

in tax havens as domestic corporations; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I'm joined by Senator LEVIN of Michigan in introducing legislation that we believe will help the Internal Revenue Service (IRS) combat offshore tax-haven abuses and ensure that U.S. multinational companies pay the U.S. taxes that they rightfully owe.

Tens of millions of taxpayers will be rushing to file their tax returns in the next few days in order to fulfill their taxpaying responsibility by the April 15 filing deadline. Some tax experts estimate that taxpayers will spend over \$100 billion and more than 6 billion hours this year trying to comply with their federal tax obligation. It's no wonder that many Americans are frustrated with the current tax system and would gladly welcome substantive efforts to simplify it.

However, this frustration changes to anger when the taxpayers who pay their taxes on time each year discover that many corporate taxpayers are shirking their tax obligations by actively shifting their profits to foreign tax havens or using other inappropriate tax avoidance techniques. The bill that Senator LEVIN and I are introducing today is a simple and straightforward way to try to tackle the offshore tax-haven problem.

Specifically, our legislation denies tax benefits, namely tax deferral, to U.S. multinational companies that set up controlled foreign corporations in tax-haven countries by treating those subsidiaries as domestic companies for U.S. income tax purposes. This tracks the same general approach embraced and passed by the Congress in other tax legislation designed to curb the problem of corporate inversions.

We have known for many years that some very profitable U.S. multinational businesses are using offshore tax havens to avoid paying their fair share of U.S. taxes. But Congress has really done very little to stop this hemorrhaging of tax revenues. In fact, recent evidence suggests that the tax-haven problem is getting much worse and may be draining the U.S. Treasury of tens of billions of dollars every year.

The New York Times got it right when it suggested that "instead of moving headquarters offshore, many companies are simply placing patents on drugs, ownership of corporate logos, techniques for manufacturing processes and other intangible assets in tax havens . . . The companies then charge their subsidiaries in higher-tax locales, including the U.S., for the use of these intellectual properties. This allows the companies to take profits in these havens and pay far less in taxes."

How pervasive is the tax-haven subsidiary problem? Last year, the Government Accountability Office (GAO), the investigative arm of Congress, issued a report that Senator LEVIN and I requested that gives some insight to the potential magnitude of this tax avoidance activity. The GAO found

that 59 out of the 100 largest publicly-traded federal contractors in 2001—with tens of billions of dollars of federal contracts in 2001—had established hundreds of subsidiaries located in offshore tax havens.

According to the GAO, Exxon-Mobil Corporation, the 21st largest publicly traded federal contractor in 2001, has some 11 tax-haven subsidiaries in the Bahamas. Halliburton Company reportedly has 17 tax-haven subsidiaries, including 13 in the Cayman Islands, a country that has never imposed a corporate income tax, as well as 2 in Liechtenstein and 2 in Panama. And the now infamous Enron Corporation had 1,300 different foreign entities, including some 441 located in the Cayman Islands.

More recently, former Joint Committee on Taxation economist Martin Sullivan released a study that looked at the amount of profits that U.S. companies are shifting to offshore tax havens. He found that U.S. multinationals had moved hundreds of billions of profits to tax havens for years 1999-2002, the latest years for which IRS data is available.

Although Congress passed legislation, which I supported, that addresses the problem of corporate expatriates that reincorporate overseas, that legislation did nothing to deal with the problem of U.S. companies that are setting up tax-haven subsidiaries to avoid their taxpaying responsibilities in this country.

The legislation that we are introducing builds upon the good work of Senators GRASSLEY and BAUCUS and other members of the Senate Finance Committee by extending similar tax policy changes to cover the case of U.S. companies and their tax-haven subsidiaries.

Specifically, our legislation would do the following: 1. Treat U.S. controlled foreign subsidiaries that are set up in tax-haven countries as domestic companies for U.S. tax purposes. In other words, we would simply treat these companies as if they never left the United States, which is essentially the case in these tax avoidance motivated transactions.

2. List specific tax-haven countries subject to the new rule (based upon the previous work by the Organization for Economic Cooperation and Development) and give the Secretary of the Treasury the ability to add or remove a foreign country from this list in appropriate cases.

3. Provide an exception where substantially all of a U.S. controlled foreign corporation's income is derived from the active conduct of a trade or business within the listed tax-haven country.

4. Make these proposed changes effective beginning after December 31, 2007. This will give businesses ample time to restructure their tax-haven operations if they so choose.

This legislation will help end the tax benefits for U.S. companies that shift

income to offshore tax-haven subsidiaries. For example, any efforts by a U.S. company to move profits to the subsidiary through transfer pricing schemes will not work because the income earned by the subsidiary would still be immediately taxable by the United States. Likewise, any efforts to move otherwise active income earned by a U.S. company in a high-tax foreign country to a tax haven would cause the income to be immediately taxable by the United States. Companies that try to move intangible assets—and the income they produce—to tax havens would be unsuccessful because the income would still be immediately taxable by the United States.

Let me be very clear about one thing. This legislation will not adversely impact U.S. companies with controlled foreign subsidiaries that are located in tax havens and doing legitimate and substantial business. The legislation expressly exempts a U.S.-controlled foreign subsidiary from its tax rule changes when substantially all of its income is derived from the active conduct of a trade or business within a listed tax-haven country.

In 2002, then-IRS Commissioner Charles Rossotti told Congress that "nothing undermines confidence in the tax system more than the impression that the average honest taxpayer has to pay his or her taxes while more wealthy or unscrupulous taxpayers are allowed to get away with not paying." Last week, IRS Commissioner Everson echoed similar sentiments at a Senate Transportation-Treasury Appropriations Subcommittee hearing I attended on the IRS's FY 2006 budget request.

They are absolutely right. It's grossly unfair to ask our Main Street businesses to operate at a competitive disadvantage to large multinational businesses simply because our tax authorities are unable to grapple with the growing offshore tax avoidance problem. It is outrageous that tens of millions of working families who pay their taxes on time every year are shouldering the tax burden of large profitable U.S. multinational companies that use tax-haven subsidiaries.

I hope that Congress will act promptly to enact legislation to curb these tax-haven subsidiary abuses. I urge my colleagues to cosponsor this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 106—CONGRATULATING THE UNIVERSITY OF DENVER PIONEERS MEN'S HOCKEY TEAM, 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I HOCKEY CHAMPIONS

Mr. SALAZAR (for himself and Mr. ALLARD) submitted the following resolution; which was considered and agreed to:

S. RES. 106

Whereas the Denver Pioneers first won the National Collegiate Athletic Association (NCAA) Hockey Championship in 1958;

Whereas the University of Denver has won 7 NCAA Division I Men's Hockey Championships, including back-to-back championships in 2004 and 2005;

Whereas on April 9, 2005, the University of Denver won the Frozen Four with a hard fought victory over the University of North Dakota Fighting Sioux; and

Whereas the Championship ended a terrific season in which the University of Denver outscored its opponents 170 to 109 and had a record of 31–9–2: Now, therefore, be it

Resolved, That the Senate congratulates the University of Denver Pioneers men's hockey team, Coach George Gwozdecky, and Chancellor Daniel Ritchie on an outstanding championship season, a season which solidifies the Pioneers' status among the elite in collegiate hockey.

AMENDMENTS SUBMITTED AND PROPOSED

SA 357. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 358. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 359. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 360. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 361. Mr. REID (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 362. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 363. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 364. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 365. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 366. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 367. Mr. BYRD proposed an amendment to the bill H.R. 1268, supra.

SA 368. Mr. CORZINE (for himself, Mr. DEWINE, Mr. BROWNBACK, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 369. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 370. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 371. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 372. Mr. CORNYN (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1268, supra.

SA 373. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 374. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 376. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 377. Mr. REED (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 378. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 379. Mrs. HUTCHISON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 380. Mr. KOHL (for himself, Mr. DEWINE, Mr. HARKIN, Mr. DURBIN, Mr. LEAHY, Ms. MIKULSKI, Mr. INOUE, Ms. LANDRIEU, Mrs. MURRAY, Mr. DORGAN, Mr. COLEMAN, Mr. OBAMA, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 381. Mr. CHAMBLISS (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 382. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 383. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 384. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 385. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 386. Mr. STEVENS (for himself and Mr. INOUE) proposed an amendment to the bill H.R. 1268, supra.

SA 387. Ms. MIKULSKI (for herself, Mr. ALLEN, Mr. LEAHY, Mr. CORZINE, Mr. WAR-

NER, Mr. JEFFORDS, Mr. SARBANES, Mr. DAYTON, Mr. KENNEDY, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. DORGAN, Mr. KERRY, Mr. CONRAD, Mr. THOMAS, Mr. STEVENS, Mr. DEWINE, Mr. COLEMAN, Ms. SNOWE, and Ms. COLLINS) proposed an amendment to the bill H.R. 1268, supra.

SA 388. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 389. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 390. Mr. OBAMA (for himself, Mr. GRAHAM, Mr. BINGAMAN, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 391. Mr. OBAMA (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 392. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 393. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 394. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 395. Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. ALEXANDER, Mr. LEAHY, Mrs. CLINTON, and Mrs. BOXER) proposed an amendment to the bill H.R. 1268, supra.

SA 396. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 397. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 398. Mr. DORGAN (for himself, Mr. DURBIN, Mr. LAUTENBERG, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 399. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 400. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 401. Mr. COCHRAN (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 1268, supra.

SA 402. Mr. COCHRAN (for Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. OBAMA)) proposed an amendment to the bill H.R. 1268, supra.

SA 403. Mr. COCHRAN (for Mr. LUGAR (for himself and Mr. BIDEN)) proposed an amendment to the bill H.R. 1268, supra.

SA 404. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 405. Mr. COCHRAN (for Mr. LEAHY) proposed an amendment to the bill H.R. 1268, supra.

SA 406. Mr. BAYH (for himself, Mr. PRYOR, and Mr. CORZINE) proposed an amendment to the bill H.R. 1268, supra.

SA 407. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 408. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill H.R.