

“(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term ‘non-taxable use’ includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.”

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding “and” at the end of subparagraph (A), by striking “, and” at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

**SEC. 899. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.**

(a) IN GENERAL.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

“(2) at least 90 percent of its gross income is derived from—

“(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

“(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and”

(b) SOURCE FLOW-THROUGH RULE NOT TO APPLY.—The last sentence of section 851(b) is amended by inserting “(other than a qualified publicly traded partnership as defined in subsection (h))” after “derived from a partnership”.

(c) LIMITATION ON OWNERSHIP.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

“(5) The term ‘outstanding voting securities of such issuer’ shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).”

(d) DEFINITION OF QUALIFIED PUBLICLY TRADED PARTNERSHIP.—Section 851 is amended by adding at the end the following new subsection:

“(h) QUALIFIED PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term ‘qualified publicly traded partnership’ means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).”

(e) DEFINITION OF QUALIFYING INCOME.—Section 7704(d)(4) is amended by striking “section 851(b)(2)” and inserting “section 851(b)(2)(A).”

(f) LIMITATION ON COMPOSITION OF ASSETS.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

“(B) not more than 25 percent of the value of its total assets is invested in—

“(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

“(ii) the securities (other than the securities of other regulated investment compa-

nies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

“(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).”

(g) APPLICATION OF SPECIAL PASSIVE ACTIVITY RULE TO REGULATED INVESTMENT COMPANIES.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

“(4) APPLICATION TO REGULATED INVESTMENT COMPANIES.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.”

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

**SEC. 899A. CERTAIN BUSINESS RELATED CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAX.**

(a) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) SPECIAL RULES FOR SPECIFIED CREDITS.—

“(A) IN GENERAL.—In the case of specified credits—

“(i) this section and section 39 shall be applied separately with respect to such credits, and

“(ii) in applying paragraph (1) to such credits—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the specified credits).

“(B) SPECIFIED CREDITS.—For purposes of this subsection, the term ‘specified credits’ includes—

“(i) for taxable years beginning after December 31, 2004, the credit determined under section 40, and

“(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity produced—

“(I) at a facility which is originally placed in service after the date of the enactment of this paragraph, and

“(II) during the 4-year period beginning on the date that such facility was originally placed in service.”

(b) CONFORMING AMENDMENTS.—Paragraph (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) are each amended by inserting “or the specified credits” after “employee credit”.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SA 3012.** Mr. FRIST proposed an amendment 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; as follows:

At the end of the instructions, insert the following:

SEC. . This act shall become effective 1 day after enactment.

**SA 3013.** Mr. FRIST proposed an amendment to amend SA 3012 proposed by Mr. FRIST 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; as follows:

In the amendment strike “1 day” and insert “2 days”.

**SA 3014.** Ms. MURKOWSKI submitted an amendment intended to be proposed by her 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:

**SEC. . DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.**

Notwithstanding the provisions of Treasury regulation §1.883-5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883-1 through §1.883-5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after September 24, 2004.

**SA 3015.** Mr. NICKLES 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 71, line 13, strike “December 31, 2006” and insert “December 31, 2004”.

**APPOINTMENTS**

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints the following individuals as members of the Board of Trustees of the American Folklife Center of the Library of Congress: Mickey Hart of California and Dennis Holub of South Dakota.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108-173, appoints the following individual to serve as a member of the

Commission on Systemic Interoperability: Frederick W. Slunicka of South Dakota.

ORDERS FOR TUESDAY, APRIL 6,  
2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, April 6. I further ask that following the prayer and the pledge, the morning hour be deemed to have 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 first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee; provided that at 11 a.m. the Senate resume consideration of the motion to proceed to Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

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

AUTHORIZATION FOR COMMITTEES  
TO FILE

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate, it be in order until 4:30 today for committees to file reported matters.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the Pregnancy and Trauma Care Access Protection Act of 2004. There will be no rollcall votes tomorrow, but I do encourage all Members who wish to speak on this important legislation to come to the floor during tomorrow's session.

The next rollcall vote will occur on Wednesday at 2:15 p.m. The vote will be on the motion to invoke cloture on the motion to proceed to the Pregnancy and Trauma Care Access Protection Act.

As a reminder, a few moments ago I filed a cloture motion on the motion to recommit the FSC/ETI JOBS bill. If cloture fails on the motion to proceed to the Pregnancy and Trauma Care Access Protection Act, the cloture vote relative to the FSC/ETI JOBS bill will occur immediately thereafter. Therefore, Senators should expect the possibility of two back-to-back rollcall votes on Wednesday at 2:15 p.m.

In addition, the pension equity conference report is at the desk, having passed the House at the end of last week. I will be asking the Democratic leader to allow us to schedule a vote on that conference report this week prior to adjourning for the recess.

Finally, I add that the indecency legislation will be reported today by the Commerce Committee, and we will be looking for an opportunity to get that bill finished this week as well.

As my colleagues can tell, we have a very busy week, even though it is short. We are honoring Passover as we go into the Easter holidays. Again, it is a short week, but we are in session today, tomorrow, and the next day, and we will be voting on Wednesday and Thursday.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senators HARKIN, MCCONNELL, and DOMENICI.

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

The Senator from Iowa is recognized.

DEBATING AND VOTING ON  
AMENDMENTS

Mr. HARKIN. Mr. President, I was listening with some interest to the unanimous consent proposed by the distinguished majority leader, and I thought for a minute I was back in the House of Representatives. I remember a time in the Senate when we actually introduced amendments, debated and voted on them. I thought that was what the Senate was supposed to do.

Over in the House, where I served for 10 years, they have a Rules Committee. The Rules Committee reports a bill out on the floor, and a lot of times they give them closed rules, which means you cannot add amendments. That is what I just heard propounded here. If, in fact, they get cloture, it is a closed rule. That is basically what it is.

I wish we can get back to a Senate where we debate and vote on amendments.

THE ECONOMY

Mr. HARKIN. Mr. President, I want to take a little bit of time this afternoon to talk about the economy. We are all encouraged by the essentially positive job growth reported for the month of March. However, the same report noted that the overall rate of unemployment increased in March. Strange. There are major questions surrounding the quality of the jobs that were added. For instance, there was no increase whatsoever in manufacturing jobs. Indeed, for 43 consecutive months we have either lost manufacturing jobs or have seen zero job growth.

The good news on jobs appears to be largely concentrated in the services sector—jobs that generally don't pay well and many with no benefits. Meanwhile, long-term job losses have consequences.

On the 1st of April, 1.1 million jobless Americans lost their unemployment benefits. They expired because the President and the Republicans in Congress are adamantly refusing any extension of unemployment benefits. In no other comparable period on record have there been so many unemployed people who have exhausted their unemployment benefits literally overnight.

Think about it. Despite the scarcity of jobs, despite the fact the United States is currently in the longest period of secular job decline in our history, despite the fact that nearly 3 million private sector jobs have been lost in the last 3 years, despite the fact that more than 9 million Americans cannot find work, despite the fact that hundreds of thousands of discouraged workers have dropped out of the labor market, despite all of these harsh realities, the President and his allies have slammed the door on any extension of unemployment benefits. I guess we can say: So much for compassionate conservatism.

In my State of Iowa, more than 8,000 people lost their unemployment benefits in the first 3 months of this year. Nearly 9,000 more Iowans will lose their benefits in the next 3 months if Congress doesn't act. This is a cruel, unnecessary blow to these unfortunate people. It is a blow to Iowa's economy, because extending unemployment benefits would have provided more than \$100 million in economic stimulus in my State alone.

When it comes to economic stimulus, this administration is all for economic stimulus when it involves tax breaks for people making more than \$200,000 a year, but it is adamantly opposed to economic stimulus when it involves people who have lost their jobs and have lost their unemployment benefits, or when it involves directly creating jobs.

What I mean by that is, the President now is threatening to veto the highway bill and, for my State alone, the more modest House highway bill would cost 12,000 jobs compared to what we passed in the Senate. The President is threatening even to veto that bill.

We are not talking just about statistics; we are talking about real people here, people who are hurting. One of those is Larry O'Brien of Cedar Falls, IA. He is 60 years old. He lost his job as a machinist when the Doerfer Engineering plant closed in October. He says he is not optimistic about his future when his unemployment runs out in 2 weeks. He already says he is not optimistic at all about getting a job. He has begun taking high blood pressure and stomach medicine every other day instead of daily. When the medicine is gone, he is afraid he won't be able to get any more. He is worried he will have to take a low-paying job with no benefits just to make ends meet—at age 60.

Larry O'Brien and millions like him are hurting. They are in real distress.