

(4) in section 498(k)(1) (20 U.S.C. 1099c(k)(1)), by striking “section 487(f)” and inserting “section 487(e)”.

By Mr. LEVIN:

S. 2033. A bill to amend the Internal Revenue Code of 1986 to end the costly derivatives blended rate loophole, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, the coming year is certain to be focused on two problems: the need to restore prosperity for American working families, and the need to reduce our budget deficit. Our challenge is to accomplish these goals together, and not to pursue one at the expense of the other. As I have said repeatedly to this Senate, I believe the only way we can successfully achieve both goals is to pursue deficit reduction strategies that do not rely solely on slashing federal spending and attacking programs that help build opportunity for the middle class. We must recognize that revenue, as well as spending cuts, must be part of our strategy, and we must ensure that the sacrifices that surely will be needed to reduce the deficit fall not just on middle-class Americans, but are spread equitably, and ask for contributions from those who have benefitted so greatly from policies enacted in the past.

Today I introduce the Closing the Derivatives Blended Rate Loophole Act. This bill meets the twin tests of helping to reduce the deficit while promoting the interests of American families. It would put an end to a tax loophole that epitomizes how our tax code too often favors short-term speculation over investment in economic growth and job creation. This loophole showers benefits on short-term traders of certain financial instruments, but does nothing to promote economic growth and raises the tax burden on American families.

What is the derivatives blended rate? It's an example of how the complexities of the tax code can grant breaks for the few at the expense of the many. Here is how it works.

Generally speaking, taxpayers are allowed to claim the lower long-term capital gains tax rate on earnings only if those earnings come from the sale of assets that they have held for more than a year. The reason is simple: we tax long-term capital gains at a lower rate because we want to encourage the long-term investment that helps our economy grow.

But under Section 1256 of the Internal Revenue Code, traders in certain derivatives contracts have managed to win themselves an exemption from the distinction between short-term and long-term capital gains. Under this section, traders in those derivatives can claim 60 percent of their income as long-term capital gains, no matter how briefly they hold the asset. This “blended” tax rate applies if the trader holds the asset for 11 months or 11 hours.

The details may be complex, but the bottom line is that this treatment

bestows a substantial tax break on those who typically hold the covered derivatives for only a brief period. It encourages and rewards short-term speculation in complicated financial products and does little, if anything, to help our economy grow and create jobs. In fact, the increasing focus of our financial markets on short-term profit through trades that last just minutes or seconds threatens real damage to our economy. This speculation is hardly the sort of activity that our tax code should subsidize.

We also lose significant tax revenue by allowing this tax break—a revenue loss that means we must either ask for more from American families, or add to the deficit. What's more, this misguided policy contributes to the basic unfairness that characterizes too much of our tax code, by providing an unusual and unnecessary tax break to a small group of financial speculators. Instead of encouraging growth and investment, these loopholes contribute to what Warren Buffett has called the “coddling” of the wealthy and well-placed.

Closing this loophole is a common-sense, mainstream idea. I ask my colleagues to heed the advice of the tax experts at the American Bar Association's Tax Section, who wrote in December to the tax-writing committees of the House and Senate:

We are aware of no policy reason to provide preferential treatment for these gains and losses. Lower capital gains rates are intended to encourage long-term investments in capital assets such as stock. Whatever the merits of extending preferential rates to derivative financial instruments generally, we do not believe that there is a policy basis for providing those preferential rates to taxpayers who have not made such long-term investments.

Ending this loophole by passage of the Closing the Derivatives Blended Rate Loophole Act would not solve all the problems in our tax code, nor end our deficit dilemma. But it would be another important step toward a saner, fairer tax code. It would demonstrate that Congress shares the concerns of so many Americans that the tax system is too often stacked against the interests of working families and in favor of the privileged few. It would end a policy that encourages short-term speculation over long-term investment in growth. It would provide a down-payment on the revenue we need to restore if we are to engage in serious deficit reduction and avoid slashing critical programs. I urge my colleagues to join me in the effort to pass it.

By Mr. MCCONNELL (for himself, Mrs. HUTCHISON, Mr. LEE, Mr. HATCH, Mr. BARRASSO, Mr. CORNYN, Ms. AYOTTE, Mr. MORAN, Mr. ALEXANDER, Mr. CRAPO, Mr. RUBIO, Mr. COATS, Mr. ENZI, Mr. SESSIONS, Mr. BURR, Mr. VITTER, Mr. ISAKSON, Mr. BLUNT, Mr. BOOZMAN, Mr. KYL, Mr. MCCAIN, Mr. SHELBY, Mr. WICKER, Mr. CHAMBLISS, Mr.

LUGAR, Mr. RISCH, Mr. ROBERTS, Mr. INHOFE, Mr. GRASSLEY, Mr. KIRK, and Mr. GRAHAM):

S.J. Res. 34. A joint resolution relating to the disapproval of the President's exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on January 12, 2012; placed on the calendar.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 34

*Resolved by the Senate and House of Representatives of the United States of America Congress assembled, That Congress disapproves of the President's exercise of authority to increase the debt limit on January 12, 2012, as exercised pursuant to the certification under section 3101A(a) of title 31, United States Code.*

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 352—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD WORK WITH THE GOVERNMENT OF HAITI TO ADDRESS GENDER-BASED VIOLENCE AGAINST WOMEN AND CHILDREN

Mrs. GILLIBRAND submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 352

Whereas, since 1993, research has shown tens of thousands of women and girls have been victims of sexual or gender-based violence in Haiti, particularly in times of conflict or natural disaster;

Whereas approximately 50 percent of the victims are adolescent girls under the age of 18, with many of the cases involving the use of weapons, gang rape, and death threats for reporting the crime;

Whereas members of many medical professions are insufficiently trained to attend to the special needs of victims of gender-based violence, whether they be children or adults;

Whereas some medical providers report as many as 20 percent of adolescent victims they have treated for sexual violence become pregnant from their rape;

Whereas some women's rights groups in Haiti have witnessed dramatic increases in rates of sexual violence in many of the displacement camps formed after the earthquake;

Whereas the January 12, 2010, earthquake in Haiti increased the economic and social vulnerabilities of many women who are now unable to protect their young children from sexual predators, thereby increasing their risk for sexual violence;

Whereas, according to data from public interest law firms litigating cases of sexual violence, significant gender-based barriers to justice continue to exist at all levels of the justice system in Haiti;

Whereas an effective, transparent, and impartial judicial system is key to the administration of justice, and the failure to ensure

proper investigations and prosecutions hampers the ability to hold perpetrators accountable for their crimes and discourages victims from formally seeking justice;

Whereas inadequate financial, human, and technical resources, as well as a lack of forensic and technical expertise, have impeded the arrest and prosecution of suspects;

Whereas members of the police, prosecutors, and judges are insufficiently trained to attend to either the special needs of women and girl victims of gender-based violence, or the special needs of boys and girls who are victims of other abuses such as forced labor, beatings, or violence;

Whereas the lack of protection measures discourages women and girls in Haiti from pursuing prosecution of perpetrators of sexual violence, for fear of reprisal or stigmatization;

Whereas rape and other forms of gender-based violence in Haiti threaten the physical and psychological health of both the victims and their families;

Whereas many countries in Latin America and the Caribbean face significant challenges in combating violence against women and girls, and violence against children, and international cooperation is essential in addressing this serious issue;

Whereas the Government of Haiti has undertaken efforts to prevent violence against women, as evidenced by its ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, adopted December 18, 1979; the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, adopted at Belem Do Para, Brazil, June 9, 1994; and other international human rights treaties, and the enactment of laws and the creation of state institutions to promote and protect the rights of women;

Whereas the Government of Haiti has been a signatory of the United Nations Convention on the Rights of the Child, adopted November 20, 1989, since December 29, 1994;

Whereas the Haitian National Police and the United Nations Mission for Stabilization of Haiti have created special police units to address sexual and other forms of gender-based violence in Haiti;

Whereas the special police unit to address gender-based violence within the Haitian National Police remains significantly under-resourced, rendering it practically ineffective to carry out its mandate;

Whereas, in March 2009, the Inter-American Commission on Human Rights issued a report recognizing Haiti's history of gender discrimination that fuels gender-based violence and gives rise to a climate of impunity;

Whereas, in December 2010, the Inter-American Commission detailed steps the Government of Haiti must take to protect women and girls from increased risk of gender-based violence in post-earthquake Haiti;

Whereas, in 2012, the Ministry for the Status of Women and Women's Rights in Haiti plans to unveil a comprehensive draft law that calls for the prevention, punishment, and elimination of violence against women;

Whereas the United Nations and donor countries, such as the United States, continue to have a prominent economic and leadership role in the stabilization and reconstruction of Haiti;

Whereas few mechanisms exist in Haiti to protect the rights of young children not living at home, such as restaveks, who are engaged in forced labor or are victims to other forms of violence; and

Whereas the lack of protection for women and girls and continuing impunity for crimes against women is a threat to the rule of law, democracy, and stability in Haiti: Now, therefore, be it

*Resolved*, That the Senate—

(1) sympathizes with the families of women and children victimized by sexual and other forms of gender-based violence in Haiti;

(2) urges the treatment of the issue of violence against women and children as a priority for the United States Government's humanitarian and reconstruction efforts in Haiti;

(3) asserts its support for the passage of Haiti's first comprehensive law on the prevention, punishment, and elimination of all forms of gender-based violence;

(4) calls on the Government of Haiti to establish urgent plans that address the needs of vulnerable and unprotected children who are in situations of sexual exploitation, forced labor, or face sexual and/or domestic violence, and to take steps to immediately implement those plans, in consultation with grassroots organizations working specifically on the protection and promotion of the rights of children;

(5) calls on the Government of Haiti to take steps to implement the recommendations of the Inter-American Commission on Human Rights issued in response to increased levels of sexual violence in camps for internally-displaced persons on December 22, 2010, including—

(A) ensuring participation and leadership of grassroots women's groups in planning and implementing policies and practices to combat and prevent sexual violence and other forms of violence in the camps;

(B) ensuring provision of comprehensive, affordable, adequate, and appropriate medical and psychological care in locations accessible to victims of sexual violence in camps for those internally displaced, including, in particular ensuring—

(i) privacy during examinations;

(ii) availability of female medical staff members, with a cultural sensitivity and experience with victims of sexual violence;

(iii) timely issuance of free medical certificates;

(iv) availability of HIV prophylaxis, and

(v) sexual reproductive health and emergency contraception;

(C) implementing effective security measures in displacement camps, such as providing street lighting, adequate patrolling in and around the camps, and a greater number of female security forces in police patrols in the camps and in police stations in proximity to the camps;

(D) ensuring that public officials, such as police officers, prosecutors, and judges, responsible for responding to incidents of sexual violence receive specialized training from experienced Haitian and international women's organizations with a proven track record in gender-sensitive protection enabling them to respond adequately to complaints of sexual violence with appropriate sensitivity and in a nondiscriminatory manner; and

(E) maintaining effective special units within the police and the prosecutor's office investigating cases of rape and other forms of violence against women and girls;

(6) asserts its commitment to support the Haitian Ministry of Women's Affairs in its efforts to—

(A) build ministry capacity and facilitate gender-based violence sub-cluster meetings and initiatives as it transitions over to the Government of Haiti;

(B) perform decentralized meetings, consultations, and outreach to women's movements and community groups;

(C) address issues of gender-based violence country-wide, including violence in internally displaced person camps, rural peasant communities, and among children; and

(D) strengthen gender assessments, gender budgets, and gender planning in collabora-

tion with other Haitian ministries, the Haitian Parliament, the ruling administration in Haiti, the United Nations, the Inter-American Commission on Human Rights, donors, and international nongovernmental organizations within the reconstruction process; and

(7) asserts its support for the Government of Haiti, especially the Ministry of Women's Affairs, in its efforts to assess, amend, and renew its 5-year gender protection plan, which expired in October 2011, which includes support for the Government of Haiti in its efforts—

(A) to thoroughly assess the impact of the previous 5-year protection plan, including both pre and post-earthquake analyses and perform diversified assessments in consultation with local, regional, and national women's groups throughout the country, that will help gather decentralized data in both urban and rural zones;

(B) to perform specialized surveys and interviews in a significant sampling of internally displaced person camps and impoverished neighborhoods with high rates of gender-based violence with victims of rape and violence, the community groups that support them, and local officials in order to fully understand the needs and recommendations of these different populations and integrate these findings into a revised protection plan;

(C) to revise the existing Haitian protection plan based on the results of diversified and decentralized assessments and in direct consultation with national, regional, and local government officials and grassroots organizations, including women's groups and international institutions that focus on solutions to gender-based violence; and

(D) to amend, reintroduce, and pass into law a revised Haiti gender protection plan that reflects current post-earthquake realities, the needs and recommendations of victims of gender-based violence and the community groups that support them, integrates provisions for judicial and medical services for gender-based violence victims, and reflects key findings of decentralized assessments in both urban and rural zones.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1468. Ms. KLOBUCHAR (for herself, Mr. JOHNSON of Wisconsin, and Mr. FRANKEN) submitted an amendment intended to be proposed by her to the bill S. 1134, to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

## TEXT OF AMENDMENTS

**SA 1468.** Ms. KLOBUCHAR (for herself, Mr. JOHNSON of Wisconsin and Mr. FRANKEN) submitted an amendment intended to be proposed by her to the bill S. 1134, to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values; as follows:

Strike section 3 and insert the following:

### SEC. 3. OFFSET.

(a) IN GENERAL.—Notwithstanding any other provision of law, amounts made available for items 676, 813, 3186, 4358, and 5132 in the table contained in section 1702 of the SAFETEA-LU (119 Stat. 1288, 1380, 1423) shall be subject to the limitation on obligations for Federal-aid highways and highway safety construction programs distributed under section 120(a)(6) of title I of division C of Public Law 112-55 (23 U.S.C. 104 note; 125 Stat. 652).