

allow them to go ahead with investments that have been put on hold because of this tax incentive, but it will also relieve them from some very burdensome recordkeeping requirements. That simplification is another advantage of the Bond-Collins amendment.

I thank my colleague from Missouri who does such a great job as the ranking minority member of the Senate Small Business Committee. It has been a great pleasure to work with him on this amendment. I believe this is the one provision we have debated that will make a real difference to those entrepreneurs throughout our country, to those small mom-and-pop firms that are creating good jobs in communities throughout our country. So I hope we will have a strong show of support for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Madam President, I gather there are no more people seeking to speak on this amendment. Rather than wait, we can vote. But first, I thank my colleague from Oklahoma, Senator NICKLES, a real champion of making the economy grow by putting people back to work, and Senator COLLINS has been one of our great allies. Anytime I have a small business provision, she wants to be a champion of it because she knows small businesses are driving the Maine economy, as well as in the rest of the country.

We are prepared to yield back all time on this side. I ask for the yeas and nays on this amendment.

Mr. DAYTON. We yield back all our time.

The PRESIDING OFFICER. All time is yielded back. 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.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Oklahoma (Mr. INHOFE), the Senator from Tennessee (Mr. THOMPSON), and the Senator from Montana (Mr. BURNS) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) and the Senator from Montana (Mr. BURNS) would each vote "yea."

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

The result was announced—yeas 90, nays 2, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—90

Allard	Edwards	McConnell
Allen	Enzi	Mikulski
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Murray
Biden	Graham	Nelson (FL)
Bigaman	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bunning	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchinson	Sarbanes
Carnahan	Hutchison	Schumer
Carper	Inouye	Sessions
Cleland	Jeffords	Shelby
Clinton	Johnson	Smith (NH)
Cochran	Kennedy	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Corzine	Kyl	Stabenow
Craig	Landrieu	Stevens
Crapo	Leahy	Thomas
Daschle	Levin	Thurmond
Dayton	Lieberman	Torricelli
DeWine	Lincoln	Voinovich
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durbin	McCain	Wyden

NAYS—2

Chafee

Feingold

NOT VOTING—8

Akaka	Dodd	Inhofe
Boxer	Ensign	Thompson
Burns	Gregg	

The amendment (No. 2717) was agreed to.

Mr. REID. 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.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

HOPE FOR CHILDREN ACT— Continued

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

AMENDMENT NO. 2718, AS MODIFIED

Mr. BAUCUS. Mr. President, I call up my amendment and send a modification to that amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment, as modified, is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004, and to increase the Federal medical assistance percentage under the medicaid program for calendar years 2002 and 2003)

Strike titles II and III and insert the following:

TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(III) which is qualified leasehold improvement property, or

“(IV) which is eligible for depreciation under section 167(g),

“(ii) the original use of which commences with the taxpayer after December 31, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

“(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

“(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified property’ includes property—

“(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

“(II) which has a recovery period of at least 10 years or is transportation property, and

“(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

“(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

“(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term ‘transportation property’ means tangible personal property used in the trade or business of transporting persons or property.

“(C) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall

not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(D) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service after December 31, 2001, 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 lease-back referred to in subclause (II).

“(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$4,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

“(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified leasehold improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—

“(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

“(I) by the lessee (or any sublessee) of such portion, or

“(II) by the lessor of such portion,

“(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

“(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefiting a common area, and

“(iv) the internal structural framework of the building.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

“(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term ‘related persons’ means—

“(I) members of an affiliated group (as defined in section 1504), and

“(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such subsection.

“(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.”

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

“(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.”

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking “clause (ii)” both places it appears and inserting “clauses (ii) and (iii)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

TITLE III—ASSISTANCE FOR MEDICAID COVERAGE

SEC. 301. TEMPORARY INCREASES OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR LAST 3 CALENDAR QUARTERS OF FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (g), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the second, third, and fourth calendar quarters in fiscal year 2002, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (g), if the FMAP determined without regard to this section 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 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this section.

(c) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FIRST CALENDAR QUARTER OF FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (g), if the FMAP determined without regard to this section 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 2004 shall be substituted for the State's FMAP for the first calendar quarter in fiscal year 2004, before the application of this section.

(d) GENERAL 1.50 PERCENTAGE POINTS INCREASE FOR CALENDAR YEARS 2002 AND 2003.—Notwithstanding any other provision of law, but subject to subsections (g) and (h), for each State for the second, third, and fourth calendar quarters of fiscal year 2002, each calendar quarter of fiscal year 2003, and the first calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (a), (b), and (c)) shall be increased by 1.50 percentage points.

(e) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES FOR CALENDAR YEARS 2002 AND 2003.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (g) and (h), the FMAP for a high unemployment State for the second, third, or fourth calendar quarters of fiscal year 2002, any calendar quarter of fiscal year 2003, or the first calendar quarter of fiscal year 2004, (and any subsequent such calendar quarters after the first such calendar quarter for which the State is a high unemployment State regardless of whether the State continues to be a high unemployment State for the subsequent such calendar quarters) shall be increased (after the application of subsections (a), (b), (c), and (d)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive months beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(B) AVERAGE WEIGHTED UNEMPLOYMENT RATE DEFINED.—For purposes of subparagraph (A), the “average weighted unemployment rate” for a period is—

(i) the sum of the seasonally adjusted number of unemployed civilians in each State and the District of Columbia for the period; divided by

(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.

(f) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to the second, third, and fourth calendar quarters fiscal year 2002, each calendar quarter of fiscal year 2003, and the first calendar quarter in fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

(g) 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); or

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(h) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (d) or (e) or an increase in a cap amount under subsection (f) 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 October 1, 2001.

(i) 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.).

Mr. BAUCUS. Mr. President, I ask unanimous consent my amendment be temporarily laid aside.

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

AMENDMENT NO. 2719

Mr. BAUCUS. Mr. President, I ask Senator HARKIN be allowed to call up his amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is once again pending.

The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: I want to make sure what the business is before the Senate.

The PRESIDING OFFICER. Amendment No. 2719.

Mr. HARKIN. That is the amendment which this Senator offered yesterday; is that correct?

The PRESIDING OFFICER. It was offered by Senator REID on behalf of the Senator from Iowa.

Mr. REID. Mr. President, if the Senator will withhold just for one brief comment, the minority did not have a manager here. This has been cleared. The unanimous consent we just got has been cleared with Senator GRASSLEY. I had also talked to those—I thought—on the other side who knew what we were doing.

If the Senator will withhold proceeding until we make sure someone, a manager on the other side, is here because we don't want to take advantage of them because we got a unanimous consent agreement when no one was on the floor. If the Senator will withhold, the staff has gone to seek someone on the other side.

Mr. HARKIN. I withhold.

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.

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

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

UNANIMOUS CONSENT REQUEST— S. 1630

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 218, S. 1630; that the bill be read three times and passed, and the motion to reconsider be laid upon the table with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, on behalf of the Republican leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. CARNAHAN. Mr. President, I am disappointed to hear objection to passing a bipartisan bill to help family farmers. We spent a great deal of time last year trying to pass a farm bill. I supported that effort. I support reviving that effort again this year.

The legislation that I am trying to pass today is also aimed at helping ail-

ing family farmers. The bill would extend chapter 12 of the bankruptcy code for 6 additional months. Chapter 12 offers expedited bankruptcy procedures for family farmers in an effort to accommodate their special needs. It was first enacted in 1986. It has been extended several times since then—most recently earlier this year.

The provisions of chapter 12 allow family farmers to reorganize their debts as opposed to liquidating their assets. These provisions can be invaluable to farmers struggling to stay in business during difficult times. Unfortunately, chapter 12 expired on October 1 last year.

My bill seeks to extend these provisions for six additional months and to reinstate them retroactively to the date when they expired. Retroactivity will ensure that there are no gaps in availability of these procedures. I hope this will be the last extension that is necessary.

The larger bankruptcy reform bill that is currently pending before a House-Senate conference committee includes a permanent extension of chapter 12. Nevertheless, American family farmers should not have to wait for us to complete our work on the bankruptcy reform bill. The very least we can do to assist farmers now is to reenact these noncontroversial procedures. That is why I am so puzzled by this anonymous objection.

Legislation extending these provisions passed the House of Representatives by a vote of 408 to 2 last year and subsequently passed the Senate by unanimous consent. The Judiciary Committee unanimously reported the bill I am seeking to pass today on a voice vote. Furthermore, the bill has several bipartisan cosponsors, including my colleague from Missouri, Senator KIT BOND; the chairman of the Judiciary Committee, Senator LEAHY; and the lead sponsor of the Senate bankruptcy reform bill, Senator GRASSLEY.

I urge any Senator who has any concern about this bill to speak with me. I will be more than happy to work to address any issues my colleagues may have in an effort to secure expedited passage of this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

HOPE FOR CHILDREN ACT— Continued

AMENDMENT NO. 2719

Mr. HARKIN. Mr. President, as I understand it, the pending business before the floor is amendment No. 2719, offered yesterday by Senator REID on this Senator's behalf. I rise to speak for a few minutes on that amendment.

I thank the Senator from Montana for giving me the courtesy of going first because of the time schedule I have this afternoon.

Senator BAUCUS and Senator DASCHLE have provided great leader-

ship on this important issue of the stimulus. There is one part of the amendment that is before us that is vitally important to all of our States as we are facing this downturn in the economy. That part of the amendment deals with the Federal share for Medicaid recipients in the States. It is called FMAP, the Federal Match for Medicaid Program.

Under the provision in the underlying Daschle amendment, and under the leadership of Senator BAUCUS, they did provide for three things. They provided a 1.5-percent increase to every State in their 2002 Federal match for Medicaid. That would provide about \$3.5 billion in additional Federal Medicaid payments to the States.

I have a chart which shows what that would mean for every State and what my amendment would mean for every State. I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. HARKIN. Senator BAUCUS and Senator DASCHLE, by their amendment, put in a 1.5-percent increase to all States.

The second part was, because of unemployment measures previously calculated, some States were scheduled to go down in 2002 in their Federal match. The amendment before us under Senator BAUCUS holds those States harmless. That is about 29 States that would have lost money this year. And under the Baucus amendment, they are held harmless.

The third part is that States with high unemployment would receive an additional 1.5 percent in their 2002 Federal match. This would provide assistance to about 16 States that have very high rates of unemployment. This policy proposal is extremely important for the States.

The pending amendment I have offered would only change one part of that. It would take the 1.5-percent increase for all States and increase it to 3 percent. In other words, it would add 1.5 percent to the Federal match for all States. I believe that is important because when the committee developed this bill and the stimulus package, the National Association of State Budget Officers had predicted a \$15 billion shortfall for the States for 2002. That was last fall. By the end of the year, the National Association of State Budget Officers had updated their prediction for the shortfalls in our State budgets to \$38 billion—in other words, double. I have heard from my Governor—and I know others have heard from their Governors and their legislatures—about the cuts they are going to have to make in their State budgets.

The problem is, one of the places where they have to cut, because that is the biggest pot for most States, is Medicaid. If a State cuts \$1 out of their budget on Medicaid, they may lose \$2 or \$3 or \$4 of Federal money. I don't