burden on the world's poorest nations—many of whom are burdened also by this AIDS crisis. Another will provide American food aid to people suffering from AIDS in desperately poor nations. We know that many people who suffer from AIDS actually die from starvation and malnutrition. Emergency food aid from America's farmers can help keep them alive.

It is important to note, however, that this is just an authorization bill. By itself, it does not commit one dime to prevent AIDS or help its victims. The real test of our commitment to children like Mary and others living with and threatened by AIDS will be whether we fund this promise. A prescription you can't afford to fill does no good at all. The President calls his proposal an ''emergency plan.'' He is right. This is an emergency. We should treat it like an emergency. After we pass this bill, we must appropriate the full amount it prescribes.

We can react to the plight of AIDS orphans like Mary with denial and despair. Or we can respond—as this proposal does—with a determination to save those children and the millions of others threatened by HIV/AIDS.

In Uganda, mothers with AIDS create ''memory books'' for their children. In their dying days, they gather together photos and stories they want their children to know. They know that they will not live to see their children grow up. With this bill, we have a chance to write a different book—a different kind of history in this fight against AIDS. Let us write that book. Let us pass this bill today. Then, let us quickly agree to commit the resources it promises.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COLEMAN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. COLEMAN. Mr. President, are we in morning business? What is the status of where we are, Mr. President?

The PRESIDING OFFICER. The Senate is to resume consideration of the tax reconciliation bill.

Mr. COLEMAN. I ask unanimous consent to have an opportunity to address the global AIDS bill very briefly.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003—Continued

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The reconciliation act, and it is necessary to set aside the pending Burns amendment.

Mr. BAUCUS. I ask unanimous consent that the Burns amendment be set aside.

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

AMENDMENT NO. 614

The PRESIDING OFFICER. The business now is the amendment of the Senator from Michigan.

Who yields time?

Ms. STABENOW. Mr. President, I ask unanimous consent that Senator MIKULSKI be added as a cosponsor of the amendment.

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

Ms. STABENOW. Mr. President, I urge my colleagues to support this very important amendment for the seniors of this country. This does that. First and foremost, before we pass the dividend tax cut and the top rate tax cut, we will proceed to develop and pass a comprehensive prescription drug benefit that is equivalent to what we receive in the Senate. I have heard many colleagues express the concern I share, which is that the seniors and the disabled of this country ought to have the same ability to have the prescription drug coverage we as Federal employees do.

This amendment simply sets our priorities straight. It says before we proceed with these two tax cuts, we will pass a comprehensive prescription drug benefit based on FEHBP, the most common portion of which is used by Senate and House Members. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I oppose this amendment. I feel exactly about Medicare and prescription drug issues as the Senator from Michigan, but this is not the way to do it. This amendment reduces our jobs and growth package even before the Finance Committee takes up a comprehensive prescription drug benefit and Medicare improvement bill.

I hope everybody knows that I am very committed to reporting a $400 billion bill out of the Finance Committee, and doing it this summer, hopefully within the month. This will add a comprehensive prescription drug benefit for seniors.

The amendment before us jumps the gun. I am working in a bipartisan way on a prescription drug policy that fits within that $400 billion framework in our budget resolution. In fact, I have a 4 o'clock meeting today with Senators on that issue that, obviously, I am not going to be able to keep because of these rollcall votes. We need to keep the jobs and growth package complete.

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

Mr. GRASSLEY. Mr. President, I want to raise a point of order. This upsets the balance of our bill. This language is not germane to the measure before the Senate. Therefore, I raise a point of order under section 305(b)(2) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Due to the fact the budget resolution does not contain enough revenue to do what our distinguished chairman has just indicated, this amendment is necessary to make that happen. 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. 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 assistant legislative clerk called the roll.

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

[Rollcall Vote No. 159 Leg.]

YEAS—44

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

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
Carper	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Jeffords	Talent
Collins	Kyl	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. GRASSLEY. Mr. President, 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.

The next amendment is the Warner amendment. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent that the Warner amendment be set aside to take up another amendment, and then we will take up the Warner amendment next.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 592, AS MODIFIED

The PRESIDING OFFICER. The next amendment is the Voinovich amendment. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I understand the regular order is the Voinovich amendment. The Senator from Ohio has the right to speak.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Ohio.

Mr. VOINOVICH. I have an amendment that has been modified. The modification has been agreed to. I send my amendment, with the modification, to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To establish a blue ribbon commission on comprehensive tax reform)

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fundamental Tax Reform Commission Act of 2003''.

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the ''Blue Ribbon Commission on Comprehensive Tax Reform'' (in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members of whom—

(A) 1 shall be the Chairman of the Board of Governors of the Federal Reserve System;

(D) 2 shall be appointed by the majority leader of the Senate;

(E) 2 shall be appointed by the minority leader of the Senate;

(F) 2 shall be appointed by the Speaker of the House of Representatives;

(G) 2 shall be appointed by the minority leader of the House of Representatives; and

(H) 3 shall be appointed by the President, of which—

(i) no more than 2 shall be of the same party as the President; and

(2) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(3) DATE.—The appointments of the members of the Commission shall be made not later than July 30, 2003.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(c) REPORT.—Not later than 18 months after the date on which all intitial members of the commission have been appointed pursuant to section 2(b), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to the Commission to carry out this Act.

Mr. VOINOVICH. Mr. President, I ask that the amendment, as modified, be accepted by voice vote.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

The Senator from Montana.

Mr. BAUCUS. Mr. President, might I ask the Senator from Ohio if the modification is the one that changes the ratio of the membership?

Mr. VOINOVICH. It changes the ratio of the membership and increases more representation by minority. It takes off the head of the IRS, and it is more evenly balanced and meets the problems that we talked about last night.

Mr. BAUCUS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are vitiated.

The question is on agreeing to the amendment, as modified.

The amendment (No. 592), as modified, was agreed to.

Mr. BAUCUS. 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.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I understand the next amendment is the Graham of Florida amendment.

The PRESIDING OFFICER. If the Warner amendment is once again set aside.

Mr. BAUCUS. I ask unanimous consent that the Warner amendment and all relevant amendments be temporarily set aside so we can next proceed to the Graham of Florida amendment.

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

AMENDMENT NO. 617

The PRESIDING OFFICER. Who yields time on the Graham amendment?

Mr. GRAHAM of Florida. I ask unanimous consent that Senators ROCKEFELLER and KERRY be added as cosponsors to my amendment.

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

Mr. GRAHAM of Florida. Mr. President, we have more dismal news on the state of the economy in today's press; that the April sales in the United

States declined .9 percent below those in March. This is what the chief economist of Wells Fargo had to say about this development: Consumers are tapped out. They have done a marvelous job of supporting the economy, but they are basically done. We need something else to pull up the slack.

I suggest that what we need is this amendment which will place money in the hands of those Americans and institutions most likely to spend and therefore create demand. Those include payroll, small business. It includes those who have already lost their jobs and their unemployment benefits and State governments. This proposal would focus on the next 2 years——

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

Mr. GRAHAM of Florida. The period of time in which we need to have a stimulus. Most importantly, this would not add to the national debt because it would be fully offset, therefore avoiding the potential that by adding to the deficit we will add to the economic problems that we will have in the future.

Mr. President, I ask unanimous consent that an article from today's Washington Post on consumer spending be printed in the RECORD.

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

[From the Washington Post, May 15, 2003]

CONSUMERS TRIMMED SPENDING IN APRIL

DROP IN GASOLINE SALES WAS FACTOR IN DECLINE

(By Dina ElBoghdady and Anitha Reddy)

Consumer spending dipped in April as shoppers were more concerned about their jobs than the easing of tensions with Iraq, increasing prospects that economic growth will be tepid at best in the second half of the year.

The Commerce Department reported yesterday that April retail sales fell 0.1 percent from March, when pent-up demand created by February's snow storms helped boost sales 2.3 percent.

Excluding auto purchases, April sales declined 0.9 percent, the report showed.

''Consumers are tapped out,'' said Sung Won Sohn, chief economic officer at Wells Fargo & Co. ''They've done a marvelous job of supporting the economy, but they are basically done . . . We need something else to pull up the slack.''

A large portion of the overall sales decline came from consumers spending less on gasoline. Gas purchases fell 5.9 percent from late March to late April as gas prices slid by about a dime on average.

But shoppers also held back on their purchases of clothing, furniture and garden supplies because of uncertainty about holding on to their jobs, or finding new ones, if necessary. The jobless rate is 6 percent today, compared with slightly over 4 percent a year ago. Consumers' hesitancy was a big factor preventing the postwar bounce that economists had expected.

''It's not just that the unemployment rate is a problem, it's that the people who are unemployed are unemployed for a longer period of time,'' said John E. Silvia, chief economicst at Wachovia. ''The job pool is stagnant.''

A tax cut might prompt shoppers to increase spending and help fuel a more robust recovery, said David A. Wyss, chief economist at Standard & Poor's Corp.

Wyss said the savings patterns of the average American indicate that any extra money in after-tax pay would be spent rather than saved.

''The saving rate is pretty much flat, which certainly suggests that consumers are spending as much money as they have,'' Wyss said. ''You can't expect them to do much more than that.''

Sales fell 3.2 percent at clothing and accessory stores, 1.4 percent at department stores and 0.5 percent at restaurants and bars.

''I've just been going out a lot less,'' said Tonya Sawyer, a claims adjustor shopping at the Fashion Centre at Pentagon City. ''So I don't have the need for clothes or make-up.''

Instead, the 30 years old said she relies on new books and CDs, rental videos and her dog Bella to entertain herself in her Arlington apartment. Sales at stores that sell sporting goods, books, music and hobby materials increased 1.2 percent.

Even the one demographic group that stores hoped might show steadfast devotion to shopping—teenage girls during prom season—was being wary.

''It's finding what you want at the right price'' that's so hard, said Breona Cain, a high school senior from Largo who was at Pentagon City with two friends yesterday, searching for the perfect accessories for her dress.

Auto sales rose 2.5 percent in April, thanks to widespread no-interest financing offers.

''Consumers have shown they're opportunistic,'' said Frank Badillo, senior economist at Retail Forward Inc., a market research firm. ''So certain sectors are benefiting in what is otherwise a weak environment.''

Some economists say that in such an uncertain climate it's too early to guage the outlook for the rest of the year.

''The April results should most properly be viewed as transition from a war footing to a normal peacetime footing,'' Ken Mayland, president of Clear View Economics, said in a report. ''Consumers are betwixt and between a 'recession' mindset and a 'recovery mindset. They have not bought in to either.''

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

Who yields time?

Mr. KYL. Mr. President, speaking on behalf of Senator GRASSLEY, this is a complete substitute and therefore, obviously, will have to be opposed. It strikes all of the good work from the committee bill regarding the child credit, marriage penalty, AMT, reduction of rates for individuals and small businesses, as well as the dividend relief.

We certainly appreciate the Senator's concerns about unemployment insurance and relief for the States. Obviously, we are committed to addressing the unemployment insurance issue. As everyone now knows, we have $20 billion for State aid in the bill, and therefore we will have to make a point of order. The matter is not germane to the measure now before the Senate. Therefore, I make a point of order that the pending amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. GRAHAM of Florida. Pursuant to section 904 of the Budget Act I ask that the point of order against my amendment be waived.

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 senior assistant bill clerk called the roll.

The result was announced—yeas 35, nays 65, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—35

Akaka	Dorgan	Lautenberg
Biden	Durbin	Leahy
Bingaman	Feingold	Levin
Boxer	Feinstein	Mikulski
Breaux	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reid
Clinton	Inouye	Rockefeller
Corzine	Jeffords	Sarbanes
Daschle	Kennedy	Stabenow
Dayton	Kerry	Wyden
Dodd	Landrieu	

NAYS—65

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

The PRESIDING OFFICER. On this question, the yeas are 35, the nays are 65. 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. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 550 WITHDRAWN

The PRESIDING OFFICER. Without objection, the pending Warner amendment is set aside.

The Senator from Virginia.

Mr. WARNER. Mr. President, I ask to have the amendment set aside.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. WARNER. My request is on behalf of Senator COLLINS, Senator CRAIG, Senator ALLEN, and Senator MURKOWSKI. I do so because we have made a conscientious effort, together with the cooperation of the managers of this bill, to find the offset and we simply could not find the offset.

The thrust of our amendment is for the teachers in America. The amendment is very simple. It compensates them through a tax deduction for each time they reach into their own pocketbooks or pockets to buy school supplies for their students. We need to increase that amount from $250 which is current law. We need to broaden it so they can use some of the deduction for purposes of continuing education. This is an amendment not for the rich; it is simply for those who serve America and ask very little by way of salary.

We cannot move it at this time, but the managers very generously have acceded to this colloquy. The managers have agreed to look at this in future tax legislation and for the time being will agree to extend it so this current law of the $250 deduction will not expire at the end of this calendar year.

I ask the question of my colleague.

Mr. GRASSLEY. The Senator accurately stated what my intentions are, but let me say it for myself so the Senator knows I have said it.

First of all, I need to thank the Senator for his cooperation in working with us on this amendment so we can expedite the bill. Also, I make clear I am a strong supporter of the Senator's legislation and the expansion of it and would agree to make sure we get this done before the end of the calendar year, so that would involve extending it and expanding these teacher provisions.

This all deals—so everyone knows what we are talking about—with the extension of legislation passed within the last 2 years. It sunsets. We make these permanent, and there would be a significant increase in the above-the-line deduction for teachers.

Mr. WARNER. Mr. President, I thank my distinguished colleague. Perhaps the ranking member may wish to address this issue. If the ranking member would care to make a comment about the withdrawal of the amendment of the Senator from Virginia?

Mr. BAUCUS. Mr. President, I thank the Senator from Virginia for asking the question. All I can say at this point is we will do the very best we can.

Mr. WARNER. I thank my colleague. I move to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 575

The PRESIDING OFFICER. The business before the Senate is the Kyl amendment.

The Senator from Arizona.

Mr. KYL. Mr. President, is there an order for me to speak to the Kyl amendment at this point?

The PRESIDING OFFICER. The Senator has the floor for 1 minute.

Mr. KYL. Mr. President, this is the amendment that would return money to the States from the tobacco company payments to trial lawyers, money that exceeded reasonable fees as determined by a common standard in the courts and an IRS Code provision.

What we have done in this amendment is to apply it only prospectively, not retroactively. The fee is a reasonable fee plus 500 percent, and in any event the lawyers are guaranteed—and, colleagues, please note this—$20,000 per hour. That is what the lawyers are guaranteed in those cases, those 10 to 15 cases per year to which this would apply.

Those fees were not set by contract. They were not set by courts. The money is going to be paid by the tobacco companies. The only question is, are these excess fees going to be paid to the tobacco lawyers or are they going to be paid to the States?

I will have at both desks a chart which shows how much money each of the States would receive. It is between $6 billion and $9 billion in total. You can see the amount listed on this sheet. I ask you to consult that because that is money your States would receive if this amendment is adopted.

The PRESIDING OFFICER. Who speaks in opposition? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, this amendment was already offered in the Senate Finance Committee. It was defeated by a bipartisan vote of Republicans and Democrats in the Finance Committee.

IRS should not be involved in setting the fees for CEOs in this country. They should not be involved in setting the fees for plumbers or electricians. And they should not be involved in setting the fees for attorneys who have had voluntary agreements between defendants and the plaintiffs about what they should be paid, which have been approved by the courts. All of these fees have been approved by the courts or by the arbitrator. They were voluntarily agreed to.

Lawyers don't get paid by the hour in these cases; they get paid by the job. IRS should not determine what are correct payments for services.

Mr. BIDEN. Will the Senator yield me 10 seconds?

Mr. BREAUX. I yield it if I have any time remaining.

Mr. BIDEN. I want to point out company lawyers were paid $700 million per year, per year, for 5 years. Plaintiffs' lawyers had to risk $100 million of their own money.

The PRESIDING OFFICER. All time has expired.

Mr. BREAUX. Mr. President, the pending amendment is not germane. Therefore, I make a point of order the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. KYL. Mr. President, I move to waive the provision. 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 assistant legislative clerk called the roll.

Mr. LOTT (when his name was called). Present.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The yeas and nays resulted—yeas 37, nays 61, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—37

Alexander	Ensign	Murkowski
Allard	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Snowe
Burns	Hagel	Stevens
Campbell	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lugar	Warner
Dole	McCain	
Domenici	McConnell	

NAYS—61

Akaka	DeWine	Lieberman
Allen	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham (FL)	Pryor
Byrd	Graham (SC)	Reed
Cantwell	Harkin	Reid
Carper	Hatch	Rockefeller
Chafee	Hollings	Sarbanes
Chambliss	Jeffords	Schumer
Clinton	Johnson	Shelby
Cochran	Kennedy	Smith
Coleman	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Voinovich
Crapo	Lautenberg	Wyden
Daschle	Leahy	
Dayton	Levin	

ANSWERED ''PRESENT''—1

Lott

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays are 61, and one Senator responded ''present.'' 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. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 619

The PRESIDING OFFICER. The next amendment is the Landrieu amendment. Each side has 1 minute.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that relevant pending amendments be temporarily laid aside so that Senator LANDRIEU's amendment can be voted on.

The PRESIDING OFFICER. The Landrieu amendment is now before the body.

Mr. GRASSLEY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. Senators will please take their conversations off the floor.

The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. President, this afternoon we are being asked to buy a pig in a poke.

That is what we would say in Louisiana—a pig in a poke. Please colleagues, do not vote for the underlying bill. Senator CORZINE and Senator SCHUMER and I offer an amendment which is a $350 billion alternative that is truly stimulative. It tries to work with the administration but takes out the nonstimulative portion and puts in a rebate on wages. If we want to create jobs, then let us stop taxing them.

Our amendment also treats States as respected partners and not as charitable aid organizations, which they are not.

It also says that tax cuts aren't the only way to stimulate the economy; that you can make strategic investments. As politicians, live up to your promises to children by funding education and health care.

Don't buy a pig in a poke, and don't turn your back on the 2 million companies, 2 million farms, and 2 million partnerships that do not get a penny from the dividend tax cut.

Mr. GRASSLEY. Mr. President, the way to make sure the American people are not buying a pig in a poke is to get more money in the pockets of the taxpayers so that there is less money around here for 535 Members of Congress to play with.

I want to speak in regard to this amendment; that the complete substitute will cut back our efforts to reduce marginal rates for families and small businesses.

In addition, the bill will make millions of taxpayers subject to the alternative minimum tax.

I appreciate the Senator's efforts on the child tax, and we already have a $95 billion child tax credit.

We also have significant State aid in the bill.

We have a point of order, as we have had before on an amendment like this.

I raise that point of order—that the language is not germane to the measure now before the Senate. The point of order is under section 305(b)(2) of the Congressional Budget Act.

Ms. LANDRIEU. 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 this 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 47, nays 53, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—47

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

NAYS—53

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
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	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 53. 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. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, my understanding is there are pending votes that require unanimous consent to be set aside. I make that request so that the next Landrieu amendment can be in order.

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

AMENDMENT NO. 620

The PRESIDING OFFICER. The Landrieu amendment No. 620 is before the Senate.

There are 2 minutes equally divided. Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, this amendment would go a long way to send the right message to our guardsmen and reservists. Over 370,000 have been activated since September 11 and the attack on this city and our Nation.

As we know, it has been made painfully aware to us that many of these guardsmen and reservists who serve take a cut in pay because they leave their jobs, they close their businesses to temporarily serve us.

This amendment will give their employers, and themselves if they are an employer, the opportunity to write off 50 percent of the cost of their salaries so those salaries can be maintained while they are protecting and serving us. It is the least we can do.

The other side is going to say they will get to it later. Let's get to it today. Let's not let this tax bill pass without honoring the Guard and Reserves and giving them a chance to keep their businesses open while they keep us safe.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this amendment proposes to offer a 50-percent tax credit for employers of reservists to encourage differential pay.

This amendment does not benefit those who are self-employed and provides little benefit to small businesses with little equity.

In addition, nearly 80 percent of the cost of the military tax bill, which we have already passed in the Senate, is dedicated to reservists with the above-the-line deduction that was included because Senator DEWINE pushed very hard for it.

The amendment is paid for by reducing the dividend exclusion which is essential to our growth package; in other words, to keep a well balanced growth package.

So the amendment I see as an attack on the jobs and growth bill, and I ask that it not be adopted.

Mr. President, I raise a point of order on germaneness, that the amendment is not germane. The point of order comes under section 305(b)(2) of the Congressional Budget Act.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Senator FEINGOLD, Senator STABENOW, and Senator MIKULSKI be added as cosponsors of the amendment.

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

Ms. LANDRIEU. 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 appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

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

[Rollcall Vote No. 163 Leg.]

YEAS—46

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Pryor
Byrd	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—54

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

Smith	Stevens	Thomas
Snowe	Sununu	Voinovich
Specter	Talent	Warner

The PRESIDING OFFICER (Mr. SMITH). On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senate 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. KYL. Mr. President, 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.

AMENDMENT NO. 621 WITHDRAWN

Mr. BAUCUS. Mr. President, I ask unanimous consent that the votes on the various amendments next up be temporarily laid aside so we can proceed to the Landrieu amendment No. 621.

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

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleagues for their patience. Senator SESSIONS and I offered this amendment. We are not going to ask for a vote, but I would like to explain it in 1 minute. We offered this amendment to try to technically correct a glitch in the renewal community law. It only affects districts in Louisiana and Alabama now, but it could affect, in the near term, districts in 40 other States.

I am going to ask the chairman of the Finance Committee to consider this fix. It only costs $14 million a year and it will help create jobs in some of the poorest areas in our country. So if I could ask for their consideration, I will at this time withdraw the amendment.

Mr. KYL. Mr. President, I have spoken to the Senator from Louisiana. I know the chairman is appreciative of her efforts along with the Senator from Alabama. He is anxious to continue to work with her on this matter. He appreciates their very strong interest in trying to rectify this situation. On behalf of the chairman, I can say he will be willing to work with her.

Mr. BAUCUS. Mr. President, I, too, have spoken with the Senator and understand her concerns and will do my utmost to help resolve the issue.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

AMENDMENT NO. 557

Mr. BAUCUS. Mr. President, I ask unanimous consent that the votes on the earlier amendments be temporarily laid aside so we can now proceed to amendment No. 557 by the Senator from New York.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, this is a simple amendment. Two years ago, on the last tax bill, we took a historic step in this body. We said part of college tuition should be tax deductible. We required that the first $3,000 be deductible for a family making up to $160,000 a year. This will raise that. It goes up to $4,000 in the next fiscal year under the previous law, and then it expires in 2006. This law would make it permanent and raise the amount to $8,000 initially, next year, and then $12,000 in future years.

It is very simple. It pays for itself, by the way, by reducing the top rate not by three points but by one point. The choice is simple. Middle-class people have an awfully difficult time paying for college. If you are rich, you can afford it. If you are poor, we help you, and we should. But the middle class gets stuck. Families are up late at night worrying about how they are going to pay the tuition bill.

I ask my colleagues, which do they choose? Bring the top rate down but not as quickly and help middle-class families with the second greatest expense they face other than their home, or bring the rate down quickly? It is a simple choice. I hope the body will vote for the middle-class parents who are stuck with these huge tuition bills.

Mr. KYL. Mr. President, we added the tuition provision in the bill 2 years ago, and it is obviously supported by a broad number of people in the body. The problem is that this addition is way too expensive and comes out of the top rate reduction from the bill that is on the floor, the acceleration of the marginal income tax rate provision of the bill.

Obviously, we have to oppose this particular amendment. This is a matter that could be dealt with in a different way but not by paying for it in the manner it is paid for. It is not germane. Therefore, I raise a point of order under 305(b)(2) of the Congressional Budget Act of 1974.

Mr. SCHUMER. Mr. President, I ask that the point of order be waived, 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 PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 164 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
Clinton	Johnson	Rockefeller
Collins	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
Campbell	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	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 yeas 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. BAUCUS. 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.

AMENDMENT NO. 622, AS MODIFIED

The PRESIDING OFFICER. The next amendment is the Ensign amendment No. 622.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I have a technical modification to my amendment at the desk, and I ask unanimous consent that my amendment be so modified.

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

The amendment, as modified, is as follows:

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

SEC. ___. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

"(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount, and

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

"(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, which plan shall provide for the reinvestment of such dividends in the United States, including as a source for the funding of worker hiring and training; infrastructure; research and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) FIXED BASE PERIOD.—

"(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall mean such shorter period representing all of the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DIVIDENDS.—The term 'dividend' means a dividend as defined in section 316, except that the term shall also include amounts described in section 951(a)(1)(B), and shall exclude amounts described in sections 78 and 959.

"(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' shall have the same meaning as under section 957(a) and the term 'United States shareholder' shall have the same meaning as under section 951(b).

"(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent.

"(4) FOREIGN TAX CREDIT LIMITATION.—For all purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer in applying the rules of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer, and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section, other than the amendment made by subsection (d), shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

(d) TERMINATION OF REHABILITATION CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF CREDIT FOR BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—No credit shall be allowed under subsection (a)(1) with respect to expenditures incurred after December 31, 2003.".

Mr. ENSIGN. Mr. President, the modification says the offset included in the amendment repeals the tax credit for refurbishing of nonhistoric structures only, not historic structures, with which people had concerns.

If you believe the American economy needs a shot in the arm right now, then you should vote for this amendment. Our amendment allows companies that have made money overseas to bring it back right now. They are taxed at 35 percent. When faced with a choice of whether they keep it overseas or bring it back, they keep it overseas. We are going to allow a 1-year exemption. The tax will be lowered from 35 percent to 5.25 percent. They have 1 year to invest the money to create jobs in this country. As with Senator BOXER's very fine amendment in our bill, it cannot go for executive pay. The money has to be invested in America to create jobs.

I believe this will be a tremendous stimulus to our economy, and I urge its adoption.

I yield 10 seconds to my friend from California.

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

Mrs. BOXER. I ask for 10 seconds.

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

Mrs. BOXER. Mr. President, I hope my colleagues will vote for this one-time infusion of private sector dollars to create jobs and encourage business investment in plants and equipment. This infusion will happen immediately. I think it is what we need to fight for because our people are hurting out there.

I thank the Chair.

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

USE OF FUNDS REPATRIATED

Mrs. BOXER. Mr. President, I rise to thank Senator ENSIGN for his leadership on the Invest in the USA Act. As we said earlier, this infusion of cash will provide an immediate and much needed boost to the economy. Over the next year, it is estimated that this legislation, which is included in this bill as an amendment, will bring $140 billion in foreign earnings back into the United States.

As my friend is aware, under our amendment, which is the Invest in the USA Act of 2003, these funds are to be used as a source for worker hiring and training; infrastructure; research, and development; capital investments; or the financial stabilization of the corporation for the purposes of job retention or creation. Any attempt to use these funds to increase executive pay would be a violation of the intent of this legislation.

Mr. ENSIGN. Mr. President, the Senator from California is absolutely correct. These funds are meant to stimulate the economy. I pledge to work with Senator BOXER and our colleagues in conference to ensure that these funds may not be used for executive pay.

The Senator from Louisiana.

Mr. BREAUX. Mr. President, I rise in opposition to the Senator's amendment. This amendment was offered in the Senate Finance Committee. Republicans and Democrats joined to defeat this amendment.

There is no question that the international tax laws need to be assessed. We have agreed to do that in the Finance Committee. The Republican leadership said they would look at all international tax laws and consequences.

This is a retroactive tax break. This bill is supposed to be stimulative in the future, not in the past. This amendment will reward companies for what they did a long time ago when we ought to be looking at the bill in a prospective nature.

A retroactive tax cut is not what we need. We ought to examine international tax laws. We have an agreement to do it in a bipartisan fashion. This does not belong in the bill at this time.

I make a point of order that the amendment is nongermane under section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. ENSIGN. Mr. President, I move to waive that section of the Congressional Budget Act. Also, I note that many of the people who voted against this amendment in the Finance Committee will be voting for it today.

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 this 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 bill clerk called the roll.

The yeas and nays resulted—yeas 75, nays 25, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—75

Akaka	Dodd	McCain
Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feinstein	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Pryor
Boxer	Graham (SC)	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Santorum
Burns	Hagel	Schumer
Campbell	Hatch	Sessions
Cantwell	Hollings	Shelby
Carper	Hutchison	Smith
Chafee	Inhofe	Snowe
Chambliss	Jeffords	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lautenberg	Sununu
Cornyn	Leahy	Talent
Corzine	Lieberman	Thomas
Craig	Lincoln	Voinovich
Crapo	Lott	Warner
DeWine	Lugar	Wyden

NAYS—25

Biden	Durbin	Kohl
Bingaman	Edwards	Levin
Breaux	Feingold	Mikulski
Byrd	Graham (FL)	Nelson (FL)
Clinton	Harkin	Reed
Conrad	Inouye	Rockefeller
Daschle	Johnson	Sarbanes
Dayton	Kennedy	
Dorgan	Kerry	

The PRESIDING OFFICER. On this question, the yeas are 75, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The question now is on the amendment.

Mr. GRASSLEY. I urge we now adopt the amendment by voice vote.

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

The amendment (No. 622), as modified, was agreed to.

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.

AMENDMENT NO. 611

Mr. BAUCUS. Mr. President, my understanding is the next amendment is the amendment offered by the Senator from North Dakota, Mr. CONRAD.

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, this bill increases the child tax credit from $600 to $1,000 effective back at the beginning of this year.

My amendment simply takes it back another year to the beginning of 2002. This is an efficient way of targeting money to those who are most likely to use it to give stimulus to the economy.

I offset the additional cost by delaying part of the final reduction in the top marginal rate for a year and a half. This asks the top 1 percent, actually less than 1 percent of the taxpayers, to take part of their reduction somewhat later. It gives a benefit to 27 million American families by asking less than a million American families to wait for the final part of their additional tax reduction for a year and a half.

N O T I C E

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.