

United States tax code that has been ruled an unfair subsidy and therefore does not comply with the WTO. In addition this bill seeks to preserve jobs and production activities in the United States via the simplification of international tax laws and a mix of investment incentives. A \$10 million tobacco buyout, minus the Food and Drug Administration's regulation, is also incorporated within this bill.

This bill would replace the current export subsidy that has been ruled unfair by the WTO with a new \$77 billion tax break on manufacturing income. Companies will also be able to exclude 9 percent of their manufacturing profits from taxation and multinational companies will receive \$43 billion in a variety of tax cuts on their overseas income. These tax breaks and incentives are instrumental in our attempt to comply with the WTO while ensuring American jobs stay at home.

Also included in this package is a landmark change. This bill contains provisions to terminate the Federal tobacco quota program. This tobacco quota program was created during the 1930s and has provided controls on the production of tobacco for decades. And it has worked well. However, since 1998 tobacco quotas have been cut by over 50 percent leaving tobacco farmers with no where to turn. This package provides compensation for those farmers and quota holders who have lost over half of their assets through no fault of their own.

Compensation of \$7 to quota owners and \$3 to producers based on the 2002 effective quota level is provided in this package while at the same time it keeps producers free of potential burdensome regulations advocated by some in the industry. I am pleased that the funding for this buyout comes at no cost to the taxpayer without granting authority to the FDA to regulate tobacco and tobacco products.

In terms of the economy, this legislation will have a significant impact on rural Georgia. Mr. President, \$607 million will be provided over a ten year period. Additionally growers can continue to produce tobacco without government constraints and be competitive in the world tobacco market.

I support the passage of this significant legislation because it will benefit the manufacturing industry in Georgia while ensuring American jobs are not lost overseas due to burdensome and unfair tax regulations. I also support the passage of this bill because of the unregulated FDA tobacco buyout provisions that compensate tobacco farmers for assets that have been plundered by the Federal Government.

It is because of my son's wedding this weekend in Georgia that I regret that I will not be able to actually vote on this legislation. However, if I was in attendance and able to cast my vote on H.R. 4520, it would be in support of this bill.●

Mr. BINGAMAN. Mr. President, I come to the floor to thank the chair-

man and ranking member of the Finance Committee for their assistance in getting my amendment on the Civil Rights Tax Review in the conference report to accompany H.R. 4520, the American Jobs Creation Act of 2004.

The law with respect to the tax treatment of attorneys' fees paid by those that receive settlements or judgments in connection with a claim of unlawful discrimination, a Qui Tam proceeding or actions containing damages for non-physical injuries was unclear and that its application was questionable as interpreted by the IRS. It was never the intent of Congress that the attorneys' fees portions of such recoveries should be included in taxable income whether for regular income or alternative minimum tax purposes. The language contained in section 703 of H.R. 4520, the American Jobs Creation Act of 2004 is intended to clarify the proper interpretation of the prior law, and any settlements prior to the date of enactment should be treated in a manner consistent with such intent.

The conferees are acting to make it clear that attorneys' fees and costs in these cases are not taxable income, especially where the plaintiff, or in the case of a Qui Tam proceeding, the relator, never actually receives the portion of the award paid to the attorneys. Despite differing opinions by certain jurisdictions and the IRS, this is the correct interpretation of the law prior to enactment of section 703 as it will be going forward. In adopting this provision, the Congress in no way intends to prejudice the tax treatment of settlements or awards made prior to that time and the courts and IRS should not treat attorneys' fees and other costs as taxable income.

#### UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that at 11:15 a.m. on Saturday, October 9, the Senate proceed to votes in relation to any pending amendments to the McConnell-Reid amendment to S. Res. 445; provided further that it be in order prior to the votes for Senators to offer a qualified amendment from the unanimous consent list of last night; provided further that following the disposition of those amendments the Senate proceed to a vote on the adoption of the pending McConnell-Reid substitute, to be followed by the immediate vote on cloture on the underlying resolution; further, that if cloture is invoked, the Senate immediately proceed to a vote on adoption of the resolution, as amended, with no intervening action or debate.

I now ask unanimous consent it then be in order during Saturday's session for the Senate to consider a resolution submitted by Senator HARKIN regarding the sense of the Senate on agricultural emergencies which is currently at the desk; further, that when the Senate finishes S. Res. 445, the Senate imme-

diately proceed to a vote on the adoption of the Harkin resolution, with no intervening action or debate and the preamble then be agreed to.

I further ask unanimous consent that the vote with respect to cloture on the conference report to accompany H.R. 4520 occur at 1 p.m. Sunday, October 10.

Finally, I ask unanimous consent that during Sunday's session it be in order for the Senate to consider a bill regarding overtime compensation and a bill regarding FDA and tobacco products which are currently at the desk; I ask unanimous consent that on Sunday those bills be read a third time and passed, en bloc, with the motions to reconsider laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not, this does not preclude other matters that might be worked out either by consent or otherwise during that time; is that correct?

Mr. FRIST. That is correct.

Mr. LEAHY. I will not object.

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

The Senator from Vermont.

#### THE DNA ACT

Mr. LEAHY. Mr. President, I have been in a lot of discussions today by phone, with my staff, and elsewhere, on H.R. 5107, something referred to as the innocent protection act and by others as the DNA act.

I think we are close. In some ways, it is like the perils of Pauline, you are up the hill, down the hill, if we can excuse, at 10 minutes of 8 in the evening, mixed metaphors.

But this is a bill that passed with overwhelming bipartisan support in the other body, from the most conservative to the most liberal Members of the other body. Then there is just a little difference, or at the last moment the Department of Justice comes up with some little thing they just thought of.

After a while, one wonders if even with the proven, overwhelming support—polls show overwhelming support for it; the other body has passed it overwhelmingly. I would guess if we actually had a vote in this body, 80 to 90 Members would vote for it. There are always a couple of Members who have some reason for holding it up. I hope we get rid of that. I hope we are coming closer.

I only wanted to say this for my colleagues both in the House and in the Senate who have been working with me and my staff today and working with people everywhere, from church groups to prosecutors' groups throughout yesterday and late last night and throughout today, I am hoping we can settle. That is why I asked the question of the distinguished Senator from Tennessee, to make sure we reach such an agreement at some point and we can move forward.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 10 minutes each.

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

#### HONORING OUR ARMED FORCES

Mrs. BOXER. Mr. President, today I rise to pay tribute to 29 young Americans who have been killed in Iraq since September 3. All of them were from California or were based in California.

PETTY OFFICER 3RD CLASS ERIC L. KNOTT, AGE 21

Petty Officer Knott was killed September 4 when the area in which he was working was struck by enemy fire. He died of shrapnel wounds and had been supporting Operation Iraqi Freedom.

He was assigned to Naval Mobile Construction Battalion 4, Port Hueneme, CA.

LANCE CORPORAL LAMONT N. WILSON, AGE 20

Lance Corporal Wilson died September 6 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

CORPORAL MICK R. NYGARDBEKOWSKY, AGE 21

Corporal Nygardbekowsky was killed in action September 6 from an explosion while conducting combat operations in the Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA. He was from Concord, CA.

LANCE CORPORAL JOSEPH C. MCCARTHY, AGE 21

Lance Corporal McCarthy was killed in action September 6 from an explosion while conducting combat operations in the Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL QUINN A. KEITH, AGE 21

Lance Corporal Keith died September 6 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL DEREK L. GARDNER, AGE 20

Lance Corporal Gardner was killed in action September 6 from an explosion while conducting combat operations in the Al Anbar Province.

He was assigned to Headquarters Battalion, first Marine Division, Camp Pendleton, CA.

He was from San Juan Capistrano, CA.

PRIVATE FIRST CLASS DAVID BURRIDGE AGE 19

Private First Class Burridge died September 6 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL MICHAEL J. ALLRED, AGE 22

Lance Corporal Allred died September 6 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

FIRST LIEUTENANT ALEXANDER E. WETHERBEE, AGE 27

First Lieutenant Wetherbee died September 12 from injuries received from enemy action in Al Anbar Province.

He was assigned to 3rd Assault Amphibian Battalion, first Marine Division, Camp Pendleton, CA.

PRIVATE FIRST CLASS JASON T. POINDEXTER, AGE 20

Private First Class Poindexter died September 12 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, 5th Marine Regiment, first Marine Division, Camp Pendleton, CA.

SPECIALIST EDGAR P. DACLAN, AGE 24

Specialist Daclan died September 10 in Balad, Iraq when his patrol was responding to indirect fire and an improvised explosive device exploded.

He was assigned to the first Battalion, 18th Infantry, first Infantry Division from Schweinfurt, Germany.

He was from Cypress, CA.

LANCE CORPORAL DOMINIC C. BROWN, AGE 19

Lance Corporal Brown died September 13 due to a non-combat related incident in Al Anbar Province.

He was assigned to Headquarters Battalion, first Marine Division, Camp Pendleton, CA.

STAFF SERGEANT GUY S. HAGY, JR., AGE 31

Staff Sergeant Hagy died September 13 in Baghdad when an improvised explosive device detonated near his observation post.

He was assigned to the first Battalion, 12th Cavalry Regiment, first Cavalry Division, Fort Hood, TX.

He was from Lodi, CA.

MAJ. KEVIN M. SHEA, AGE 38

Maj. Shea died September 14 due to enemy action in Al Anbar Province.

He was assigned to first Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL MATTHEW D. PUCKETT, AGE 19

Lance Corporal Puckett died September 13 due to enemy action in Al Anbar Province.

He was assigned to 3rd Assault Amphibian Battalion, first Marine Division, Camp Pendleton, CA.

CORPORAL ADRIAN V. SOLTAU, AGE 21

Corporal Soltau died September 13 due to enemy action in Al Anbar Province.

He was assigned to 3rd Assault Amphibian Battalion, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL DREW M. UHLES, AGE 20

Lance Corporal Uhles died September 15 from injuries received due to enemy action in Al Anbar Province.

He was assigned to first Battalion, 7th Marine Regiment, first Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

CORPORAL JAYGEE MELAUT, AGE 24

Corporal Melaut died September 13 due to enemy action in Al Anbar Province.

He was assigned to 3rd Assault Amphibian Battalion, first Marine Division, Camp Pendleton, CA.

FIRST LIEUTENANT ANDREW K. STERN, AGE 24

First Lieutenant Stern died September 16 from injuries received due to enemy action in Al Anbar Province.

He was assigned to first Tank Battalion, first Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

CORPORAL STEVEN A. RINTAMAKI, AGE 21

Corporal Rintamaki died September 16 due to enemy action in Al Anbar Province.

He was assigned to 3rd Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

CORPORAL CHRISTOPHER S. EBERT, AGE 21

Corporal Ebert died September 17 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, first Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL GREGORY C. HOWMAN, AGE 28

Lance Corporal Howman died September 15 due to enemy action in Al Anbar Province.

He was assigned to second Battalion, 5th Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL STEVEN C.T. CATES, AGE 22

Lance Corporal Cates died September 20 due to enemy action in Al Anbar Province.

He was assigned to first Battalion, 7th Marine Regiment, first Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

SERGEANT BENJAMIN K. SMITH, AGE 24

Sergeant Smith died September 22 due to enemy action in Al Anbar Province.

He was assigned to first Tank Battalion, first Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

LANCE CORPORAL RAMON MATEO, AGE 20

Lance Corporal Mateo died September 24 as result of enemy action in Al Anbar Province.

He was assigned to Headquarters and Service Company, 7th Marine Regiment, first Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

SERGEANT TIMOTHY FOLMAR, AGE 21

Sergeant Folmar died September 24 as result of enemy action in Al Anbar Province.

He was assigned to second Battalion, 5th Marine Regiment, first Marine Division, Camp Pendleton, CA.

LANCE CORPORAL AARON BOYLES, AGE 24

Lance Corporal Boyles was killed in action September 24 from small arms