plan will be—

''(A) measured through objective, independently verifiable means, and

''(B) compared against performance goals, in order to determine the State's performance under this title.

''(b) RECORDS, REPORTS, AUDITS, AND EVALUATION.—

''(1) DATA COLLECTION, RECORDS, AND REPORTS.—A State plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this title.

''(2) STATE ASSESSMENT AND STUDY.—A State plan shall include a description of the State's plan for the annual assessments and reports under section 2908(a) and the evaluation required by section 2908(b).

''(3) AUDITS.—A State plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

''(c) PROGRAM DEVELOPMENT PROCESS.—A State plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

''(d) PROGRAM BUDGET.—A State plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

''(e) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this title in the same manner as they apply to a State under title XIX or title XI of such Act, as appropriate:

''(1) TITLE XIX PROVISIONS.—

''(A) Section 1902(a)(4)(C) (relating to conflict of interest standards).

''(B) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

''(C) Section 1903(w) (relating to limitations on provider taxes and donations).

''(2) TITLE XI PROVISIONS.—

''(A) Section 1115 (relating to waiver authority).

''(B) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

''(C) Section 1124 (relating to disclosure of ownership and related information).

''(D) Section 1126 (relating to disclosure of information about certain convicted individuals).

''(E) Section 1128A (relating to civil monetary penalties).

''(F) Section 1128B(d) (relating to criminal penalties for certain additional charges).

''(G) Section 1132 (relating to periods within which claims must be filed).

''SEC. 2908. ANNUAL REPORTS; EVALUATIONS.

''(a) ANNUAL REPORT.—The State shall—

''(1) assess the operation of the State plan under this title in each fiscal year, including the progress made in reducing the number of uncovered eligible caregivers; and

''(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

''(b) STATE EVALUATIONS.—

''(1) IN GENERAL.—By March 31, 2005, each State that has a State plan shall submit to the Secretary an evaluation that includes each of the following:

''(A) An assessment of the effectiveness of the State plan in increasing the number of caregivers with creditable health coverage.

''(B) A description and analysis of the effectiveness of elements of the State plan, including—

''(i) the characteristics of the caregivers assisted under the State plan including family income, and the assisted caregiver's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

''(ii) the quality of health coverage provided including the types of benefits provided,

''(iii) the amount and level (including payment of part or all of any premium) of assistance provided by the State,

''(iv) the service area of the State plan,

''(v) the time limits for coverage of a caregiver under the State plan,

''(vi) the State's choice of health benefits coverage and other methods used for providing health care assistance, and

''(vii) the sources of non-Federal funding used in the State plan.

''(C) An assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for caregivers.

''(D) A review and assessment of State activities to coordinate the plan under this title with other public and private programs providing health care and health care financing, including medicaid and maternal and child health services.

''(E) An analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to caregivers.

''(F) A description of any plans the State has for improving the availability of health insurance and health care for caregivers.

''(G) Recommendations for improving the program under this title.

''(H) Any other matters the State and the Secretary consider appropriate.

''(2) REPORT OF THE SECRETARY.—The Secretary shall submit to Congress and make available to the public by December 31, 2005, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

''SEC. 2909. MISCELLANEOUS PROVISIONS.

''(a) HIPAA.—Health benefits coverage provided under section 2901(a)(1) shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

''(b) ERISA.—Nothing in this title shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 with respect to a group health plan (as defined in section 2791(a)(1) of this Act.

''(c) LIMITATION ON ENTITIES.—Notwithstanding any other provision of this title, a State may limit the application of this title to eligible caregivers who are employed by entities that provide services to a specific percentage of individuals who receive assistance under, or through, Federal or State assistance programs.

''SEC. 2910. DEFINITIONS.

(a) HEALTH CARE ASSISTANCE.—For purposes of this title, the term 'health care assistance' means payment for part or all of the cost of health benefits coverage for eligible caregivers (and the dependent children of such caregivers) that includes any of the following (and includes, in the case described in section 2905(a)(2)(A), payment for part or all of the cost of providing any of the following), as specified under the State plan:

''(1) Inpatient hospital services.

''(2) Outpatient hospital services.

''(3) Physician services.

''(4) Surgical services.

''(5) Clinic services (including health center services) and other ambulatory health care services.

''(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

''(7) Over-the-counter medications.

''(8) Laboratory and radiological services.

''(9) Prenatal care and prepregnancy family planning services and supplies.

''(10) Inpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.

''(11) Outpatient mental health services, other than services described in paragraph (19) but including services furnished in a State-operated mental hospital and including community-based services.

''(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

''(13) Disposable medical supplies.

''(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

''(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

''(16) Dental services.

''(17) Inpatient substance abuse treatment services and residential substance abuse treatment services.

''(18) Outpatient substance abuse treatment services.

''(19) Case management services.

''(20) Care coordination services.

''(21) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

''(22) Hospice care.

''(23) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

''(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

''(B) performed under the general supervision or at the direction of a physician, or

''(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

''(24) Premiums for private health care insurance coverage.

''(25) Medical transportation.

''(26) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

''(27) Any other health care services or items specified by the Secretary and not excluded under this section.

''(b) ELIGIBLE CAREGIVER DEFINED.—For purposes of this title, the term 'eligible caregiver' means an individual—

''(1) who has been determined eligible by the State under this title for assistance under the State plan;

''(2) who—

''(A) subject to section 2909(c)—

''(i) is employed as a child care provider, an adult day care provider, a personal attendant for disabled individuals, a nursing home aide, a home health aide, or in any other caregiving position determined appropriate by the State, with an entity that is licensed or certified under State law, or is otherwise providing services under a State license or certification; and

''(ii) is certified by, or enrolled in, an accredited program recognized by the State as having received training necessary in order to be employed in a position described in subparagraph (A); or

''(B)(i) is providing caregiver services on a full-time basis for a relative; and

''(ii) does not otherwise have access to employer-sponsored health insurance coverage;

''(3) who is not found to be eligible for medical assistance under title XIX of the Social Security Act or covered under a group health plan or under health insurance coverage (as such terms are defined in section 2791 of this Act); and

''(4) who meets any other criteria determined appropriate by the State.

''(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

''(1) CREDITABLE HEALTH COVERAGE.—The term 'creditable health coverage' has the meaning given the term 'creditable coverage' under section 2701(c) of this Act and includes coverage that meets the requirements of section 2903 provided to an eligible caregiver under this title.

''(2) GROUP HEALTH PLAN; HEALTH INSURANCE COVERAGE; ETC.—The terms 'group health plan', 'group health insurance coverage', and 'health insurance coverage' have the meanings given such terms in section 2791 of this Act.

''(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(4) PREEXISTING CONDITION EXCLUSION.—The term 'preexisting condition exclusion' has the meaning given such term in section 2701(b)(1)(A) of this Act.

''(5) STATE PLAN; PLAN.—Unless the context otherwise requires, the terms 'State plan' and 'plan' mean a State plan approved under section 2906.''.

(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%.

SA 670. Mr. SANTORUM (for himself and Mr. NELSON of Nebraska) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

Strike title II and insert:

TITLE II—DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS

SEC. 201. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 115 the following new section:

''SEC. 116. DIVIDEND EXCLUSION TO ELIMINATE DOUBLE TAXATION OF CORPORATE EARNINGS.

''(a) EXCLUSION.—Gross income does not include the excludable portion (as defined in section 281) of any amount received as a dividend.

''(b) REPORTING TO SHAREHOLDERS.—For reporting to shareholders, see section 6042.''

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Dividend exclusion to eliminate double taxation of corporate earnings.''

SEC. 202. RULES FOR APPLICATION OF DIVIDEND EXCLUSION.

(a) IN GENERAL.—Subchapter B of chapter 1 (as amended by subsection (d)) is amended by inserting after part IX the following new part:

''PART X—RULES FOR APPLICATION OF DIVIDEND EXCLUSION

''Sec. 281. Excludable portion of dividends.

''Sec. 282. Special rules for credits and refunds.

''Sec. 283. Special rules for foreign corporations and shareholders.

''Sec. 284. Other special rules.

''Sec. 285. Regulations.

''Sec. 286. Phasein and Termination.

''SEC. 281. EXCLUDABLE PORTION OF DIVIDENDS.

''(a) EXCLUDABLE PORTION.—For purposes of section 116, the term 'excludable portion' means, with respect to any dividend paid by a corporation in a calendar year, an amount which bears the same ratio to such dividend as the excludable dividend amount of such corporation for the calendar year bears to the total amount of dividends paid by such corporation in such calendar year.

''(b) EXCLUDABLE DIVIDEND AMOUNT.—For purposes of this part and section 116—

''(1) IN GENERAL.—The term 'excludable dividend amount' means, with respect to any corporation for any calendar year, the excess of—

''(A) the sum of—

''(i) the fully taxed earnings amount for the preceding calendar year, and

''(ii) the aggregate amount of dividends received by the corporation during such preceding year which are excluded from gross income under section 116(a), over

''(B) the amount of applicable income tax taken into account under subparagraph (A)(i).

''(2) CARRYOVER OF EXCESS OF EXCLUDABLE DIVIDEND AMOUNT OVER DIVIDENDS PAID.—The excludable dividend amount of a corporation for any calendar year shall be increased by the excess of—

''(A) the excludable dividend amount of such corporation for the preceding calendar year, over

''(B) the aggregate amount paid by the corporation as dividends during such preceding calendar year.

''(c) FULLY TAXED EARNINGS AMOUNT.—

''(1) IN GENERAL.—The fully taxed earnings amount for any calendar year is the amount of the applicable income tax shown on applicable returns for such year divided by the highest rate of tax specified in section 11.

''(2) INCREASE FOR PRIOR YEAR ASSESSMENTS.—The fully taxed earnings amount for any calendar year shall be increased by the amount of any applicable income tax (not previously taken into account under paragraph (1)) which is assessed during such year divided by the highest rate of tax specified in section 11.

''(3) LIMITATION TO AMOUNT PAID.—If an amount described in paragraph (1) or (2) is paid after the close of the calendar year in which such amount would (but for this paragraph) be taken into account, such amount shall be taken into account for the calendar year in which paid.

''(4) HIGHEST RATE OF TAX.—For purposes of this subsection, the highest rate of tax specified in section 11 with respect to any applicable income tax shall be such highest rate for the taxable year for which (or by reference to which) such tax is determined.

''(d) DEFINITIONS.—For purposes of this part—

''(1) APPLICABLE INCOME TAX.—

''(A) IN GENERAL.—The term 'applicable income tax' means the excess (if any) of—

''(i) the sum of the taxes imposed by sections 11, 55, 511, 801, 831, 882, 1201, 1291 (without regard to section 1291(c)(1)(B)), and 1374, over

''(ii) the sum of the credits under part IV of subchapter A (other than subpart C and section 27(a)).

''(B) TRANSITIONAL RULES.—

''(i) IN GENERAL.—Such term shall not include any tax imposed for any taxable year ending before April 1, 2001.

''(ii) TREATMENT OF MINIMUM TAX CREDIT.—The applicable income tax shall not be reduced by the credit under section 53 attributable (determined as if such credit were used on a first-in first-out basis) to taxable years ending before April 1, 2001.

''(iii) SECTION 1374.—The reference to section 1374 in subparagraph (A)(i) shall not apply to taxable years beginning before January 1, 2003.

''(iv) OTHER TAXES INCLUDED.—The taxes imposed by sections 531 and 541 (as in effect before their repeal) shall be taken into account under subparagraph (A)(i) for taxable years ending after March 31, 2001, and beginning before January 1, 2004.

''(2) APPLICABLE RETURN.—

''(A) IN GENERAL.—The term 'applicable return' means, with respect to a calendar year, any return of applicable income tax for a taxable year if the 15th day of the 9th month following the close of such taxable year occurs during such calendar year.

''(B) FILING REQUIREMENT.—If a return is filed after the close of the calendar year with respect to which such return would (but for this subparagraph) be treated as an applicable return under subparagraph (A), such return shall be treated as an applicable return for the calendar year in which filed.

''SEC. 282. SPECIAL RULES FOR CREDITS AND REFUNDS.

''(a) IN GENERAL.—No overpayment of an applicable income tax by a corporation may be allowed as a credit or refund to the extent that the overpayment exceeds the sum of—

''(1) the aggregate applicable income taxes otherwise taken into account under section 281 for determining the excludable dividend amount for the calendar year succeeding the calendar year in which the credit or refund would otherwise be allowed or made, and

''(2) an amount equal to the lesser of—

''(A) the product of the corporation's excludable dividend amount for such calendar year and the fraction the numerator of which is the highest rate of tax specified in section 11 (within the meaning of section 281(c)(4)) and the denominator of which is 1 minus such highest rate, or

''(B) the amount specified by the corporation for purposes of this paragraph.

''(b) ADJUSTMENTS TO EXCLUDABLE DIVIDEND AMOUNTS RESULTING FROM CREDITS AND REFUNDS.—If subsection (a) applies to any credit or refund which is allowed or made in a calendar year—

''(1) the applicable income taxes described in subsection (a)(1) otherwise taken into account under section 281 for determining the excludable dividend amount for the succeeding calendar year shall be reduced (but not below zero) by the amount of the credit or refund, and

''(2) the excludable dividend amount for the calendar year shall be reduced by the excess of—

''(A) the amount determined under subsection (a)(2) divided by the highest rate of tax specified in section 11, over

''(B) the amount determined under subsection (a)(2).

''(c) DISALLOWED OVERPAYMENT NOT LOST.—Nothing in subsection (a) shall be construed to reduce the amount of any overpayment for which credit or refund is not allowed by reason of subsection (a), and such overpayment shall continue to be taken into account in applying subsection (a) for succeeding calendar years until a credit or refund is allowed or made.

''(d) EXCEPTION FOR FOREIGN TAX CREDIT.—This section shall not apply to any overpayment to the extent that such overpayment is attributable to the credit allowed under section 27(a).

''(e) DENIAL OF INTEREST.—No interest shall be allowed on any overpayment during the period that credit or refund of such overpayment is not allowed by reason of this section.

''SEC. 283. SPECIAL RULES FOR FOREIGN CORPORATIONS AND SHAREHOLDERS.

''(a) COMPUTATION OF EXCLUDABLE DIVIDEND AMOUNTS OF FOREIGN CORPORATIONS.—

''(1) REDUCTION IN EXCLUDABLE DIVIDEND AMOUNT FOR CERTAIN TAXES.—The reduction under section 281(b)(1)(B) (without regard to this subparagraph) shall be increased by the sum of—

''(A) the taxes imposed by section 884 (relating to branch profits tax), and

''(B) so much of the taxes imposed by section 881 as are attributable to dividends which would (but for subsection (b)) be excludable under section 116.

''(2) TREATMENT OF DISALLOWED EXCLUSIONS.—Notwithstanding subsection (b), the excludable dividend amount of a foreign corporation for a calendar year shall be increased by the dividends received by the corporation which (but for subsection (b)) would be excludable under section 116(a).

''(b) TAXATION OF FOREIGN SHAREHOLDERS.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, no dividends shall be excludable under section 116(a).

''(c) RULES RELATING TO FOREIGN TAX CREDIT.—

''(1) IN GENERAL.—No credit shall be allowed under section 901 for any taxes paid or accrued (or deemed paid under section 902 or 960) with respect to any dividend excludable under section 116.

''(2) EXCLUDABLE DIVIDEND AMOUNT.—The excludable dividend amount of a corporation for any calendar year shall be determined without regard to a reduction in the credit allowed by section 27(a) on an applicable return for a prior calendar year.

''SEC. 284. OTHER SPECIAL RULES.

''(a) REDEMPTIONS.—If a corporation makes a distribution to a shareholder during any calendar year with respect to its stock and section 301 does not apply to such distribution, the excludable dividend amount as of the beginning of the calendar year shall be reduced by the ratable share of such amounts attributable to the stock so redeemed.

''(b) COORDINATION WITH SECTION 246(c).—

''(1) HOLDING PERIOD REQUIREMENTS.—If a shareholder disposes of any share of stock before the holding period requirements of section 246(c) are met, the basis of such share shall be reduced by the amount of dividends received with respect to such share which are excludable under section 116(a).

''(2) RELATED PAYMENTS.—No deduction shall be allowed under this chapter for any related payments described in section 246(c)(1)(B) with respect to any dividend excludable under section 116(a) with respect to any share of stock to the extent that such payments do not exceed the amount of such dividend or basis increase.

''(3) TREATMENT OF DISALLOWED EXCLUSIONS AND ADJUSTMENTS.—The excludable dividend amount of any corporation for a calendar year, and its earnings and profits, shall not be increased by the dividends received by the corporation which are excludable under section 116(a) and which resulted in a basis reduction under paragraph (1).

''(c) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) IN GENERAL.—Except as provided in regulations, the excludable dividend amount of a regulated investment company or real estate investment trust shall be zero.

''(2) CROSS REFERENCE.—

"For special rules relating to application of this part to regulated investment companies and real estate investment trusts, see section 852(g).

''(d) EXCLUSION REDUCED WHERE PORTFOLIO STOCK HELD BY CORPORATION IS DEBT-FINANCED.—

''(1) TREATMENT OF EXCLUDABLE DIVIDEND.—In the case of any debt-financed portfolio stock (within the meaning of section 246A) held by a corporation, the amount excluded under section 116(a) with respect to any dividend received with respect to such stock shall be an amount equal to the product of—

''(A) the amount which would be excluded under section 116(a) without regard to this paragraph, and

''(B) 100 percent minus the average indebtedness percentage (within the meaning of section 246A(d)).

''(2) LIMITATION.—The aggregate amount of reductions under paragraph (1) with respect to any debt-financed portfolio stock shall not exceed the amount of interest deduction (including any deductible short sale expense) allocable to such stock.

''(3) EXCEPTION.—This subsection shall not apply to any dividend described in paragraph (1) or (2) of section 246A(b).

''(e) TREATMENT OF VARIABLE ANNUITY CONTRACTS.—

''(1) IN GENERAL.—A life insurance company may allocate (at such time and manner as the Secretary shall prescribe) to a qualified variable annuity contract based on a segregated asset account dividends received which would (but for section 803(c)) be excludable under section 116(a) with respect to stock held in such account.

''(2) TREATMENT OF AMOUNTS ALLOCATED.—

''(A) AMOUNTS ALLOCATED ON OR BEFORE ANNUITY STARTING DATE.—Any amount allocated under paragraph (1) to a contract on or before the annuity starting date shall be treated for purposes of section 72 as an additional investment in the contract.

''(B) AMOUNTS ALLOCATED AFTER ANNUITY STARTING DATE.—If any amount is allocated under paragraph (1) to a contract after the annuity starting date, the amounts otherwise includible in gross income with respect to amounts received as an annuity under such contract after the date of such allocation shall be reduced by the amount so allocated.

''(3) QUALIFIED VARIABLE ANNUITY CONTRACT.—For purposes of this subsection, the term 'qualified variable annuity contract' means any annuity contract described in section 817(d)(3)(A). Such term shall not include a pension plan contract (within the meaning of section 818).

''(4) INFORMATION REPORTING.—The Secretary may require such reporting as may be appropriate for purposes of this paragraph.

''(f) COOPERATIVES.—In the case of a cooperative to which subchapter T applies—

''(1) the excludable dividend amount of such cooperative shall be allocated for purposes of section 116 and this part between shares of such cooperative held by patrons and shares held by other persons in such manner as the Secretary shall prescribe by regulations, and

''(2) no deduction shall be allowed to the cooperative under this chapter for any dividend paid to a patron which is excludable under section 116(a).

''(g) ESOP STOCK.—Any dividend allowed as a deduction under section 404(k) shall not be treated as a dividend for purposes of section 116 and this part.

"SEC. 285. REGULATIONS.

''The Secretary shall prescribe such regulations as may be appropriate to carry out section 116 and this part, including regulations—

''(1) providing for the treatment of options and convertible debt as stock, including modification of the attribution rules under section 318(a)(4),

''(2) providing for the allocation of the excludable dividend amount in the case of transactions described in section 312(h),

''(3) waiving the application of section 246(c)(4) for purposes of sections 284(b) and 1059(g),

''(4) modifying the consolidated return regulations to the extent necessary or appropriate to apply the provisions of this part, including regulations that accelerate the inclusion in the excludable dividend amount of a higher-tier member with respect to—

''(A) activities of lower-tier members of the group, and

''(B) dividends excludable under section 116(a) received from such lower-tier members,

''(5) providing for the application of section 116 and this part in the case of pass-thru entities, including appropriate adjustments to basis, and

''(6) as are necessary to further the purposes of section 116 and this part and to prevent the circumvention of such purposes.

Any regulations under paragraph (4) may be effective as of the effective date of this part.

"SEC. 286. PHASEIN AND TERMINATION.

''(a) PHASEIN OF EXCLUDABLE DIVIDEND AMOUNT.—In computing the excludable dividend amount for any calendar year, only 50 percent of the applicable income taxes for a taxable year beginning before April 1, 2002, shall be taken into account.

''(b) TERMINATION.—

''(1) IN GENERAL.—Except as provided in this subsection, section 116 and this part shall not apply to any calendar year after calendar year 2006, and the excludable dividend amount for any such year shall be zero.

''(2) CREDITS AND REFUNDS.—Section 282 shall apply to any credit or refund after December 31, 2006, of an applicable income tax taken into account in determining the excludable dividend account for calendar year 2003, 2004, 2005, or 2006.''.

(b) REPORTING OF EXCLUDABLE DIVIDENDS.—

(1) IN GENERAL.—Section 6042(a) (relating to returns regarding payments of dividends and corporate earnings and profits) is amended to read as follows:

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—Every person—

''(A) who makes payments of dividends aggregating $10 or more to any other person during any calendar year, or

''(B) who receives such payments of dividends as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the dividends received,

shall make a return at the time and in the manner prescribed by the Secretary, setting forth the information described in paragraph (3).

''(2) RETURNS REQUIRED BY SECRETARY.—Every person who makes payments of dividends to which paragraph (1) does not apply shall, when required by the Secretary, make a return setting forth the information described in paragraph (3).

''(3) INFORMATION REPORTED.—Information described in this paragraph includes—

''(A) the aggregate amount of dividends, including the portion of such amount excludable from gross income under section 116(a), and

''(B) such other information as the Secretary may require.

In the case of a nominee described in paragraph (1)(B), this paragraph shall apply with respect to the payments and allocations made by the nominee.''

(2) APPLICATION TO FOREIGN PERSONS.—Section 6042 is amended by adding at the end the following new subsection:

''(e) APPLICATION TO FOREIGN PERSONS.—The Secretary may provide for the application of this section to payments, allocations, and distributions made by or to a foreign person to the extent necessary to carry out the provisions of section 116 and part X of subchapter B of chapter 1.''

(3) CONFORMING AMENDMENT.—Section 6042(c)(2) is amended to read as follows:

''(2) the information described in subsection (a)(3) required to be shown on the return.''

(c) AMENDMENTS TO OTHER SECTIONS.—

(1) MINIMUM TAX.—Clause (i) of section 56(g)(4)(B) is amended by striking ''or under section 114'' and inserting '', section 114, or section 116''.

(2) COORDINATION WITH DIVIDEND RECEIVED DEDUCTIONS.—

(A) Section 246 is amended by adding at the end the following new subsection:

''(f) COORDINATION WITH DIVIDEND EXCLUSION.—No deduction shall be allowed under section 243, 244, or 245 with respect to the amount of any dividend excluded from gross income under section 116 or would be so excluded but for sections 283(b) and 284(d).''

(B) Section 243 is amended by adding at the end the following new subsection:

''(f) TERMINATION.—Paragraph (1) of subsection (a) shall not apply to any dividend received by a corporation after December 31, 2005.''

(3) CARRYOVERS IN CERTAIN CORPORATION ACQUISITIONS.—Section 381(c) is amended by adding at the end the following new paragraph:

''(27) EXCLUDABLE DIVIDEND AMOUNT.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section, section 116, and part X of subchapter B, and under such regulation as may be prescribed by the Secretary) the excludable dividend amount in respect of the distributor or transferor.''

(4) TRUSTS AND ESTATES.—Subsection (a) of section 643 is amended—

(A) by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DIVIDENDS, ETC.—There shall be included the amount of any dividends excluded from gross income under section 116.'', and

(B) by striking ''and (6)'' in the last sentence and inserting '', (6), and (7)''.

(5) PARTNERSHIPS.—Paragraph (5) of section 702(a) is amended to read as follows:

''(5) dividends with respect to which there is an exclusion under section 116 or a deduction under part VIII of subchapter B,''.

(6) EXTRAORDINARY DIVIDENDS.—

(A) IN GENERAL.—Section 1059 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) TREATMENT OF EXCLUDABLE DIVIDENDS AS EXTRAORDINARY DIVIDENDS.—

''(1) IN GENERAL.—For purposes of this section, any dividend excludable under section 116(a) shall be treated as an extraordinary dividend, except that this section shall be applied by substituting '1 year (or such other period as the Secretary may prescribe)' for '2 years' each place it appears.

''(2) TREATMENT OF DEEMED EXTRAORDINARY DIVIDENDS.—The excludable dividend amount of any corporation for a calendar year, and its earnings and profits, shall not be increased by the dividends received by the corporation which are treated as extraordinary dividends by reason of paragraph (1).

''(3) COORDINATION WITH SECTION 284(b).—This section shall not apply to any dividend excludable under section 116(a) with respect to which section 284(b) applies.

''(4) REGULATIONS.—The Secretary may by regulation provide for exceptions to the application of paragraph (1).''

(B) Paragraph (3) of section 1059(d) is amended by inserting ''section 1223(11) shall not apply and'' after ''subsection (a),''.

(C)(i) Section 1059 is amended by striking ''corporation'' each place it appears in subsection (a) and inserting ''taxpayer''.

(ii) The section heading for section 1059 is amended by striking ''**CORPORATE**'' and by inserting ''**AND EXCLUDABLE**'' before ''**DIVIDENDS**''.

(iii) The item relating to section 1059 in the table of sections for part IV of subchapter O of chapter 1 is amended—

(I) by striking ''Corporate'' and inserting ''Shareholder's'', and

(II) by inserting ''and excludable'' before ''dividends''.

(7) PRIVATE FOUNDATIONS.—Section 4940(c) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH DIVIDEND EXCLUSION.—For purposes of this section, gross investment income shall not include a dividend to the extent excluded from gross income under section 116(a).''

(d) CONFORMING AMENDMENTS.—

(1)(A) Part X of subchapter B of chapter 1, as in effect on the day before the date of the enactment of this Act, is hereby moved after part XI of such subchapter B and redesignated as part XII.

(B) Section 281, as so in effect, is redesignated as section 296.

(C) The table of sections for such part XII, as so designated, is amended by striking ''Sec. 281'' and inserting ''Sec. 296.''

(D) The table of parts for subchapter B of chapter 1 is amended by striking the items relating to parts X and XI and inserting the following new items:

''Part X. Rules for application of dividend exclusion.

''Part XI. Special rules relating to corporate preference items.

''Part XII. Terminal railroad corporations and their shareholders.''

(2) Subsection (f) of section 301 is amended by adding at the end the following new paragraph:

''(4) For exclusion from gross income of certain dividends, see section 116.''

SEC. 203. TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 852 is amended by adding at the end the following new subsection:

''(g) SPECIAL RULES RELATING TO SECTION 116 AND PART X OF SUBCHAPTER B.—

''(1) EXCLUDABLE PORTION.—

''(A) IN GENERAL.—For purposes of section 116(a), the excludable portion of any dividend paid by any qualified investment entity shall be the amount so designated by such entity in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year in which such dividend is paid.

''(B) LIMITATION.—If the aggregate amount so designated with respect to a taxable year (including dividends paid after the close of the taxable year as described in section 855) exceeds the aggregate amount of dividends received by such entity during such year which are excludable from gross income under section 116(a), then the amount of a dividend otherwise excludable by reason of a designation under subparagraph (A) shall be reduced by an amount which bears the same ratio to the amount otherwise excludable as such excess bears to the total amount designated under subparagraph (A).

''(C) TREATMENT OF CAPITAL GAIN AND EXEMPT-INTEREST DIVIDENDS.—Any amount designated under subparagraph (A) as excludable under section 116 may not be treated as a capital gain dividend or an exempt-interest dividend.

''(D) COORDINATION WITH SECTION 853.—The election under section 853 shall not apply to dividends excludable under section 116 received by a qualified investment entity.

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

''(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means—

''(i) a regulated investment company, and

''(ii) a real estate investment trust.

''(B) EXEMPT-INTEREST DIVIDEND.—The term 'exempt-interest dividend' has the meaning given to such term by subsection (b)(5).''

(b) OTHER RULES RELATING TO REGULATED INVESTMENT COMPANIES.—

(1) DISTRIBUTION REQUIREMENTS.—Clause (i) of section 852(a)(1)(B) is amended by inserting ''and its dividend income excludable under section 116(a),'' before ''over''.

(2) TAXATION OF ENTITY AND SHAREHOLDERS.—

(A) The material following paragraph (3) of section 851(b) is amended by inserting ''and dividends excludable from gross income under section 116(a)'' after ''103(a)'' in the third sentence.

(B) Section 852(b)(2)(D) is amended by striking ''and exempt-interest dividends'' and inserting '', exempt-interest dividends, and any dividends excludable under section 116(a)''.

(C) Subparagraph (B) of section 852(b)(4) is amended to read as follows:

''(B) LOSS ATTRIBUTABLE TO EXEMPT DIVIDENDS.—If—

''(i) a shareholder of a regulated investment company receives an exempt-interest dividend or a dividend excludable under section 116(a) with respect to any share, and

''(ii) such share is held by the taxpayer for 6 months or less,

then any loss on the sale or exchange of such share shall, to the extent of the sum of the amounts of such dividends be disallowed.''

(D) Paragraph (3) of section 4982(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any dividend excludable from gross income under section 116(a).''

(c) OTHER RULES RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) DISTRIBUTION REQUIREMENTS.—Subparagraph (A) of section 857(a)(1) is amended by striking ''and'' at the end of clause (i), by striking ''minus'' at the end of clause (ii), and by inserting at the end the following new clause:

''(iii) 90 percent of its dividend income excludable under section 116(a); minus''

(2) TAXATION OF ENTITY AND SHAREHOLDERS.—

(A)(i) Section 856(c)(2) is amended—

(I) by inserting ''(including dividends excludable from gross income under section 116(a))'' after ''dividends'' in subparagraph (A), and

(II) by inserting ''(including tax-exempt interest)'' after ''interest'' in subparagraph (B).

(ii) Section 856(c) is amended by adding at the end the following new paragraph:

''(8) GROSS INCOME TESTS.—For purposes of paragraphs (2) and (3), gross income shall be treated as including tax-exempt interest and dividends excludable from gross income under section 116(a).''

(B) Section 857(b)(2)(B) is amended by inserting '' or any dividends paid which are excludable under section 116(a)'' after ''subparagraph (D)''.

(C) Section 857(b) is amended by adding at the end the following new paragraph:

''(10) LOSS ATTRIBUTABLE TO EXEMPT DIVIDENDS.—If—

''(A) a taxpayer receives a dividend excludable under section 116(a) with respect to any share of stock of, or a certificate of beneficial interest in, a real estate investment trust, and

''(B) such share or certificate is held by the taxpayer for 6 months or less,

then any loss on the sale or exchange of such share or certificate shall, to the extent of the sum of the amounts of such dividends, be disallowed.''

(D) Paragraph (1) of section 4981(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any dividend excludable from gross income under section 116(a).''

SEC. 204. TREATMENT OF INSURANCE COMPANIES.

(a) LIFE INSURANCE COMPANIES.—

(1) Section 803 is amended by adding at the end the following new subsection:

''(c) SPECIAL RULES FOR EXCLUDABLE DIVIDENDS.—

''(1) IN GENERAL.—The exclusion under section 116(a) with respect to any dividend received by a life insurance company shall only apply to such company's share (as determined under section 812) of such dividend.

''(2) RULES FOR SEGREGATED ASSET ACCOUNTS.—In the case of stock held in a segregated asset account (within the meaning of section 817), this subsection shall be applied as if the policyholders' share of the excludable portion of any dividend with respect to such stock were 100 percent.

''(3) COMPUTATION OF EXCLUDABLE DIVIDEND AMOUNT.—In the case of a life insurance company, the increase under clause (ii) of section 281(b)(1)(A) in the company's excludable dividend amount shall be limited to the company's share (as determined under section 812) of the dividends described in such clause.''

(2) Section 812(d)(1)(A) is amended by inserting ''(including dividends excludable under section 116(a))'' after ''dividends''.

(3) Section 815(c)(2)(A)(iii) is amended by adding ''and the amount of dividends excludable under section 116(a) (as modified by section 803(c)(1)),'' after ''section 103''.

(b) OTHER INSURANCE COMPANIES.—

(1) Section 832(b)(5)(B) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding after clause (iii) the following new clause:

''(iv) any dividend excludable under section 116(a) which is received during such taxable year.''

(2) Section 832(c) is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ''; and'', and by adding at the end the following new paragraph:

''(14) the amount of dividends received during the taxable year which are excluded from gross income under section 116(a).''

(3) Section 833(b)(3)(E) is amended—

(A) by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by inserting after clause (ii) the following new clause:

''(iii) the aggregate amount excluded for the taxable year under section 116(a).'', and

(B) by adding at the end the following: ''The amount determined under clause (iii) shall be reduced by the amount of any decrease in such deductions for the taxable year by reason of section 832(b)(5)(B) to the

extent such decrease is attributable to the exclusion under section 116(a).''

(4) Section 834(c) is amended by adding at the end the following new paragraph:

''(10) EXCLUDABLE DIVIDENDS.—The amount of dividends received during the taxable year which are excluded from gross income under section 116(a).''

SEC. 205. TREATMENT OF S CORPORATIONS.

(a) APPLICATION OF SECTION 116 AND PART X OF SUBCHAPTER B TO S CORPORATIONS.—Section 1368 is amended by adding at the end the following new subsection:

''(f) COORDINATION WITH DIVIDEND EXCLUSION.—

''(1) DETERMINATION OF EXCLUDED DIVIDENDS AMOUNT.—

''(A) IN GENERAL.—Clause (ii) of section 281(b)(1)(A) shall not apply to amounts received or allocated in a taxable year for which the corporation is an S corporation.

''(B) CROSS REFERENCE.—

''For treatment of taxes imposed by section 1374, see section 281(d)(1).

''(2) DISTRIBUTIONS.—Subject to regulations prescribed by the Secretary, the preceding provisions of this section shall not apply to any dividend excludable from gross income under section 116(a).''

(c) MODIFICATION TO TREATMENT OF SECTION 1374 TAX.—

(1) Paragraph (2) of section 1366(f) is amended to read as follows:

''(2) TREATMENT OF BUILT-IN GAINS.—The amount of the items of the net recognized built-in gain taken into account under section 1374(b)(1) (reduced by any deduction allowed under section 1374(b)(2)) shall not be taken into account under this section.''

(2)(A) Subsection (c) of section 1371 is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF BUILT-IN GAIN.—The accumulated earnings and profits of the corporation shall be increased at the beginning of the taxable year by the amount not taken into account under section 1366 by reason of section 1366(f)(2) (determined without regard any reduction of such amount under section 1374(b)(2)) reduced by the tax imposed by section 1374 (net of credits allowed).''

(B) Paragraph (1) of section 1371(c) is amended by striking ''and (3)'' and inserting '', (3), and (4)''.

(d) REPEAL OF TAX AND TERMINATION WHERE EXCESS PASSIVE INVESTMENT INCOME.—

(1) REPEAL OF TAX.—

(A) IN GENERAL.—Section 1375 is repealed.

(B) CONFORMING AMENDMENTS.—Sections 26(b)(2)(J) and 1366(f)(3) are repealed.

(2) REPEAL OF TERMINATION.—Section 1362(d) is amended by striking paragraph (3).

(e) TREATMENT OF ACCUMULATED ADJUSTMENTS ACCOUNT.—Subsection (e) of section 1368 is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—The accumulated adjustments account for any taxable year shall be increased by the sum of the dividends excludable under section 116(a) received by the corporation during such taxable year.''

SEC. 206. REPEAL OF ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Parts I and II of subchapter G of chapter 1 (relating to corporations improperly accumulating surplus and to personal holding companies) are hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 12 is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(2) Section 26(b)(2) is amended by striking subparagraphs (F) and (G).

(3) Section 30A(c) is amended by inserting ''or'' at the end of paragraph (1), by striking paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

(4) Section 41(e)(7)(E) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(6) Section 111 is amended by striking subsection (d).

(7) Section 170(e)(4)(D) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(8) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking ''545(b)(2),'' each place it appears.

(9)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 331(b) is amended by striking ''(other than a distribution referred to in paragraph (2)(B) of section 316(b))''.

(10) Section 341(d) is amended—

(A) by striking ''section 544(a) (relating to personal holding companies)'' and inserting ''section 465(f) (relating to constructive ownership rules)'', and

(B) by inserting before the period at the end of the next to the last sentence ''and such paragraph (2) shall be applied by inserting 'or by or for his partner' after 'his family' ''.

(11) Section 381(c) is amended by striking paragraphs (14) and (17).

(12) Section 443(e) is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(13) Section 447(g)(4)(A) is amended by striking ''other than—'' and all that follows and inserting ''other than an S corporation.''

(14)(A) Section 465(a)(1)(B) is amended to read as follows:

''(B) a C corporation which is closely held,''.

(B) Section 465(a)(3) is amended to read as follows:

''(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual.''

(C) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(D) Section 465(c)(7)(G) is amended to read as follows:

''(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).''

(E) Section 465 is amended by adding at the end the following new subsection:

''(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—

''(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

''(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

''(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

''(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if, but only if, the effect is to make the corporation closely held under subsection (a)(3).

''(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.

''(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

''(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.''

(15)(A) Section 553(a)(1) is amended by striking ''section 543(d)'' and inserting ''subsection (c)''.

(B) Section 553 is amended by adding at the end the following new subsection:

''(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—

''(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

''(B) with respect to which the requirements of paragraphs (2), (3), and (4) are met.

''(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

''(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

''(B) are attributable to computer software which—

''(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

''(ii) is directly related to such trade or business.

''(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

''(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

''(A) IN GENERAL.—The requirements of this paragraph are met if—

''(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

''(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

''(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

''(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.''

(16) Section 556(b)(1) is amended by striking '', but not including'' and all that follows and inserting a period.

(17) Section 561(a) is amended by striking paragraph (3), by inserting ''and'' at the end of paragraph (1), and by striking '', and'' at the end of paragraph (2) and inserting a period.

(18) Section 562(b) is amended to read as follows:

''(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—

''(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and

''(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.

For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.''

(19) Section 563 is amended by striking subsections (a) and (b), by redesignating subsections (c) and (d) as subsections (a) and (b), and by striking '', (b), or (c)'' in subsection (b) (as so redesignated).

(20) Section 564 is hereby repealed.

(21) Section 631(c) is amended by striking the next to the last sentence and inserting the following: ''This subsection shall have no application for purposes of applying subchapter G (relating to corporations used to avoid income tax on shareholders).''.

(22) Section 852(b)(1) is amended by striking ''which is a personal holding company (as defined in section 542) or''.

(23)(A) Section 856(h)(1) is amended to read as follows:

''(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met.''.

(B) Section 856(h)(3)(A)(i) is amended by striking ''section 542(a)(2)'' and inserting ''section 465(a)(3)''.

(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(D) Subparagraph (C) of section 856(h)(3), as redesignated by the preceding subparagraph, is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(24) The last sentence of section 882(c)(2) is amended to read as follows:

''The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.''.

(25) Section 936(a)(3) is amended by striking subparagraphs (B) and (C), by inserting ''or'' at the end of subparagraph (A), and by redesignating subparagraph (D) as subparagraph (B).

(26) Section 936 is amended by striking subsection (g).

(27) Section 992(d) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(28) Section 992 is amended by striking subsection (e).

(29) Section 1202(e)(8) is amended by striking ''section 543(d)(1)'' and inserting ''section 553(c)(1)''.

(30) Section 1298(b) is amended by striking paragraph (8) and redesignating paragraph (9) as paragraph (8).

(31) Section 1504(c)(2)(B) is amended by adding ''and'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(32)(A) Section 1551(a) is amended by striking ''or the accumulated earnings credit'' and all that follows and inserting ''unless such transferee corporation shall establish by the clear preponderance of the evidence that the securing of such benefits was not a major purpose of such transfer.''.

(B) The section heading for section 1551 is amended by striking ''**AND ACCUMULATED EARNINGS CREDIT**''.

(C) The item relating to section 1551 in the table of sections for part I of subchapter B of chapter 6 is amended by striking ''and accumulated earnings credit''.

(33)(A) Section 1561(a) is amended—

(i) by striking paragraph (2),

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3),

(iii) by striking ''paragraph (3)'' each place it appears and inserting ''paragraph (2)'',

(iv) by striking ''paragraph (4)'' and inserting ''paragraph (3)'', and

(v) by striking the third sentence.

(B) Section 1561(b) is amended to read as follows:

''(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation has a short taxable year which does not include a December 31 and is a component member of a controlled group of corporations with respect to such taxable year, then for purposes of this subtitle, the amount in each taxable income bracket in the tax table in section 11(b) for such corporation for such taxable year shall be the amount specified in subsection (a)(1), divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31.''.

(34) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: ''References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal.''

(35) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (12) and paragraphs (3) through (11), respectively.

(36) Section 6501 is amended by striking subsection (f).

(37) Section 6503(k) of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(38) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(39) Section 6601(b) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(40) Subsections (d)(1)(B) and (e)(2) of section 6662 of such Code are each amended by striking ''or a personal holding company (as defined in section 542)''.

(41) Section 6683 is hereby repealed.

(42) Section 7518(c)(1) is amended by inserting ''and'' at the end of subparagraph (C), by striking '', and'' at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 of such Code is amended by striking the items relating to parts I and II.

(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6683.

SEC. 207. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply to distributions received after December 31, 2002, and before January 1, 2007.

(b) SPECIAL RULES.—

(1) SECTION 1374 TAX.—In applying the amendments made by this section, any tax imposed by section 1374 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 2003, shall not be taken into account.

(2) SECTION 205 (C) AND (D) AND SECTION 206.—The amendments made by subsections (c) and (d) of section 205 and by section 206 shall apply to taxable years beginning after December 31, 2003, and before January 1, 2007; except that—

(A) section 547 of such Code (as in effect before its repeal) shall continue to apply to deficiency dividends (as defined in section 547(d) of such Code) relating to taxable years beginning before January 1, 2004, and

(B) subsections (a) and (b) of section 563 of such Code (as so in effect) shall continue to apply to dividends relating to taxable years beginning before January 1, 2004.

Notwithstanding subparagraphs (A) and (B), such dividends shall not be taken into account in applying section 116 of such Code or part X of subchapter B of chapter 1 of such Code.

(3) SECTION 282.—Section 282 of such Code (as added by this title) shall apply to taxable years ending after the date of the enactment of this Act.

SA 671. Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RULE OF CONSTRUCTION RELATING TO METHOD OF PREVENTION.

Nothing in this Act (or an amendment made by this Act) shall be construed to require that an organization utilize or endorse any particular approach to HIV/AIDS prevention, except that any information provided by the organization about any particular preventive approach shall be complete and medically accurate including both the public health benefits and failure rates of the approach involved.

SA 672. Mr. REED (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. KERRY, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. SARBANES) proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

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.

SA 673. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

At the appropriate place insert the following:

SECTION 1. TREATMENT OF CERTAIN IMPORTED RECYCLED HALONS.

(a) IN GENERAL.—Section 1803(c) of the Small Business Job Protection Act of 1986 (Public Law 104–188) is amended by striking ''1997'' and ''1998'' and inserting ''1994''.

(b) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SA 674. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 5 and 6, insert the following:

''(V) Ensuring that United States efforts to combat HIV/AIDS take maximum advantage of the potential for positive spill-over effects in other health priorities, such as improving pre-natal care and combating tuberculosis through referral at voluntary counseling and testing centers.

SA 675. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest delivered duty unpaid price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I)(aa) approved by the Food and Drug Administration;

''(bb) authorized for marketing by the European Commission;

''(cc) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(dd) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used; and

''(II) in compliance with—

''(aa) the intellectual property laws of the country where the product is manufactured;

''(bb) the intellectual property laws of the country where the product will be used; and

''(cc) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iii) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(iv) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect a decision regarding which medicine is most medically appropriate for a specific disease or condition.

SA 676. Mr. DURBIN proposed an amendment intended to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

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 subparagraph shall be available as of such date.

(D) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated by paragraph (1), and available under that paragraph or this paragraph, shall remain available until expended.

(3) PRIOR FISCAL YEAR FUNDS.—Any unobligated balances of funds made available for fiscal years 2001 and 2002 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 (22 U.S.C. 6841)—

(A) are authorized to remain available until expended; and

(B) shall be merged with, and made available for the same purposes as, the funds authorized to be appropriated by paragraph (1).

SA 677. Mr. LEAHY (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. . POLICY TO INCREASE FUNDING TO COMBAT HIV/AIDS AND FOR OTHER INTERNATIONAL HEALTH PROGRAMS.

(a) FINDINGS.—(1) The National Security Strategy of the United States, dated September 17, 2002, states that ''[t]he scale of the public health crisis in poor countries is enormous. In countries afflicted by epidemics and pandemics . . . growth and development will be threatened until these scourges can be contained.''

(2) The United States Agency for International Development concluded that ''Global health issues have global consequences that not only affect the people of developing nations but also directly affect the interests of American citizens.''

(3) The Centers for Disease Control and Prevention concluded that ''[i]n today's global environment, new diseases have the potential to spread across the world in a matter of days, or even hours, making early detection and action more important than ever.''

(4) The President's Fiscal Year 2004 budget request for the Child Survival and Health Programs Fund, which is the principle source of funds for building public health capacity in developing countries, would cut the Fund by $124,313,000 (not including programs to combat HIV/AIDS which are cut by an additional $86,030,000) below the Fiscal Year 2003 enacted level.

(5) Within the Child Survival and Health Programs Fund, the President's Fiscal Year 2004 budget request would cut funding to protect vulnerable children by 63%; to combat infectious diseases (other than HIV/AIDS) by 32%; to improve child nutrition and maternal health by 12%; and to support family planning and reproductive health by 5%.

(6) These programs save the lives of millions of women and children each year, help prevent dangerous infectious diseases from spreading to the United States, build goodwill towards the United States, and alleviate conditions that can contribute to international terrorism.

(7) Building public health capacity in developing countries by improving children's health, material and reproductive health, and combating other infectious diseases is an essential component of an effective global strategy to control the spread of HIV/AIDS.

(b) POLICY.—For each of the Fiscal Years 2004 through 2008, the President should request and the Congress should appropriate $3,000,000,000 to carry out this Act and an amount that exceeds the amount appropriated in the previous fiscal year for the Child Survival and Health Programs Fund, including for programs to protect vulnerable children, to combat other infectious diseases, to improve disease surveillance and combat drug resistance, to improve child nutrition and maternal health, and to support family planning and reproductive health.

SA 678. Mr. DORGAN (for himself, Mr. LEAHY, Mr. DASCHLE, Mr. NELSON of Florida, and Mr. HARKIN) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. ___. EMERGENCY FOOD AID FOR HIV/AIDS VICTIMS.

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

(1) Whereas the Centers for Disease Control and Prevention found that ''For persons living with HIV/AIDS, practicing sound nutrition can play a key role in preventing malnutrition and wasting syndrome, which can weaken an already compromised immune system.''.

(2) Whereas there are immediate needs for additional food aid in sub-Saharan Africa where the World Food Program has estimated that more than 40,000,000 people are at risk of starvation.

(3) Whereas prices of certain staple commodities have increased by 30 percent over the past year, which was not anticipated by the President's fiscal year 2004 budget request.

(4) The Commodity Credit Corporation has the legal authority to finance up to $30,000,000,000 for ongoing agriculture programs and $250,000,000 represents a use of less than 1 percent of such authority to combat the worst public health crisis in 500 years.

(b) COMMODITY CREDIT CORPORATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall immediately use the funds, facilities, and authorities of the Commodity Credit Corporation to provide an additional $250,000,000 in fiscal year 2003 to carry out programs authorized under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) to assist in mitigating the effects of HIV/AIDS on affected populations in sub-Saharan Africa and other developing nations, and by September 30, 2003, the Administrator of the United States Agency for International Development shall enter into agreements with private voluntary organizations, non-governmental organizations, and other appropriate organizations for the provision of such agricultural commodities through programs that—

(A) provide nutritional assistance to individuals with HIV/AIDS and to children, households, and communities affected by HIV/AIDS; and

(B) generate funds from the sale of such commodities for activities related to the prevention and treatment of HIV/AIDS, support services and care for HIV/AIDS infected individuals and affected households, and the creation of sustainable livelihoods among individuals in HIV/AIDS affected communities, including income-generating and business activities.

(2) REQUIREMENT.—The food aid provided under this subsection shall be in addition to any other food aid acquired and provided by the Commodity Credit Corporation prior to the date of enactment of this Act. Agricultural commodities made available under this subsection may, notwithstanding any other provision of law, be shipped in fiscal years 2003 and 2004.

SA 679. Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Mr. LEAHY, Mrs. MURRAY, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RULE OF CONSTRUCTION RELATING TO METHOD OF PREVENTION.

Nothing in this Act (or an amendment made by this Act) shall be construed to require that an organization utilize or endorse any particular approach to HIV/AIDS prevention, except that any information provided by the organization about any particular preventive approach shall be complete and medically accurate including both the public health benefits and failure rates of the approach involved.

SA 680. Mr. GRASSLEY proposed an amendment to the bill S. 1054, to provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004; as follows:

On page 8, beginning with line 13, strike all through the matter following line 2 on page 9, and insert:

''(A) JOINT RETURN AND SURVIVING SPOUSE.—In the case of a joint return or a surviving spouse, the amount under the following table:

''**In the case of taxable years beginning:**	**The exemption amount is:**
Before 2001	$45,000
In 2001 and 2002	$49,000
In 2003	$60,500
In 2004	$60,500
In 2005	$60,500
After 2005	$45,000.

''(B) INDIVIDUAL NOT MARRIED AND NOT A SURVIVING SPOUSE.—In the case of an individual who is not a married individual and is not a surviving spouse, the amount under the following table:

''**In the case of taxable years beginning:**	**The exemption amount is:**
Before 2001	$33,750
In 2001 and 2002	$35,750
In 2003	$41,500
In 2004	$41,500
In 2005	$41,500
After 2005	$33,750.''.

Beginning on page 82, line 25, strike all through page 83, line 13, and insert:

(2) EXCEPTION FOR EXISTING FASITS.—The amendments made by this section shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance of such interests.

On page 165, beginning with line 21, strike all through page 166, line 8, and insert:

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

On page 206, between lines 19 and 20, insert:

SEC. ___. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ___. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. ___. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. ___. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) initial clearing and grading land improvements with respect to gas utility property.''

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

(2) by adding at the end the following new item:

''(F) ..... 25''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. ___. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—Subsection (a) and section 331 shall not apply to any distribution in complete liquidation of an applicable holding company to the extent of the earnings and profits of such company.

''(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'applicable holding company' means any corporation—

''(i) which is a member of a chain of includible corporations with a common parent which is a foreign corporation,

''(ii) the stock of which is directly owned by such common parent or another foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such chain of corporations, and

''(iv) which has not been in existence at least 5 years as of the date of the liquidation.

''(B) INCLUDIBLE CORPORATION.—The term 'includible corporation' has the meaning given such term under section 1504(b) (without regard to paragraph (3) thereof).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring after the date of the enactment of this Act.

SEC. ___. LEASE TERM TO INCLUDE CERTAIN SERVICE CONTRACTS.

(a) IN GENERAL.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In determining a lease term, there shall be taken into account any optional service contract or other similar arrangement.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to leases entered into after the date of the enactment of this Act.

SEC. ___. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the exchange to which section 1031 applied.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. ___. REPEAL OF CAPITAL GAINS TREATMENT FOR CERTAIN TRANSACTIONS INVOLVING OPTIONS AND COMMODITIES DEALERS.

(a) IN GENERAL.—Subsection (a) of section 1256 (relating to section 1256 contracts marked to market) is amended—

(1) by striking paragraph (3),

(2) by redesignating paragraph (4) as paragraph (3), and

(3) by inserting ''and'' at the end of paragraph (2).

(b) CONFORMING AMENDMENTS.—

(1) Section 988(c)(1)(E)(iv) is amended to read as follows:

''(iv) TREATMENT OF CERTAIN CURRENCY CONTRACTS.—Except as provided in regulations, in the case of a qualified fund, any bank forward contract, any foreign currency futures contract traded on a foreign exchange, or to the extent provided in regulations any similar instrument, which is not otherwise a section 1256 contract shall be treated as a section 1256 contract for purposes of section 1256.''.

(2) Section 1092(b)(2)(A)(ii) is amended by striking ''and section 1256(a)(3) will only apply to net gain or net loss attributable to section 1256 contracts,''.

(3) Section 1092(d)(5)(B) is amended by striking ''1256(a)(4)'' and inserting ''1256(a)(3)''.

(4) Section 1256(c)(1) is amended by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1) and (2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Beginning on page 260, line 7, strike all through page 264, line 6, and insert:

SEC. 521. CIVIL RIGHTS TAX RELIEF.

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

''(19) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.''.

(b) UNLAWFUL DISCRIMINATION DEFINED.—Section 62 is amended by adding at the end the following new subsection:

''(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

''(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

''(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

''(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

''(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

''(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

''(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

''(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

''(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

''(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

''(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

''(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

''(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

''(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

''(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

''(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

''(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

''(18) Any provision of State or local law, or common law claims permitted under Federal, State, or local law—

''(i) providing for the enforcement of civil rights, or

''(ii) regulating any aspect of the employment relationship, including prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after the date of the enactment of this Act with respect to any judgment or settlement occurring after such date.

SA 681. Mr. KENNEDY (for himself, Mr. MCCAIN, Mr FEINGOLD, Mrs. FEINSTEIN, Mr. LEVIN, Mr. SCHUMER, Mr. PRYOR, and Mr. JOHNSON) proposed an amendment to the bill H. 1298, to provide foreign assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 54, strike lines 7 through 24, and insert the following: ''medicines to treat opportunistic infections, at the lowest possible price for products of assured quality (as provided for in subparagraph (D)). Such procurement shall be made anywhere in the world notwithstanding any provision of law restricting procurement of goods to domestic sources.

''(B) MECHANISMS FOR QUALITY CONTROL AND SUSTAINABLE SUPPLY.—Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

''(C) DISTRIBUTION.—The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

''(D) LOWEST POSSIBLE PRICE AND ASSURED QUALITY.—

''(i) LOWEST POSSIBLE PRICE.—With respect to an HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, the lowest possible price means the lowest delivered duty unpaid price at which such medicine (which includes all products of assured quality with the same active ingredients) may be obtained in sufficient quantity in either the United States or elsewhere on the world market.

''(ii) ASSURED QUALITY.—An HIV/AIDS pharmaceutical, an antiviral therapy, or any other appropriate medicine, including a medicine to treat opportunistic infections, shall be considered a product of assured quality if it is—

''(I)(aa) approved by the Food and Drug Administration;

''(bb) authorized for marketing by the European Commission;

''(cc) on the most recent edition of the list of HIV-related medicines prequalified for procurement by the World Health Organization's Pilot Procurement Quality and Sourcing Project; or

''(dd) during the period that begins on the date of enactment of this section and ending on December 31, 2004, authorized for use by the national regulatory authority of the country where the product will be used; unless the President determines that the product does not meet appropriate quality standards and

''(II) in compliance with—

''(aa) the intellectual property laws of the country where the product is manufactured;

''(bb) the intellectual property laws of the country where the product will be used; and

''(cc) applicable international obligations in the field of intellectual property, to the extent consistent with the flexibilities provided in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as interpreted in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

''(iii) PRICES PUBLICLY AVAILABLE.—Prices paid for purchases of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, of assured quality shall be made publicly available.

''(iv) APPLICATION TO APPROPRIATED FUNDS.—Funds appropriated under title IV of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are used for the procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections, shall be used to procure products of assured quality at the lowest possible price, as determined under this subparagraph.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect a decision regarding which medicine is most medically appropriate for a specific disease or condition.

SA 682. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. CLINTON, Mr. JEFFORDS, Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. SCHUMER, Mr. CORZINE, Mrs. BOXER, Mr. FEINGOLD, and Mr. BIDEN) proposed an amendment to the bill H. 1298, to provide assistance to foreign countries to combat HIV AIDS, tuberculosis, and malaria, and for other purposes; as follows:

Beginning on page 94, strike line 19 and all that follows through line 17 on page 95, and insert the following: ''301 of this Act), including promoting abstinence from sexual activity and encouraging monogamy and faithfulness and promoting the effective use of condoms for sexually active people; and

''(4) 10 percent of such amounts for orphans and vulnerable children.

''SEC. 403. ALLOCATION OF FUNDS.

''(a) THERAPEUTIC MEDICAL CARE.—For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care.''.

SA 683. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 535, to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; as follows:

On page 1, beginning with line 7, strike all through page 3, line 19, and insert the following:

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS AND DECEASED FIREFIGHTERS.

(a) DEFINITIONS.—In this Act:

(1) CAPITOL-FLOWN FLAG.—The term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol and provided under this Act to honor the deceased law enforcement officer or firefighter for whom such flag is requested.

(2) DECEASED FIREFIGHTER.—The term ''deceased firefighter'' means a person who—

(A) performs firefighting duties on a paid or voluntary basis; and

(B) dies in the line of duty as a firefighter.

(3) DECEASED LAW ENFORCEMENT OFFICER.—The term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

(4) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator, a Representative in Congress, or a Delegate to Congress.

(b) MEMBER OFFICES.—

(1) IN GENERAL.—The family of a deceased law enforcement officer or a deceased firefighter may request that a Member of Congress provide to that family a Capitol-flown flag.

(2) EXPENSE.—The costs associated with providing a flag under this subsection may be paid from official funds.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer or a deceased firefighter who died on or after the date of enactment of this Act.

SA 684. Mrs. BOXER proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On Page 29, line 15, insert before the semicolon the following: '', including the development and implementation of a specific plan to provide resources to households headed by an individual who is caring for one or more AIDS orphans''.

SA 685. Mr. DODD proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes; as follows:

On page 31, line 19, insert the following after the second comma on that line:

''Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Jamaica, Montserrat, St. Kitts and Nevis, St. Vincent and the Grenadines, St. Lucia, Suriname, Trinidad and Tobago, Dominican Republic,''

SA 686. Mr. BIDEN (for himself, Mr. LEAHY) proposed an amendment to the bill H.R. 1298, to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes as follows:

At the end of the bill, insert the following:

TITLE V—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p—262p–7) is amended by adding at the end the following new section:

''SEC. 1625. MODIFICATION OF THE ENHANCED HIPC INITIATIVE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after the date of enactment of this section or the Decision Point, whichever is later—

''(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

''(i) as of the decision point if the country has already reached its decision point, or

(ii) as of the date of enactment of this Act, if the country has not reached its decision point, to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

''(B) the annual payments due on such public and publicly guaranteed debt to not more than—

''(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

''(ii) a percentage of the gross national product of the country, or another benchmark, that will yield a result substantially equivalent to that which would be achieved through application of subparagraph (A).

''(2) LIMITATION.—In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

''(b) RELATION TO POVERTY AND THE ENVIRONMENT.—Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

''(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

''(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

''(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p); or

''(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

''(c) CONDITIONS.—A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

''(1) has an excessive level of military expenditures;

''(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

''(3) is failing to cooperate on international narcotics control matters; or

''(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

''(d) PROGRAMS TO COMBAT HIV/AIDS AND POVERTY.—A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

''(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

''(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

''(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

''(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

''(e) DEFINITIONS.—In this section:

''(1) COUNTRY SUFFERING A PUBLIC HEALTH CRISIS.—The term 'country suffering a public health crisis' means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

''(2) DECISION POINT.—The term 'Decision Point' means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

''(3) ENHANCED HIPC INITIATIVE.—The term 'Enhanced HIPC Initiative' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.''.

SEC. 502. REPORT ON EXPANSION OF DEBT RELIEF TO NON-HIPC COUNTRIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) SPECIFIC OPTIONS TO BE CONSIDERED.—Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 1625(e) of the Financial Institutions Act, as added by section 501 of this Act), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) ENHANCED HIPC INITIATIVE DEFINED.—In this section, the term ''Enhanced HIPC Initiative'' means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 1625 of the International Financial Institutions Act, as added by section 501 of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday May 15, 2003. The purpose of this hearing will be to review the nominations of Glenn Klippenstein, Julia Bartling, and Lowell Junkins to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

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

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 15, 2003, at 5 p.m., in closed session to receive a briefing by the General Counsel of the Air Force, Ms. Mary L. Walker, on the results of the inquiry into reports of sexual assaults at the U.S. Air Force Academy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to conduct a business meeting on Thursday, May 15 at 9:30 to consider the following:

A bill to provide for the security of commercial nuclear power plants and facilities designated by the Nuclear Regulatory Commission.

A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works.

S. 994, Chemical Security Bill, a bill to protect human health and the environment from the release of hazardous substances by acts of terrorism.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, May 15, 2003 at 9:30 a.m. for a hearing entitled ''Investing in Homeland Security: Challenges Facing State and Local Governments.''

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, May 15, 2003 at 2 p.m. for a nomination hearing to consider the nominations of Susanne T. Marshall to be Chairman of the Merit Systems Protection Board, Neil McPhie to be a Member of the Merit Systems Protection Board and Terrence A. Duffy to be a member of the Federal Retirement Thrift Investment Board.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, May 15, 2003 at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 575, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 15, 2003, at 10:00 a.m.

I. Nominations: Michael Chertoff to be U.S. Circuit Judge for the Third Circuit; David G. Campbell to be U.S. District Judge for the District of Arizona; L. Scott Coogler to be U.S. District Judge for the Northern District of Alabama; and Mark Moki Hanohano to be U.S. Marshal for the District of Hawaii.

II. Bills: S. 878, A bill to authorize an additional permanent judgeship in the District of Idaho and S. 1023, A bill to increase the annual salaries of justices and judges of the United States.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 15, 2003 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON OCEANS, FISHERIES, AND COAST GUARD

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Fisheries and Coast Guard be authorized to meet on Thursday, May 15, 2003, at 2:30 p.m. on Marine Mammal Protection Act in SR–253.

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

HOMETOWN HEROES SURVIVORS BENEFITS ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 459 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 459) to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 459) was read three times and passed, as follows:

S. 459

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hometown Heroes Survivors Benefits Act of 2003''.

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3796) is amended by adding at the end of the following:

''(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty, or not later than 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty.''.

SEC. 3. APPLICABILITY.

Section 1201(k) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2, shall apply to deaths occurring on or after January 1, 2003.

FALLEN LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS FLAG MEMORIAL ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. 535 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 535) to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 683

Mr. FRIST. Mr. President, I understand Senator DODD has an amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 683) was agreed to, as follows:

AMENDMENT NO. 683

(Purpose: To provide for the delivery of flags through Congress)

On page 1, beginning with line 7, strike all through page 3, line 19, and insert the following:

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS AND DECEASED FIREFIGHTERS.

(a) DEFINITIONS.—In this Act:

(1) CAPITOL-FLOWN FLAG.—The term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol and provided under this Act to honor the deceased law enforcement officer or firefighter for whom such flag is requested.

(2) DECEASED FIREFIGHTER.—The term ''deceased firefighter'' means a person who—

(A) performs firefighting duties on a paid or voluntary basis; and—

(B) dies in the line of duty as a firefighter.

(3) DECEASED LAW ENFORCEMENT OFFICER.—The term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

(4) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator, a Representative in Congress, or a Delegate to Congress.

(b) MEMBER OFFICES.—

(1) IN GENERAL.—The family of a deceased law enforcement officer or a deceased firefighter may request that a Member of Congress provide to that family a Capitol-flown flag.

(2) EXPENSE.—The costs associated with providing a flag under this subsection may be paid from official funds.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer or a deceased firefighter who died on or after the date of enactment of this Act.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 535), as amended, was read the third time and passed, as follows:

S. 535

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2003''.

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS AND DECEASED FIREFIGHTERS.

(a) DEFINITIONS.—In this Act:

(1) CAPITOL-FLOWN FLAG.—The term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol and provided under this Act to honor the deceased law enforcement officer or firefighter for whom such flag is requested.

(2) DECEASED FIREFIGHTER.—The term ''deceased firefighter'' means a person who—

(A) performs firefighting duties on a paid or voluntary basis; and

(B) dies in the line of duty as a firefighter.

(3) DECEASED LAW ENFORCEMENT OFFICER.—The term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

(4) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator, a Representative in Congress, or a Delegate to Congress.

(b) MEMBER OFFICES.—

(1) IN GENERAL.—The family of a deceased law enforcement officer or a deceased firefighter may request that a Member of Congress provide to that family a Capitol-flown flag.

(2) EXPENSE.—The costs associated with providing a flag under this subsection may be paid from official funds.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer or a deceased firefighter who died on or after the date of enactment of this Act.

HONORING THE CITY OF FAYETTEVILLE, NC, AND ITS MANY PARTNERS FOR THE FESTIVAL OF FLIGHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 58 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 58) honoring the City of Fayetteville, North Carolina, and its many partners for the Festival of Flight, a celebration of the centennial of Wilbur and Orville Wright's first flight, the first controlled, powered flight in history.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table, en bloc; and that any statements relating to the concurrent resolution be printed in the RECORD, without any intervening action or debate.

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

The concurrent resolution (H. Con. Res. 58) was agreed to.

The preamble was agreed to.

USE OF CAPITOL GROUNDS FOR DC SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 128, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 128) authorizing the use of the Capitol Grounds for the DC Special Olympics Law Enforcement Torch Run.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 128) was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108–7

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 15, 2003, by the President of the United States:

Protocol of 1997 amending Marpol Treaty (Treaty Document No. 108–7).

I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The President's message is as follows:

PROTOCOL OF 1997 AMENDING MARPOL CONVENTION (TREATY DOCUMENT NO. 108–7)

Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 15, 2003, by the President of the United States: Protocol of 1997 Amending MARPOL Convention (Treaty Document No. 108–7);

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to its ratification, the Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 thereto (hereinafter the ''Protocol of 1997''). The Protocol of 1997, which would add Annex VI, Regulations for the Prevention of Air Pollution from Ships, to the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 (hereinafter the ''MARPOL Convention''), was signed by the United States on December 22, 1998. I also enclose, for the information of the Senate, the report of the Department of State and its attached analysis of the Protocol of 1997, as well as Resolution 2 of the 1997 MARPOL Conference with its annexed Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines.

The MARPOL Convention is the global agreement to control pollution from ships. MARPOL Annex VI regulates the emission into the atmosphere of specified pollutants from ships. It complements the other annexes to the MARPOL Convention, which relate to the transport of oil (Annex I), harmful substances carried in bulk (Annex II), harmful substances in packaged form (Annex III), ship-generated sewage (Annex IV) and garbage (Annex V). The United States is a party to all of these annexes with the exception of Annex IV.

MARPOL Annex VI regulates the prevention of air pollution from ships by limiting the discharge of nitrogen oxides from large marine diesel engines, governing the sulfur content of marine diesel fuel, prohibiting the emission of ozone-depleting substances, regulating the emission of volatile organic compounds during the transfer of cargoes between tankers and terminals, setting standards for shipboard incinerators and fuel oil quality, and establishing requirements for platforms and drilling rigs at sea.

MARPOL Annex VI is an important step toward controlling and preventing emissions of harmful air pollutants from ships. U.S. ratification of the Protocol of 1997 will demonstrate U.S. commitment to an international solution and should hasten the entry into force of the Protocol of 1997. Ratification will also enhance our ability to work within the treaty framework to obtain subsequent amendments that will require further reductions in emissions of nitrogen oxides that are now achievable through the use of modern control technologies which the United States strongly supports.

I recommend that the Senate give early and favorable consideration to the Protocol of 1997 and give its advice and consent to ratification, subject to the declarations and understanding set out in the accompanying report of the Secretary of State.

GEORGE W. BUSH,
THE WHITE HOUSE, *May 15, 2003.*

ORDERS FOR MONDAY, MAY 19, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m., Monday, May 19. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business with the time until 2:30 p.m. equally divided between Senator HAGEL and the Democratic leader; provided that at 2:30 p.m. the Senate proceed to the consideration of S. 1050, the Department of Defense authorization bill, as provided under the previous order.

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

PROGRAM

Mr. FRIST. For the information of all Senators, on Monday the Senate will be in a period for morning business until 2:30 p.m. Following morning business, the Senate will begin consideration of the Department of Defense authorization bill. At 5:30, the Senate will proceed to executive session and vote on Executive Calendar No. 172, the nomination of Maurice Hicks to be a district judge for the Western District of Louisiana. Therefore, the next vote will occur on Monday afternoon at 5:30 p.m.

I wish all of my colleagues a well-deserved and restful weekend, after approximately 18 hours of consecutive debate and votes on amendments. Today we voted on a total of 36 amendments—I say today, but over the last 18 hours—in what we have called a vote-athon, and that is a lot of work as we proceed. Thus, it is indeed a well-deserved weekend before us.

ADJOURNMENT UNTIL 2 P.M. MONDAY, MAY 19, 2003

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:19 a.m., adjourned until Monday, May 19, 2003, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 2003:

THE JUDICIARY

WILLIAM GERRY MYERS III, OF IDAHO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE THOMAS G. NELSON, RETIRING.

HENRY F. FLOYD, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE DENNIS W. SHEDD, ELEVATED.

RONALD A. WHITE, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF OKLAHOMA, VICE FRANK HOWELL SEAY, RETIRING.