

shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

“(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

“(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

“(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term ‘compensating use tax’ means, with respect to any item, a tax which—

“(i) is imposed on the use, storage, or consumption of such item, and

“(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

“(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

“(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer’s trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

“(H) AMOUNT OF DEDUCTION TO BE DETERMINED UNDER TABLES.—

“(i) IN GENERAL.—The amount of the deduction allowed under this paragraph shall be determined under tables prescribed by the Secretary.

“(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i) shall reflect the provisions of this paragraph and shall be based on the average consumption by taxpayers on a State-by-State basis, as determined by the Secretary, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation.”

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

**SA 2889.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

**SEC. \_\_\_\_ . EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

“(h) EXTENSION FOR OTHER FACILITIES.—Notwithstanding subsection (f), in the case of a facility for producing coke or coke gas which was placed in service before January 1,

1993, or after June 30, 1998, and before January 1, 2007, this section shall apply with respect to coke and coke gas produced in such facility and sold during the during the period—

“(1) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

“(2) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

**SA 2890.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. \_\_\_\_ . TAXATION OF CERTAIN SETTLEMENT FUNDS.**

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows:

“(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

“(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

“(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

“(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

“(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

“(D) upon termination, any remaining funds will be disbursed upon instructions by such government entity in accordance with applicable law.

For purposes of this paragraph, the term ‘government entity’ means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.”

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

**NOTICES OF HEARINGS/MEETINGS**

**SUBCOMMITTEE ON WATER AND POWER**

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the following bills have been

added to the agenda for the hearing scheduled for Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Thursday, March 25th, at 2:30 p.m. in Room SD-366 of the Dirksen Senate Office Building.

S. 2218 a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents and establish guidelines for projects and for other purposes. S. 1727, a bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; and S. 1791, a bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Shelly Randel at 202-224-7933, Erik Webb at 202-224-4756 or Colin Hayes at 202-224-0883.

**SUBCOMMITTEE ON NATIONAL PARKS**

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources. The purpose of this hearing is to conduct oversight on National Heritage Areas, including findings and recommendations of the General Accounting Office, the definition of a National Heritage Area, the definition of national significance as it relates to National Heritage Areas, recommendations for establishing National Heritage Areas as units of the National Park System, recommendations for prioritizing proposed studies and designations, and options for developing a National Heritage Area Program within the National Park Service.

The hearing will take place on Tuesday, March 30, 2004 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Sarah Creachbaum at (202) 224-6293.

## AUTHORITY FOR COMMITTEES TO MEET

### SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Monday, March 22, 2004, from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

## PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that David Sinsky of my staff be granted floor privileges for the duration of today's and tomorrow's debate.

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

## RECOGNITION OF THE 91ST MEETING OF THE GARDEN CLUB OF AMERICA

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 97, and the Senate then proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The assistant journal clerk read as follows:

A concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, I further ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 97) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

### S. CON. RES. 97

Whereas The Garden Club of America is holding its 91st annual meeting in Washington, DC April 24 through 27, 2004;

Whereas The Garden Club of America has 195 member clubs in 40 States and the District of Columbia, representing more than 17,000 members;

Whereas since its founding in 1913, The Garden Club of America has become a recognized leader in the fields of horticulture, conservation, historic preservation, and civic improvement, and an influential organization in the protection of America's environment; and

Whereas in our Nation's Capital, The Garden Club of America was instrumental in the founding of the National Arboretum, the development of the Archives of American Gardens at the Smithsonian Institution, and the

creation and installation of the Butterfly Habitat Garden which now graces The National Mall at the National Museum of Natural History: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress commends The Garden Club of America for the many contributions it has made in our Nation's Capital and in communities across the United States, and sends its best wishes on the occasion of its 91st annual meeting in Washington, DC, April 24 through 27, 2004.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–199, appoints the following individuals to serve as members of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Leo J. Hindery, Jr. of New York and Gayle E. Smith of Washington, DC.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 108–199, Section 104(c), 1(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: Ms. Christine Vick of Washington, DC.

## ORDERS FOR TUESDAY, MARCH 23, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. tomorrow, Tuesday, March 23. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then begin a period of morning business until 11 a.m. with the majority leader or his designee in control of the first half of the time and the Democratic leader or his designee in control of the remaining time; provided that at 11 a.m. the Senate resume consideration of S. 1637, the JOBS bill; provided further that Senator GRASSLEY be recognized at that time.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, on this side we believe we are entitled to an up-or-down vote regarding the most important issue facing many Americans; that is, overtime. I just returned from our recess when I met with the fire and police personnel in the State of Nevada. They all brought this up. We know there is an effort not to have a vote, the reason being this amendment will pass. When the Harkin amendment is offered and there is a vote on it, it will pass. The majority doesn't want to vote on this because it is embarrassing to the President who has no support from the American people on this overtime issue.

Also, we have other amendments—not many but a few amendments—one dealing with China. Senator SCHUMER has wanted to offer an amendment for a long time on this bill dealing with international trade, among other things.

Also, there is an amendment my friend, the distinguished senior Senator from Illinois, is going to speak on dealing with a tax credit for insurance premiums and medical malpractice. I support my friend from Illinois on this issue. It would not solve the medical malpractice issue, but it is something the physicians in this country approved, and it is the right thing to do. It would help alleviate some of the medical malpractice pressure we have around the country.

I say to my friend through the Chair, I can't guarantee cloture will not be invoked, but I think it is very doubtful cloture will be invoked.

I want the RECORD to reflect that on this side we are not trying to amend this bill to death. We have a handful of amendments, and we will agree to a list of finite amendments. That has been explained to the two managers.

The way things are headed, this bill is going to go down, and it is not good for the country.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

Mr. McCONNELL. Mr. President, let me say in response to my good friend from Nevada, as he knows full well, we have already voted on this once. We voted on it last year. Having continuing votes on the same subject strikes some Members in the Senate, on this side of the aisle, as not exactly the best way to move forward. But even if it is insisted by the other side that we have repetitious votes on the same issue, I say to my friend from Nevada there will be other authorizing bills coming along shortly after the JOBS bill which will be open to such amendments, and this underlying bill happens to be one I believe Senators on both sides of the aisle think needs to pass. In fact, the imposition of penalties against U.S. companies has already begun—my understanding is March 1.

I think we all understand the need to pass this bill to prevent the escalation of those penalties against U.S. business here in the coming months.

If there were not another opportunity, I say to my good friend from Nevada, to have further repetitious votes on the same issue, I might understand it. But there will be other authorizing bills coming up shortly that will give the other side an opportunity to offer and insist on more votes on the very same subject.

I hope cloture will be invoked. The right of the minority is still there to offer these nongermane or irrelevant amendments on other authorizing bills that will be coming along very shortly.