

where the Lerner Research Institute was established to conduct research of new treatments for cancer, coronary artery disease, and AIDS;

Whereas Al Lerner, along with his business partner Carmen Policy, reestablished a National Football League team in Northern Ohio when he purchased the expansion Cleveland Browns football organization in 1998, worked hard to make the people of Cleveland and Northern Ohio proud of their football team, and was subsequently appointed chairman of the National Football League Finance Committee;

Whereas the Cleveland Browns, on the strength of Al Lerner's leadership, reached the National Football League playoffs following the 2002 season, only 4 years after returning to the league;

Whereas Al Lerner served as founder, chairman, and chief executive of MBNA Corporation, which employs thousands of people in Ohio and is the Nation's largest issuer of independent credit cards;

Whereas Al Lerner served as vice chairman, trustee, and benefactor of Columbia College, which is now known as Columbia University, and also served as a trustee for Case Western Reserve University and New York Presbyterian Hospital;

Whereas Al Lerner helped raise funds, through his affiliation with MBNA and the Cleveland Browns, for the "Cleveland Browns Hero Fund" to aid families from the New York City Fire and Police Departments who suffered the loss of a parent in the tragic September 11, 2001, terrorist attacks;

Whereas Al Lerner was appointed in 2001 by President Bush as 1 of 15 members of the President's Foreign Intelligence Advisory Board, which advises the President concerning the quality and adequacy of intelligence collection, intelligence analysis and estimates, counter-intelligence, and other intelligence activities;

Whereas Al Lerner is survived by his wife, partner, and best friend, Norma, their son Randy, their daughter Nancy, and 7 grandchildren; and

Whereas Al Lerner passed away on October 23, 2002, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the life, achievements, and contributions of Alfred Lerner; and

(2) extends its deepest sympathies to the family of Alfred Lerner for the loss of a great and generous man.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 527. Mr. NICKLES proposed an amendment to the bill S. 476, to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

SA 528. Mr. LIEBERMAN proposed an amendment to the concurrent resolution S. Con. Res. 31, expressing the outrage of Congress at the treatment of certain American prisoners of war by the Government of Iraq.

#### TEXT OF AMENDMENTS

SA 527. Mr. NICKLES proposed an amendment to the bill S. 476, to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to en-

hance the ability of low-income Americans to gain financial security by building assets, and for other purposes; as follows:

Beginning on page 26, line 8, strike all through page 36, line 13, and insert the following:

#### SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO NONPROFIT ENTITIES FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

#### “SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO NONPROFIT ENTITIES FOR CHARITABLE PURPOSES.

“(a) EXCLUSION.—Gross income shall not include 25 percent of the qualifying gain from a qualifying sale of a long-held qualifying land or water interest.

“(b) QUALIFYING GAIN.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying gain’ means any gain which would be recognized as long-term capital gain.

“(2) SPECIAL RULE FOR SALES OF STOCK.—If the long-held qualifying land or water interest is 1 or more shares of stock in a qualifying land or water corporation, the qualifying gain is equal to the lesser of—

“(A) the qualifying gain determined under paragraph (1), or

“(B) the product of—

“(i) the percentage of such corporation's stock which is transferred by the taxpayer, times

“(ii) the amount which would have been the qualifying gain (determined under paragraph (1)) if there had been a qualifying sale by such corporation of all of its interests in the land and water for a price equal to the product of the fair market value of such interests times the ratio of—

“(I) the proceeds of the qualifying sale of the stock, to

“(II) the fair market value of the stock which was the subject of the qualifying sale.

“(c) QUALIFYING SALE.—For purposes of this section, the term ‘qualifying sale’ means a sale or exchange which meets the following requirements:

“(1) TRANSFEREE IS AN ELIGIBLE ENTITY.—The transferee of the long-held qualifying land or water interest is an eligible entity.

“(2) QUALIFYING LETTER OF INTENT REQUIRED.—At the time of the sale or exchange, such transferee provides the taxpayer with a qualifying letter of intent.

“(3) NONAPPLICATION TO CERTAIN SALES.—The sale or exchange is not made pursuant to an order of condemnation or eminent domain.

“(4) CONTROLLING INTEREST IN STOCK SALE REQUIRED.—In the case of the sale or exchange of stock in a qualifying land or water corporation, at the end of the taxpayer's taxable year in which such sale or exchange occurs, the transferee's ownership of stock in such corporation meets the requirements of section 1504(a)(2) (determined by substituting ‘90 percent’ for ‘80 percent’ each place it appears).

“(d) LONG-HELD QUALIFYING LAND OR WATER INTEREST.—For purposes of this section—

“(1) IN GENERAL.—The term ‘long-held qualifying land or water interest’ means any qualifying land or water interest owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 5-year period ending on the date of the sale.

“(2) QUALIFYING LAND OR WATER INTEREST.—

“(A) IN GENERAL.—The term ‘qualifying land or water interest’ means a real property interest which constitutes—

“(i) a taxpayer's entire interest in land,

“(ii) a taxpayer's entire interest in water rights,

“(iii) a qualified real property interest (as defined in section 170(h)(2)), or

“(iv) stock in a qualifying land or water corporation.

“(B) ENTIRE INTEREST.—For purposes of clause (i) or (ii) of subparagraph (A)—

“(i) a partial interest in land or water is not a taxpayer's entire interest if an interest in land or water was divided in order to create such partial interest in order to avoid the requirements of such clause or section 170(f)(3)(A), and

“(ii) a taxpayer's entire interest in certain land does not fail to satisfy subparagraph (A)(i) solely because the taxpayer has retained an interest in other land, even if the other land is contiguous with such certain land and was acquired by the taxpayer along with such certain land in a single conveyance.

“(e) OTHER DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a governmental unit referred to in section 170(c)(1), or an agency or department thereof, or

“(B) an entity which is described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B).

“(2) QUALIFYING LETTER OF INTENT.—The term ‘qualifying letter of intent’ means a written letter of intent which includes the following statement: ‘The transferee's intent is that this acquisition will serve 1 or more of the charitable purposes of the transferee and that the use of the property will continue to be consistent with such purposes, even if ownership or possession of such property is subsequently transferred to another person.’

“(3) QUALIFYING LAND OR WATER CORPORATION.—The term ‘qualifying land or water corporation’ means a C corporation (as defined in section 1361(a)(2)) if, as of the date of the qualifying sale—

“(A) the fair market value of the corporation's interests in land or water held by the corporation at all times during the preceding 5 years equals or exceeds 90 percent of the fair market value of all of such corporation's assets, and

“(B) not more than 50 percent of the total fair market value of such corporation's assets consists of water rights or infrastructure related to the delivery of water, or both.

“(f) TAX ON SUBSEQUENT TRANSFERS OR REMOVALS OF CHARITABLE USE RESTRICTIONS.—

“(1) IN GENERAL.—A tax is hereby imposed on any subsequent—

“(A) transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of property acquired directly or indirectly in—

“(i) a qualifying sale described in subsection (a), or

“(ii) a transfer described in clause (i), (ii), or (iii) of paragraph (4)(A), or

“(B) removal of a charitable use restriction contained in an instrument of conveyance of such property.

“(2) AMOUNT OF TAX.—The amount of tax imposed by paragraph (1) on any transfer or removal shall be equal to the sum of—

“(A) either—

“(i) 20 percent of the fair market value (determined at the time of the transfer) of the property the ownership or possession of which is transferred, or

“(ii) 20 percent of the fair market value (determined at the time immediately after

the removal) of the property upon which the charitable use restriction was removed, plus

- “(B) the product of—
- “(i) the highest rate of tax specified in section 11, times
- “(ii) any gain or income realized by the transferor or person removing such restriction as a result of the transfer or removal.

“(3) LIABILITY.—The tax imposed by paragraph (1) shall be paid—

- “(A) on any transfer, by the transferor, and
- “(B) on any removal of a charitable use restriction contained in an instrument of conveyance, by the person removing such restriction.

“(4) RELIEF FROM LIABILITY.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1)—

- “(A) with respect to any transfer if—
- “(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent, or
- “(ii) the transferee is not an eligible entity, it is established to the satisfaction of the Secretary, that the transfer of ownership or possession, as the case may be, will be consistent with charitable purpose of the transferor, and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

“(iii) tax has previously been paid under this subsection as a result of a prior transfer of ownership or possession of the same property, or

- “(B) with respect to any removal of a charitable use restriction contained in an instrument of conveyance, if it is established to the satisfaction of the Secretary that the retention of the restriction was impracticable or impossible and the proceeds continue to be used in a manner consistent with 1 or more charitable purposes.

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

“(6) REPORTING.—The Secretary may require such reporting as may be necessary or appropriate to further the purpose under this section that any charitable use be in perpetuity.”.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

“Sec. 121A. 25-percent exclusion of gain on sales or exchanges of land or water interests to nonprofit entities for charitable purposes.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges occurring after December 31, 2003, in taxable years ending after such date.

**SEC. 107A. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

“(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

- “(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and
- “(2) other similar requests.

“(b) PROGRAM CRITERIA.—

“(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

- “(A) shall vary according to categories (or subcategories) established by the Secretary,
- “(B) shall be determined after taking into account the average time for (and difficulty

of) complying with requests in each category (and subcategory), and

- “(C) shall be payable in advance.
- “(2) EXEMPTIONS, ETC.—
- “(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

“(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

- “(i) made after the later of—
- “(I) the fifth plan year the pension benefit plan is in existence, or
- “(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or
- “(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

“(i) PENSION BENEFIT PLAN.—The term ‘pension benefit plan’ means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

“(ii) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

“(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

“(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

<b>“Category</b>	<b>Average fee</b>
Employee plan ruling and opinion ..	\$250
Exempt organization ruling .....	\$350
Employee plan determination .....	\$300
Exempt organization determination.	\$275
Chief counsel ruling .....	\$200.

“(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2007.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

“Sec. 7528. Internal Revenue Service user fees.”.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

**SA 528.** Mr. LIEBERMAN proposed an amendment to the concurrent resolu-

tion S. Con. Res. 31, expressing the outrage of Congress at the treatment of certain American prisoners of war by the Government of Iraq; as follows:

In the preamble strike the first 6 whereas clauses, and insert:

Whereas Saddam Hussein has failed to comply with United Nations Security Council Resolutions 678, 686, 687, 688, 707, 715, 949, 1051, 1060, 1115, 1134, 1137, 1154, 1194, 1205, 1284, and 1441;

Whereas the military action now underway against Iraq is lawful and fully authorized by the Congress in Sec. 3(a) of Public Law 107-243, which passed the Senate on October 11, 2002, by a vote of 77-23, and which passed the House of Representatives on the same date by a vote of 296-133;

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 9, 2003, at 10 a.m. on transportation and border security.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, April 9 at 10 a.m. to consider Comprehensive Energy Legislation.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 9 at 9:30 a.m. to conduct a business meeting to mark up legislative bills, nominations, and a resolution.

The meeting will be held in SD 406. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 9, 2003, at 10 a.m., to hear testimony on the 2003 Annual Report of the Board of Trustees of the Federal Old Age and Survivors Insurance and Disability Insurance Trust Funds.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 9, 2003 at 9:30 a.m. to hold a Business Meeting.

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