

**TEXT OF AMENDMENTS -- (Senate - May 04, 2004)**

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**SA 3110. Mr. DORGAN (for himself, Ms. MIKULSKI, Mr. HARKIN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. EDWARDS) 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 subtitle E of title IV, add the following:

**SEC. \_\_. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.**

(a) **GENERAL RULE.**--Subsection (a) of section 954 (defining foreign base company income) is amended by striking ``and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ``, and", and by adding at the end the following new paragraph:

``(6) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5))."

(b) **DEFINITION OF IMPORTED PROPERTY INCOME.**--Section 954 is amended by adding at the end the following new subsection:

``(j) **IMPORTED PROPERTY INCOME.**--

``(1) **IN GENERAL.**--For purposes of subsection (a)(6), the term `imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with--

``(A) manufacturing, producing, growing, or extracting imported property,

``(B) the sale, exchange, or other disposition of imported property, or

``(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

**“(2) IMPORTED PROPERTY.--**For purposes of this subsection--

**“(A) IN GENERAL.--**Except as otherwise provided in this paragraph, the term ‘imported property’ means property which is imported into the United States by the controlled foreign corporation or a related person.

**“(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.--**The term ‘imported property’ includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that--

**“(i)** such property would be imported into the United States, or

**“(ii)** such property would be used as a component in other property which would be imported into the United States.

**“(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.--**The term ‘imported property’ does not include any property which is imported into the United States and which--

**“(i)** before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

**“(ii)** is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

**“(3) DEFINITIONS AND SPECIAL RULES.--**

**“(A) IMPORT.--**For purposes of this subsection, the term ‘import’ means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

**“(B) UNITED STATES.--**For purposes of this subsection, the term ‘United States’ includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**“(C) UNRELATED PERSON.--**For purposes of this subsection, the term ‘unrelated person’ means any person who is not a related person with respect to the controlled foreign corporation.

**“(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.--**For purposes of this section, the term ‘foreign base company sales income’ shall not include any imported property income.”

**(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.--**

(1) **IN GENERAL.--**Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ``and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

``(I) imported property income, and".

(2) **IMPORTED PROPERTY INCOME DEFINED.--**Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

``(H) **IMPORTED PROPERTY INCOME.--**The term `imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j))."

(3) **LOOK-THRU RULES TO APPLY.--**Subparagraph (F) of section 904(d)(3) is amended by striking ``or (E)" and inserting ``(E), or (I)".

**(d) TECHNICAL AMENDMENTS.--**

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended--

(A) by redesignating subclauses (III), (IV), (V), and (VI) as subclauses (IV), (V), (VI), and (VII), and

(B) by inserting after subclause (II) the following new subclause:

``(III) imported property income,".

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ``and the foreign base company oil related income" and inserting ``the foreign base company oil related income, and the imported property income".

**(e) EFFECTIVE DATE.--**

(1) **IN GENERAL.--**Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) **SUBSECTION (c).**--The amendments made by subsection (c) shall apply to taxable years beginning after such date of enactment.

(f) **SENSE OF THE SENATE.**--It is the sense of the Senate that any increase in revenues in the Treasury resulting from the amendments made by this section should be applied to reduce the phasein of the deduction relating to income attributable to domestic production activities under section 199 of the Internal Revenue Code of 1986 (as added by section 102 of this Act).

## **SEC. \_\_. AMENDMENTS TO THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.**

(a) **DEFINITION.**--Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended--

(1) in paragraph (3)(B), by striking ``for--" and all that follows through ``500 employees" in clause (ii), and inserting ``for at least 50 employees";

(2) in paragraph (7), by striking ``and" at the end;

(3) in paragraph (8), by striking the period and inserting ``; and"; and

(4) by adding at the end the following:

``(9) the term `offshoring of jobs' means any action taken by an employer the effect of which is to create, shift, or transfer employment positions or facilities outside the United States and which results in an employment loss during any 30 day period for 15 or more employees.".

(b) **NOTICE.**--Section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) is amended--

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by striking ``60-day" and inserting ``90-day"; and

(B) in paragraph (1), by striking ``and" at the end;

(C) in paragraph (2), by striking the period and inserting ``; and"; and

(D) by inserting after paragraph (2), the following:

``(3) to the Secretary of Labor.";

(2) in subsection (b), by striking "60-day" each place that such appears and inserting "90-day"; and

(3) by adding at the end the following:

**(e) NOTICE FOR OFFSHORING OF JOBS.**--In the case of a notice under subsection (a) regarding the offshoring of jobs, the notice shall include, in addition to the information otherwise required by the Secretary with respect to other notices under such subsection, information concerning--

(1) the number of jobs affected;

(2) the location that the jobs are being shifted or transferred to; and

(3) the reasons that such shifting or transferring of jobs is occurring."

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**(c) TECHNICAL AMENDMENTS.**--The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended--

(1) by striking "plant closing or mass layoff" each place that such appears and inserting "plant closing, mass layoff, or offshoring of jobs";

(2) by striking "closing or layoff" each place that such appears and inserting "closing, layoff, or offshoring";

(3) in section 3--

(A) in the section heading by striking "

PLANT CLOSINGS AND MASS LAYOFFS" and inserting "

PLANT CLOSINGS, MASS LAYOFFS, AND OFFSHORING OF JOBS";

(B) in subsection (b)(2)(A), by striking "closing or mass layoff" and inserting "closing, layoff, or offshoring"; and

(C) in subsection (d), by striking "section 2(a)(2) or (3)" and inserting "paragraph (2), (3), or (9) of section 2(a)"; and

(4) in section 5(a)(1), in the matter following subparagraph (B), by striking ``60 days" and inserting ``90 days".

(d) **POSTING OF EMPLOYEE RIGHTS.**--The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended by adding at the end the following:

**``SEC. 11. POSTING OF NOTICE OF RIGHTS.**

``(a) **DEVELOPMENT.**--Not later than 60 days after the date of enactment of this section, the Secretary of Labor shall develop a notice of employee rights under this Act for posting by employers.

``(b) **POSTING.**--Each employer shall post in a conspicuous place in places of employment the notice of the rights of employees as developed by the Secretary under subsection (a)."

(e) **ANNUAL REPORT.**--The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), as amended by subsection (d), is further amended by adding at the end the following:

**``SEC. 12. CONTENTS OF ANNUAL REPORTS BY THE SECRETARY OF LABOR.**

``(a) **IN GENERAL.**--The Secretary of Labor shall collect and compile statistics based on the information submitted to the Secretary under subsections (a)(3) and (e) of section 3.

``(b) **REPORT.**--Not later than 120 days after the date on which each regular session of Congress commences, the Secretary of Labor shall prepare and submit to the President and the appropriate committees of Congress a report on the offshoring of jobs (as defined in section 2(a)(9)). Each such report shall include information concerning--

``(1) the number of jobs affected by offshoring;

``(2) the locations to which jobs are being shifted or transferred;

``(3) the reasons why such shifts and transfers are occurring; and

``(4) any other relevant data compiled under subsection (a)."

**JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT -- (Senate - May 05, 2004)**

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Mr. DORGAN. Madam President, tempted as I am to respond to the last comments just offered by the Senator from New Mexico, I will refrain and do that at a later time. Suffice it to say it provides little benefit to come to the Senate and say, they are responsible for us not having an energy bill. We all understand why we do not have an energy bill. I was one who signed the conference report, worked on the bill, voted for the bill in the Senate. We do not have an energy bill because it failed by two votes. It failed by two votes because the majority leader of the other body insisted on a retroactive waiver for liability of MTBE. He was told it would kill the bill, and it killed the bill.

I don't have much patience with Members who point to one side or the other and say they killed the Energy bill. The Energy bill should be in the Senate right now and should have been in the Senate last week. We ought to do an energy bill. I said I would refrain from commenting. I just commented.

There is no Republican or Democrat way to pay inflated gas prices. The way you pay inflated gas prices is stick the hose in the tank and you have to fork over a bunch of bills when you are done filling the tank. We ought to get a bill through here. My colleagues on both sides of the aisle believe that. In my judgment, it ought to be a priority.

AMENDMENT NO. 3110

Having said that, I have come to the Senate floor to speak to an amendment I offered yesterday on behalf of myself and Senator *Mikulski*. The amendment is supported and cosponsored by other Members of the Senate.

Senator *Mikulski* and I offer an amendment that deals with the issue of the embedded tax incentive in our Tax Code that actually incentivizes companies to shut down their U.S. operation, move jobs overseas, and then send the product from those jobs back into the United States. Let me describe the amendment and let me describe why I believe it is important. The amendment offered by myself and Senator *Mikulski* is also cosponsored by Senator *Harkin*, Senator *Feingold*, Senator *Kennedy*, and Senator *Edwards*.

This amendment partially repeals a tax subsidy called deferral. This subsidy is only partially repealed because it is repealed for those U.S. companies that move their operation to a foreign subsidiary, produce the same product, and ship the product back into this country. They lose deferral on that kind of economic activity.

The amendment has several other provisions that require notification of communities, agencies, and workers when jobs are going to be lost and jobs are going to be offshored. It requires the Department of Labor to supply statistics on jobs sent overseas.

The key part is to shut down the perverse provision in tax law that incentivizes the movement of jobs overseas. If you look at this Tax Code, which itself is a Byzantine set of complexities, there is not a section that says: In this part of the Tax Code, this chapter is entitled ``Incentive for Sending U.S. Jobs Overseas." There is no such part of the Tax Code. There is no chapter, title or provision that says this is the benefit you get from sending jobs overseas. But that benefit does exist in the Tax Code, and I intend to describe how and why it exists.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. We now have agreement that we can have those two votes. I have already indicated that following the remarks of Senator *Dorgan* and Senator *Mikulski*, we would move to the Graham amendment No. 3112 and the time would be equally divided, 2 hours equally divided. Following the debate on that, I ask we move to vote in relation to the Graham amendment No. 3112. Prior to that, we vote on the Breaux amendment No. 3117. There will be 2 minutes equally divided prior to each of the votes.

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

The Senator from North Dakota.

Mr. DORGAN. Madam President, this is a picture of a little red wagon. On the side of this little red wagon it says ``Radio Flyer." Most of us understand what this little red wagon is because we have actually had one of these red wagons. I had one. My guess is the person now occupying the Chair has had a little red wagon. Even in Nevada they have little red wagons. Senator *Reid*, no doubt, has ridden in one of these. I didn't know until recently much about the red wagons, but that they were wonderful and fun, and if you turn the front wheels too sharp, sometimes they tip over.

This little red wagon is enjoyed by these two young children as it has been enjoyed for decades and decades. This wagon is called the Radio Flyer. It comes from a company created in 1917 by an Italian immigrant woodworker named Antonio Pasin. He had a one-room workshop in New York City where he made wooden wagons by hand. He called them Liberty Coasters, after the Statue of Liberty. He later renamed them ``Radio Flyers" because he always had an admiration for airplanes. That is how Radio Flyers came on the side of little red wagons sold all over the country.

The company was inherited by Antonio's children and then inherited by his grandchildren located in Chicago, IL. For almost a century, they turned out these marvelous little red metal wagons made here in this country by working men and women who are proud to make them--that is, until earlier last month. They announced these little red wagons would now be made in China. These American Flyers, these red wagons, will now be sent to our country to be enjoyed by our children, but they will no longer be made in America;

they will be made in the country of China. That is an American icon, moving to China.

Huffy bicycles. Huffy bicycles have 20 percent of the American marketplace. Everybody knows about Huffy bicycles. Buy them at Sears, Kmart, Wal-Mart. In fact, for many years, Huffy bicycles had a little decal between the handle bars and the front fender. That decal was of the American flag, made by proud men and women working in a manufacturing plant in Ohio. Those men and women made \$11 an hour, but they don't work there anymore. They lost their jobs. They came to work one day to find out they were fired. Why? Because Huffy bicycles were moving to China. Why were they moving to China? Because \$11 an hour was too much to pay an American worker when you could hire a worker in China for 33 cents an hour.

By the way, when you move the little red wagon to China and you move Huffy bicycles to China, you also get a tax break. By the way, if you just close your manufacturing plant in the United States and move it to China, you get a tax break.

Huffy bicycles are not here anymore. They are in China. They are made by people who make 33 cents an hour. They work 7 days a week, 12 to 14 hours a day. Both of these companies get a tax cut for going to China. How does that work? How do they get a tax cut for doing that? We have something in our Tax Code called deferral. It is a foreign language to most people unless you are an accountant who works in all these areas. Deferral. It says: Tell you what, if you have two bicycle manufacturers side by side in the same town competing for the same marketplace, they pay the same wage; they hire the same number of workers; they produce the same number of bicycles, one of them decides to move to China or just move overseas, the bicycle manufacturer that stays in your hometown in this country will pay higher taxes than the bicycle manufacturer that leaves

because the bicycle manufacturer that leaves to go produce in China is not going to have to pay U.S. income taxes on its income until and unless it is repatriated into this country. That is called deferral. So it will earn income that is untaxed under something called deferral.

We are told from the latest estimates we received recently that this deferral benefit for companies that move overseas to produce the same product and ship it back into our marketplace in the U.S. is over \$6 billion in 10 years.

Now I am not talking about an American company, for example, that is in the suburbs of Toledo, OH, and it decides: I am going to move a manufacturing operation to Sri Lanka or Indonesia so I can, less expensively, produce a product to market in Japan or South Korea. That is not what I am talking about. That is not what this amendment Senator *Mikulski* and I are offering is talking about. We are talking about an American company that decides it should be benefited with rewards from our tax system for producing a product overseas that is going to come back into our marketplace to be sold in this country.

It is unfair to U.S. domestic companies to compete against another company that decides to send its production overseas, get rid of its American workers, and then end up competing against its former competitors that stayed in this country, but compete in a way that provides this company that left this tremendous advantage because they now pay lower taxes. They got a tax incentive for leaving.

We are going to hear, I think, a lot of obfuscation about this issue and huffing and puffing and blue smoke in the air over all this. But I think there is a simple proposition to understand. If two companies that make bicycles exist in the same city, and one goes to China to make bicycles to ship back to the United States, the one that left gets a tax break. That is in current law. You can either vote to support current law and say, "I support continuing to give this insidious tax break to those who want to move offshore to ship back into this marketplace," or you can decide this is wrong.

Those companies that stay here, those companies that produce here, ought not to have to compete against others that now have a lower tax rate because they left. That is a simple proposition. There is a lot more we should do, but we don't do it in this bill. I will give you some examples.

Companies that want to run subsidiaries through tax havens, what we ought to do is decide if you don't have a business operation, you just want to run your business accounting through a tax-haven country, we are going to treat you as if you never left this country. That is what we ought to do.

And this last goofy provision that is in the underlying bill says to companies, Oh, by the way, you left, and you now have deferred income, for which you have never paid a tax; why don't you bring it back here and pay a 5-percent tax on it. What an incredibly goofy idea. You think there would be some embarrassment about putting that in the

bill, but there is not. There is no embarrassment, apparently. But Tom Paxon, many years ago, wrote this song "I'm Changing My Name to Poland." That is when Poland got some sort of bailout loan from the United States. "I'm Changing My Name to Poland." Maybe the American people ought to get the same benefit that is being proposed in this bill of a 5-percent income tax rate. If it is good enough for people who have \$10 billion in deferred income overseas, to repatriate it and pay a 5-percent rate, why shouldn't every single American working family pay the same 5-percent rate? Are they unworthy? Are they less worthy? Why not give them the same opportunity?

There are a dozen things we ought to do to this Tax Code to make it fair. With respect to this issue of international provisions in the Tax Code, we do one, narrow thing. It is very simple. In my judgment, no one here will be able to say I did not understand it. It is very simple. If you are an American corporation and you decide to produce overseas for the purpose of selling into our country, we are not going to give you a tax break any longer for continuing to do it. We are not going to give you a tax break.

Now let me just go through a couple of things that describe the circumstances that exist in this country. Imports from foreign affiliates of U.S. corporations have doubled since 1993. Is a lot of this happening? You bet. Is it happening in a much more accelerated way? Of course. And the perverse thing is, we have a Tax Code that incentivizes this to happen.

Here is employment in U.S. manufacturing. It has fallen by 2.7 million jobs since the year 2000. You see what is happening to the manufacturing sector in this country. No country is going to long remain a world economic power without a robust, healthy manufacturing sector.

I used Radio Flyer wagons--and Huffy bicycles. I could have used any number of products to describe what is happening to the manufacturing base of the country. And our Tax Code subsidizes it. It says: If you have a plant, shut it down and move. We will give you a tax cut.

Employment in foreign affiliates as a percent of U.S. manufacturing has gone from 23 percent to 34 percent. I do not need to make the case any more than this, except to say when we do this--and I often come to the floor to talk about trade issues--it relates to a whole myriad of issues. I mentioned Radio Flyers and Huffy bicycles going to China. I have not visited the plants where they are made.

I regret, and am enormously disappointed, after a century of making little red wagons in our country, the company that makes them has decided to make them elsewhere. I regret bicycles that were made here are made in China. But let me describe the circumstance of all of these issues. And I have talked about this before. This is a Washington Post article. It is about labor provisions in China. This gets to the issue of fair trade. But this is not just fair trade. It is also the perverse tax incentive that says: Oh, by the way, ship your jobs overseas.

It says:

On the night she died, Li Chunmei must have been exhausted.

Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Banain Toy Factory, carrying toy parts from machine to machine.

This was the busy season, before Christmas. They worked 7 days a week. The exact cause of her death remains unknown. They found her after the lights went out:

Her roommates had already fallen asleep when she started coughing up blood. They

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found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived.

The exact cause of [her] death remains unknown. But what happened in this industrial town in southeastern Guangdong province is described by family, friends and co-workers as an example of what [Chinese] newspapers call ``guolaosi." The phrase means ``over-work death". .....

They actually have a term for it in China.

So these people, who used to make Radio Flyers, the people who used to make Huffy bicycles are supposed to compete with that? We are supposed to believe this is the way competition works in the world? I do not think so.

But aside from that, aside from the perversity of setting up a competition in circumstances where kids are worked to death, and paid pennies, and live 12 to a room, work 7 days a week, 12 hours a day, aside from that, we, in this Tax Code, have an incentive that says: If you do this, you pay less in taxes. If you do this, move your jobs elsewhere, you actually get a tax break. My colleague Senator *Mikulski* and I think that is perverse, as I have said.

This proposal is very carefully targeted. It ends tax deferral only where U.S. multinationals produce goods abroad and ship those goods back into the U.S. marketplace. For others who might be surprised by this amendment, let me say to them, it is not new. President John F. Kennedy tried to shut down deferral--a much larger proposition than ours in this amendment. Richard Nixon supported shutting down deferral. The House of Representatives actually voted in the 1980s to shut this down. This is not new.

I might also say, the Senate has previously voted on an amendment very similar to this about 8 years ago. But if we are dealing with international taxation--and we certainly are with respect to the underlying bill brought to the floor by the Finance Committee; and we are doing it in some ways that are quite disappointing, some ways that are fine--if we are dealing with that subject, we cannot fail to deal with the subject of incentives that now exist for companies to eliminate U.S. jobs and shipping those U.S. jobs overseas.

I am not someone who believes our country ought to put up walls. We have a global economy; I understand that. I don't think the rules for globalization have nearly kept pace with globalization. That is why you can't hold discussions on trade anywhere where there is a population center these days, so they take them to Qatar, someplace where there are no hotel rooms.

The fact is, we are now increasingly a global economy. But as we globalize, the rules must keep pace. As we globalize this country, this world economic power needs to be concerned about its future, its job base, and its manufacturing base. Precious little attention is paid to it. We will have Members come to the floor this afternoon aggressively supporting the proposition that deferral is good for our country, good for our taxpayers, good for our job base. Nonsense. Sheer nonsense. It is not good under any set of circumstances for us to say if you have two companies, one that stays in America, and

one that leaves our country, both to produce products to sell in our marketplace, that we will advantage the company that left. We will give an advantage to the company that fired its workers and left to take its jobs to Sri Lanka or to Indonesia or Taiwan or China or Bangladesh. It makes no sense. It never has. And it makes no sense today to decide that we will provide significant financial incentives to those who make the decision to shut down American jobs, shut down manufacturing plants, move them overseas, and reward them for doing so.

This country ought to stand up for its economic interests, not to the detriment of others but for its economic interests. That is what this amendment does. It is about jobs. It is about economic strength. It is about a manufacturing base that needs to be strong and vibrant and growing. And it is about fairness. Finally and most importantly, it is about common sense.

I come to this Chamber from a very small town, 300 people in southwestern North Dakota, a sparsely populated State. One heavy dose of common sense here would be that we would pass this amendment and say that this defies logic. Go to the cafe in my hometown and ask folks: Do you think it makes sense for us to have an embedded provision in the American Tax Code that rewards a company that leaves and puts the company that stays at a competitive disadvantage? Try defending that. If you will defend that in any cafe, any city in this country, let me be there while you do it so I can tell the other side of this story.

There will come a point when this Congress--perhaps it is today when we start down this road--has to decide to stand up for the economic interests at home, take care of matters at home. This is a first step.

Let me end where I began, with bicycles and wagons, just as a symbol. Both have now decided that they will not produce in the United States. They will produce instead in China. Those jobs, these wheels, these pedals, those handlebars, and this red paint used to be applied by American workers. They are not any longer. I am not saying we ought to keep every job here. I am not saying it is not a global economy. But I am saying we can take the first commonsense step to say we will no longer have an embedded perverse incentive to reward companies to move their jobs overseas. If we can't take that step, this is going to be a mighty short journey for this country's economy.

At a time when we worry about jobs, people worry about security; they sit around the supper table at night and talk about their lives ``What kind of job do I have? Do I have job security? Does it pay well?" At a time when we discuss these things and know we have lost 2.7 million manufacturing jobs in a few recent years, the question for this Congress is: Will you decide to end the perverse incentive in the Tax Code that actually ships jobs elsewhere? Yes or no. There is not ``maybe" as a potential answer. It is yes or no. That is what we will vote on this afternoon.

My colleague, Senator *Mikulski*, comes from a wonderful State, a different State than mine. She comes from more of an industrial State, the State of Maryland. But she has

worked with me tirelessly in creating this amendment. I know she has a lot to say as well on behalf of American workers. Let me yield the floor to my colleague from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I ask unanimous consent to print in the **RECORD** letters in support of the Dorgan-Mikulski amendment from the boilermakers and the shipbuilders, from the electrical workers, from the U.A.W., and from the AFL-CIO.

There being no objection, the material was ordered to be printed in the *Record*, as follows:

**International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers,**

Fairfax, VA, May 4, 2004.

**DEAR SENATOR:** Today, the Senate is expected to vote on the Dorgan-Mikulski amendments to S. 1637, which would end tax deferral for U.S. companies that outsource manufacturing facilities and jobs to foreign countries, only to ship foreign made goods back to the United States. On behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, I strongly urge you to support the Dorgan-Mikulski amendment and end the ``Runaway Plant/U.S. Job Export" subsidy.

The Dorgan-Mikulski amendment will help stop the flow of good-paying manufacturing jobs out of the United States. In the last 3 years, 2.7 million jobs that could support the typical American family have disappeared. Part of this decline is due to tax incentives that encourage companies to shift their operations abroad. Under current law, a U.S. company that shifts a manufacturing operation to a foreign based subsidiary can indefinitely defer paying U.S. taxes on its profits until it sends those profits back to the U.S. as dividends.

U.S. taxpayers should not subsidize manufacturing expatriates. This unfair and arcane tax provision rewards U.S. companies that move American jobs offshore and puts taxpaying domestic companies at a severe disadvantage, while costing American taxpayers \$6.5 billion over 10 years. Multinational companies should not be encouraged to move jobs abroad and avoid paying their fair share of taxes on income gained from the U.S. market.

Repealing the jobs exports tax subsidy will allow American manufacturers to compete fairly. This amendment not only repeals this ill-advised job export subsidy, but it uses those savings to accelerate the tax cuts provided in S. 1637 for domestic manufacturing.

Corporations will be held accountable to the communities they leave behind. Workers

and their families deserve to know when their jobs are being sent abroad. This amendment will shed new light on corporate practices by requiring companies to disclose to workers and the public whenever they lay off more than 15 workers to send jobs overseas.

Once again, I urge you to remedy the unfair tax incentive that sends American jobs overseas by supporting the Dorgan-Mikulski amendment to S. 1637. Thank you for your attention to this important matter.

Sincerely,  
Bridget P. Martin,

*Assistant to the International President,  
Director of Government Affairs.*

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INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS

Washington, DC, May 4, 2004.  
Hon. **DANIEL K. AKAKA**,  
*U.S. Senate, Hart Office Building,  
Washington, DC.*

**DEAR SENATOR AKAKA:** Today, the Senate is expected to vote on the Dorgan-Mikulski amendment to S. 1637, which would end tax deferral for U.S. companies that outsource manufacturing facilities and jobs to foreign countries, only to ship foreign made goods back to the United States. On behalf of the 780,000 members of the International Brotherhood of Electrical Workers (IBEW), I strongly urge you to support the Dorgan-Mikulski amendment and end the "Runaway Plant/U.S. Job Export" subsidy.

The Dorgan-Mikulski amendment will help stop the flow of good-paying manufacturing jobs out of the United States. In the last 3 years, 2.7 million jobs that could support the typical American family have disappeared. Part of this decline is due to tax incentives that encourage companies to shift their operations abroad. Under current law, a U.S. company that shifts a manufacturing operation to a foreign based subsidiary can indefinitely defer paying U.S. taxes on its profits until it sends those profits back to the U.S. as dividends.

U.S. taxpayers should not subsidize manufacturing expatriates. This unfair and arcane tax provision rewards U.S. companies that move American jobs offshore and puts taxpaying domestic companies at a severe disadvantage, while costing American taxpayers \$6.5 billion over 10 years. Multinational companies should not be encouraged

to move jobs abroad and avoid paying their fair share of taxes on income gained from the U.S. market.

Repealing the jobs exports tax subsidy will allow American manufacturers to compete fairly. This amendment not only repeals this ill-advised job export subsidy, but it uses those savings to accelerate the tax cuts provided in S. 1637 for domestic manufacturing.

Corporations will be held accountable to the communities they leave behind. Workers and their families deserve to know when their jobs are being sent abroad. This amendment will shed new light on corporate practices by requiring companies to disclose to workers and the public whenever they lay off more than 15 workers to send jobs overseas.

Once again, I urge you to remedy the unfair tax incentives that sends American jobs overseas by supporting the Dorgan-Mikulski amendment to S. 1637. Thank you for your attention to this important matter.

Sincerely,  
Edwin D. Hill,

*International President.*

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Washington, DC, May 4, 2004.

**DEAR SENATOR.** The AFL-CIO urges to support the Dorgan-Mikulski amendment to S. 1637. The amendment would eliminate foreign tax deferral for companies that export jobs.

Under current tax law, companies that manufacture in the United States must pay corporate taxes, but American companies that manufacture abroad can indefinitely defer their taxes on that income. The Dorgan-Mikulski amendment would eliminate deferral so companies are taxed the same whether they produce and invest in the United States, or invest abroad and export back to the United States. This change would save taxpayers nearly \$7 billion and eliminate a major incentive in the tax code to ship jobs overseas.

The amendment comes at a critical time for American workers. More than 2.8 million manufacturing jobs have been destroyed since President Bush took office. According to a recent survey of American CEOs, 47 percent of them plan to ship more manufacturing jobs overseas this year. The US tax code should not encourage companies to export jobs, which is why the Senate should adopt the Dorgan-Mikulski amendment.

Thank you for considering our views on this important issue.

Sincerely,

William Samuel,  
*Director, Department of Legislation.*

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**International Union, United Automobile, Aerospace & Agricultural Implement  
Workers of America-UAW**

Washington, DC, May 4, 2004.

**DEAR SENATOR:** This week the Senate will be considering amendments to the FSC/ETI tax replacement legislation. The UAW wishes to share with you our views on this important measure.

The UAW strongly supports the Specter-Bayh manufacturer's tax equity amendment. As currently structured, the FSC/ETI bill provides a deduction that only certain U.S. manufacturers are able to utilize. Unfortunately, this deduction does not provide any benefit to many capital-intensive industries--including major auto and steel companies--because they do not have sufficient "manufacturing" income due to their extremely high "legacy" health care and pension costs. The net result is that domestic portion of the FSC/ETI bill fails to provide any assistance to a major portion of our manufacturing base that is crucial to maintaining thousands of good paying jobs.

To correct this deficiency, the Specter-Bayh amendment would allow manufacturers to elect either to take the deduction currently in the bill, or in lieu of that to receive a tax credit equal to 10 percent of their health care expenditures for active and retired workers aged 55-64. This election would effectively allow auto and steel companies to receive a tax benefit equivalent to that received by other domestic manufacturers. In addition, it would provide significant relief for their "legacy" costs, and enable them to increase investments and create additional jobs for American workers. The UAW urges you vote for the Specter-Bayh amendment and to insist that it be incorporated into the FSC/ETI bill.

The UAW also urges you to support amendments to reduce or eliminate tax breaks for the overseas operations of multinational corporations. This includes the Dorgan-Mikulski amendment on runaway shops, the Harkin amendment disallowing deductions for outsourcing, and the Hollings amendment striking the international provisions in the bill. These amendments would eliminate tax breaks that are exacerbating the loss of manufacturing jobs in this country. Instead of subsidizing companies that ship jobs overseas, the UAW believes Congress should target assistance to domestic manufacturers who create jobs for American workers.

Thank you for considering our views on these important issues.

Sincerely,  
Alan Reuther,

*Legislative Director.*

Ms. MIKULSKI. Madam President, I want to thank the Senator from North Dakota for his passion and vigor in presenting this amendment. I also thank him for his story about the Red Ryder, a good old wagon. I had a Red Ryder wagon. Growing up in a blue-collar neighborhood in Baltimore during World War II, my father had a little neighborhood grocery store. And one of the ways the groceries got delivered was in this good old red wagon we had. I could use the wagon for a couple things.

Dad would sometimes say: Barb, take the wagon down to Mrs. Smith or Yankowski or Coalino. It was a very ethnic neighborhood. They called in and ordered late. Run down those oranges and take the wagon.

I loved that red wagon. I was also a Girl Scout during World War II. Dad would let me use the wagon to go around the neighborhood to collect newspapers because we were recycling a variety of things for the war effort. I felt like a little soldier on the move with my red wagon and my little Girl Scout uniform, along with other kids from the troop. I was the kid with the wagon. I loved that wagon. I loved that neighborhood so much because in that neighborhood there were men sent off to World War II, saving Western civilization, saving the world.

We were the neighborhood of factories. We made liberty ships. We turned out a liberty ship, one ship every 3 weeks. We put out turbo steel to make the tanks. Glenn L. Martin made the seaplanes that helped win the battle of the Pacific. We were in the manufacturing business. We were in the war effort business. And this little girl in her Girl Scout uniform with the little red wagon made in the USA felt she was doing her bit.

Guess what. Those jobs now are leaving. Our shipyard jobs have left. Our steel mills have shrunk to miniscule levels. We don't make ships. We don't make steel. We don't make clothing. We are really down. The blue-collar Baltimore of World War II and Korea and Vietnam just isn't what it used to be.

Where did those jobs go? Those jobs are on a slow boat to China. They are on a fast track to Mexico. And other jobs are in a dial 1-800 anywhere. And why did they go? They went because there were tax breaks that rewarded those corporations to move not only the red wagons but so much of this manufacturing overseas.

Today, as we know, if you are in business and in the good old United States of America, you get a tax break if you move those jobs overseas. I think it is wrong to give companies incentives to send millions of jobs to other countries when millions of Americans are losing their jobs. It is wrong to put companies

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who stay in America at a competitive disadvantage because they have their business and hire their workers at home, pay their share of taxes, and provide health care to their employees.

We should be rewarding these companies with good guy tax breaks for hiring and building their businesses right here in the United States. We should be giving good guy bonuses to American corporations who are providing health care to their workers and to their retirees. But, no, we give tax breaks to those people who want to take their jobs and evacuate to another country.

It is time we look at our Tax Code and call for a patriotic Tax Code. I want a patriotic Tax Code. We walk around the floor of the Senate, we go to rallies. We love to be in parades. We wear our flags because we want to stand up for our troops--and stand up for our troops we should--but we have to stand up for America.

We have to stand up for America by having a strong economy. That is why I want a patriotic Tax Code. This amendment we are proposing is about patriotism. It is about economic patriotism. We have to start putting our might and our muscle and our votes behind this in the Senate.

What does a patriotic Tax Code do? I think it would focus on bringing our jobs back home and bringing our money back home. That is what a patriotic Tax Code would do. The Dorgan-Mikulski amendment is step one. It ends these huge tax breaks for manufacturing companies that send jobs overseas, only to sell the products they make right here in the United States of America. The current Tax Code lets these companies move the jobs and not pay taxes on the profits, even though they earn the profits by their sales of those products in the United States.

Our amendment tells these companies if you want to export jobs out of America, you need to pay the taxes on your profits. Our amendment says the Tax Code can no longer be used to boost corporate rewards at the expense of American workers. I have watched those jobs I have talked about leave. A couple months ago, we were hard hit on the eastern shore. There is a company headquartered in Maryland called Black and Decker. It makes many of the wonderful tools you use in your home. It was started by a Maryland family. The jobs were in America. Now the headquarters is in America, but the jobs are not here. The eastern shore jobs at that major manufacturing facility have left. Over a thousand people were laid off; 1,000 people in a little community like Talbot County. That is a tremendous impact. The impact has been felt by the whole community. People lost their jobs, and people had to cut back in terms of their homes, the way they shop at their grocery store; and there is great shrinkage in the United Fund. I could go on about that. Those jobs left this country.

At the same time, there are other examples. Take Maytag. Oh, gosh, every woman in America loves Maytag and that friendly guy who comes to service them. Well, I hope he speaks a foreign language to try to read the manual, because those Maytags are made somewhere else. By the way, they used to be made in Illinois. So those 1,500 jobs left. They were washed out, if you will, in this country.

Then there is Levi Strauss, which closed six U.S. plants, cutting over 5,000 jobs. So the jeans that made America famous are now being made in other countries.

We could go on to furniture that used to be made in our Southern States, like Virginia and North Carolina. Many of you might have read in the paper over the weekend what is happening in Roanoke, VA, where many people have lost their jobs in manufacturing, in metal working, in furniture, and in other materials. Their divorce rate is so high that almost 50 percent of the people in Roanoke, VA, are now divorced. It is becoming the divorce capital, with the highest divorce rate in the Nation. Why did that happen? You can look at the divorce rate and chart it along with the decline in those manufacturing jobs. We have seen it in manufacturing. There is the exit of the service jobs now. A lot of people in manufacturing who lost their jobs busted their backs and their butts to send their kids to higher education, community college, or college. They said go to college, kids, learn technology; it is the new field. You are not going to be laid off like me. You are going to have a future. America will be the tech country of the world.

Well, guess what happened. Now the tech jobs are going. In the next few years, the IT sector will move over 500,000 jobs overseas. People are saying train--you have to be kidding. Even our State governments are outsourcing jobs by hiring companies to do call centers overseas. I joined with Senator *Dodd* to stop the outsourcing of Federal jobs overseas to call centers.

That is why I stand here today with my colleague from North Dakota to call on us to think about economic patriotism, think about a patriotic Tax Code that, first of all, gives rewards to American companies that keep jobs here, and also a tax code that gives good bonuses to those companies that provide health insurance to their workers and also look out for their retirees.

Then the other thing is to end the despicable process and breaks and rewarding those companies who move not only the little red wagons, but very big manufacturing items overseas. That is why I want to stand up today for what I believe is the right thing to do. I call upon my colleagues to think about where America is going in the 21st century. Where are we going to be? Are we going to create more opportunity? Are we going to create more jobs that pay living wages, that have a benefit structure you can reward? Or are we going to resemble the economy of a third world country?

I really want to have a tax code that brings our jobs back home, brings our money back home, stands up for America. So pass the Dorgan-Mikulski amendment and take your first step toward economic patriotism.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, thanks to the Senator from Maryland for her comments and her hard work on this amendment. I hope we will be able to pass this amendment. I expect we will vote on it later today. I wanted to make a couple of additional points.

First of all, on this broader issue of deferring tax, Presidents Kennedy, Nixon, and Carter all tried in vain to actually end deferral. In 1975, the Senate voted to end it. In

1987, the House voted to end it. But in each case, of course, it never got to the President's desk for signature. So we have this thing called deferral. That sounds less ominous than it really is.

With respect to the products manufactured abroad to be sold in our marketplace by U.S. corporations, this deferral is a title that says there is a tax break for U.S. companies to move jobs overseas in order to sell back into our marketplace. There is now \$640 billion in foreign earnings that have not been repatriated. Many of them, of course, are parked in tax havens indefinitely--\$640 billion.

My colleague also talked about some products. What is more American than Levis? Well, Levis are gone. Before, when you put on a pair of pants, you were putting on an American pair of pants. Not anymore. You are putting on Mexican or Chinese pants.

Then there is Fruit of the Loom. It is one thing to lose your shirt, but Fruit of the Loom is gone. They used to be manufactured here. They are manufacturing them in Mexico and, I believe, some in China. By the way, if you want to order up Mexican food, order Fig Newtons. We all grew up with them. Fig Newton cookies used to be American. Now this cookie is made in Mexico. Next time you order Mexican food, ask whether they will bring you some Fig Newtons.

The point is, we are not only shifting these jobs out of our country for the purpose of manufacturing to sell back into our country, our Tax Code says please do this and we will give you a \$6.5 billion benefit over the coming 10 years.

If the Congress cannot take this baby step in addressing this perversion, then the Congress cannot find its way through public policy in a way that reflects any modicum of common sense.

I wanted to mention that while I think there is much to criticize in the underlying bill, there is a provision in the underlying bill that addresses so-called "inversion." I commend the committee, Senator *Grassley*, and Senator *Baucus* for that position. The inversion is a circumstance where a U.S. corporation says I want to renounce my American citizenship for

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the purpose of saving tax money. Well, we have seen some of that. My colleague from Maryland asks, where is the economic patriotism? The committee, in my judgment, did the right thing with respect to this issue of inversions in the underlying bill. I congratulate them for that.

My hope is we will this afternoon have some additional debate on this amendment. I don't know what is going to be offered as a substitute, but, hopefully, we will have votes on both, and we will be able to continue and complete this debate this afternoon. I hope when the dust settles Congress will have done something that meets some basic commonsense test.

My understanding is Senator *Graham* of Florida is going to be involved in the coming 2 hours. He is in the Chamber. Let me at this point yield the floor with the understanding I will continue this discussion this afternoon when we return to this amendment.

I yield the floor.

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#### AMENDMENT NO. 3110

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. My understanding is that we are now turning to the amendment I have offered along with my colleague, Senator *Mikulski*; is that correct?

The PRESIDING OFFICER. Under the previous order, there is a period of 1 hour of debate, 30 minutes allocated to the majority, 30 minutes allocated to the minority, of which 20 minutes is controlled by the Senator from North Dakota.

Mr. DORGAN. Mr. President, that 20 minutes begins at this point. Let me yield myself 2 minutes. Then I will yield 5 minutes to the Senator from Maryland.

Let me just say, this is the easiest amendment to consider of all of the issues that we have dealt with on this legislation. It deals with the question of whether we should shut down the loophole that exists in current tax law that says to a company, shut your American manufacturing plant down, fire your workers, move your manufacturing plant overseas, manufacture the product, ship it back into the U.S. marketplace and, by the way, we will give you a big tax break. If we can't begin a baby step in the right direction of saying, we will no longer subsidize in the Tax Code the movement of U.S. jobs overseas, then we don't have a ghost of a chance of fixing what is wrong with this Tax Code.

You have two companies side by side. Both make bicycles. One decides it will move its plant to China. The other continues to live in Baltimore and make its bicycles in Baltimore. The difference? The company that moved overseas gets a tax break. The company that stays in Baltimore doesn't. It is an insidious, perverse tax incentive that makes no sense. We ought to end it.

That is what my colleague and I do with our amendment. I will explain it further at some later moment. I want to offer 5 minutes to the Senator from Maryland who has to go to the Intelligence Committee.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Ms. MIKULSKI. Mr. President, I thank the Senator from North Dakota, the lead sponsor of this amendment, for yielding me such time. I also acknowledge his outstanding leadership on trade. Trade is such an abstract word, but it is another word for jobs. The big question is, how are we going to keep jobs in the United States?

This, then, takes us to tax policy. Tax policy is more than just simply collecting revenue; tax policy is a statement of our principles. The Tax Code in the United States has, since the New Deal, stood for certain principles: That it should be fair, No. 1, and that the more wealthy you are, you would bear a little heavier responsibility. Part of the principle of fairness and of paying taxes is what is called citizenship. It is called shared responsibility. It is called, how do you make sure the U.S. Government functions to provide national security and domestic opportunity and a safety net for seniors. That is really what it is all about.

The Tax Code is the fundamental principle of how you collect revenue, and it is tied with citizenship, both individual citizenship and corporate citizenship. The way we see it is: If you are a good corporate citizen, you ought to stay in this country and keep your jobs here. Right now we have a tax code that rewards just the opposite. We have a tax code that rewards corporations for shipping jobs overseas.

I believe what the Dorgan-Mikulski amendment does is say that, No. 1, our Tax Code should be patriotic. Our Tax Code should stand up for America. It should stand up for keeping jobs here. It should stand up for rewarding good-guy companies that keep jobs here and provide health benefits to their employees. It should also close the loophole where people not only take jobs overseas but hide their income in the Bermuda Triangle or the Cayman Islands.

This deals with one aspect. The amendment Senator *Dorgan* and I offer, the economic patriotism amendment, says that right now what we would do is close the loophole for sending jobs overseas. The Dorgan-Mikulski amendment ends those huge tax breaks to manufacturing companies that send jobs overseas, that only sell the products they make back here in the United States. Right now this Tax Code lets these companies move the jobs and not pay the taxes on the profits they earn by sales back home.

Our amendment tells these companies: If you want to export jobs out of America, you can go, but you can't import these products back in the United States and be able to shelter your profits. Our amendment says: The Tax Code can no longer be used to boost corporate earnings at the expense of American workers. It is actually an amendment that makes good sense. Why should we reward people who move their jobs overseas and penalize in the Tax Code the people who keep their jobs here in the United States and who also tend to provide their employees with health insurance?

People in my State really cannot believe what is happening. We have lost

21,000 manufacturing jobs since 2001. What a bloodless statistic. Behind every one of those numbers are 21,000 families, 21,000 families that built ships, made steel, made garments and apparel, even made the kind of technology we use in high tech. Where did those jobs go? They went on a slow boat to China. They went on a fast track to Mexico and a dial 1-800 anywhere. Why are they going? Because the Federal Tax Code says it is OK.

The Federal Tax Code says, in fact, it is not only OK, we are going to give you a huge subsidy. I think we need to subsidize the good-guy corporations. That is what I want to do. I believe that the Dorgan-Mikulski amendment is a patriotic amendment. It is part of an economic patriotism that we have to start focusing on in this country. I don't want my country, in a few years, to have the economic profile of a Third World country.

Vote for America, vote for patriotic economics, and vote for Dorgan-Mikulski.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I yield myself such time as may be necessary.

Again, this is not complicated. Levis used to be American. When you would slip on a pair of Levis in the morning, you were wearing a pair of American pants. Not any longer. The manufacturer of Levis has gone to Mexico and China.

Fig Newtons. If you want some Mexican food, you can get Fig Newtons from Mexico. That old all-American Fig Newton cookie has gone to Mexico.

Fruit of the Loom underwear has gone to Mexico.

I have mentioned previously Huff bicycle. They have gone to China.

Do you know that little red wagon, the Radio Flyer? This one has gone to China.

The perversity of all of this is, whether it is Fig Newtons, Levis, Radio Flyers, Huff bicycles, or Fruit of the Loom underwear, they were all rewarded for moving their jobs overseas because our Tax Code has embedded in it a special little deal: Move your jobs overseas and we will give you a special deal.

We want to change that. According to the Joint Tax Committee, U.S. taxpayers will pay \$6.5 billion between 2004 and 2013 as tax incentives to U.S. companies that set up offshore subsidiaries to manufacture merchandise and ship it back into this country. We have lost about 2.7 million manufacturing jobs in this country, and we have a perverse provision in the Tax Code that says let's even enhance that by incentivizing those who would close their American factories and move the jobs overseas.

This is not a new idea. This is a rather narrow amendment, by the way. We don't end deferral; we just end deferral with respect to U.S. companies that are manufacturing

abroad and selling back into this country. President Kennedy tried to end the entire deferral system. President Nixon tried to end it. President Carter tried to end it. The Senate voted to end it in 1975. The House of Representatives voted to end it in 1987. In each case, the big economic interests that get rewarded for shipping American jobs overseas have won. The question is, will they win today? We are losing jobs. We need to keep jobs in this country.

This amendment doesn't prevent a company that chooses to move Huffy bicycles or the little red wagons to China. It doesn't prevent a company from moving Fig Newton cookies, Fruit of the Loom, or Levis to Mexico. But it does say if you are going to move those jobs, at least we are not going to help pay for it with incentives in the Tax Code. That is a simple enough proposition. This Senate should adopt this amendment.

I reserve my time.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I want to speak against the Dorgan amendment. I yield myself such time as I might consume. Before I speak specifically to the amendment, since I heard the Senator from North Dakota express his concerns--and legitimate concerns--about jobs going overseas, I think there might be some suggestion in this amendment that this bill doesn't deal with moving jobs overseas.

This amendment is all about preserving manufacturing jobs in America and creating more manufacturing jobs in America, because the basis for this legislation is that there is no benefit in this bill from the reduction of the corporate tax from 35 percent down to 32 percent for any organization that doesn't manufacture in the United States. So it applies to domestic manufacturers that are manufacturing in the United States, not domestic manufacturers that manufacture overseas. It also applies to companies overseas--foreign companies--that would come to the United States and invest here, create jobs here, and hire people in America to manufacture here.

There is a lot of concern expressed about moving jobs overseas. I don't denigrate any of those concerns. But that is what the debate on this legislation has been all about for 1 whole week during the month of March, a few days during April, and now again this week. During that period of time of stalling, we have had a 5-percent European tax put on our exports to Europe--a percent again in April, and now a third movement of 1 more percent. That is going to go on every month. Even if we pass this bill this very minute, this bill probably won't be signed by the President for another month or so. We are going to continue to have this terrible European tax put on our exports there.

I emphasize for listeners who ask, how can they do that? Well, it is legal under international trade agreements. The reason it is legal is because we are trying to change our tax laws to conform with our international agreements--international agreements that this body has already adopted.

So we are dealing with these amendments--probably very legitimate ones--but we have had amendments put before this bill that have kept this bill long enough on the agenda so that we are already 77 percent less competitive than we used to be with our global competition doing business in Europe.

So why are we here? We are here with this underlying piece of legislation to preserve and create more jobs in America.

We have heard the Senator from North Dakota make a very impassioned case for American workers whose jobs have been lost when U.S. plants move overseas. We have all witnessed this heart-wrenching event. I know that my home State of Iowa has had plant closings or some parts of production move overseas. Unfortunately, this amendment will not do one doggone thing to bring those jobs back. In fact, it could very well cost even more U.S. jobs.

I will explain my concerns by first examining his amendment. This amendment repeals deferral for property imported into the U.S. by foreign subsidiaries of U.S. companies, even without regard to whether that property was ever previously produced, manufactured, or grown in the United States. This means the amendment doesn't focus on their primary complaint that U.S. companies are shutting their plants, moving production offshore, and selling back into the United States.

The bill does not focus on this scenario. Instead, it overshoots the mark by hitting all goods sold into the United States by U.S. companies, even if it is impossible for those goods to first be produced in the United States.

I will give an example. If a produce company sets up a banana farm in Costa Rica to import bananas into the United States and around the world, the income from sales to the United States are not eligible for deferral. I may be mistaken, but I am not aware of too many banana farmers in Texas or Florida. So I do not see how deferring taxes on a banana farm in Costa Rica is going to cost the United States jobs.

Similarly, if a U.S. company wanted to start a mining operation in some far away land to extract a new and exotic mineral that is not found here at home, they can sell that anywhere in the world, but they could not and cannot import that back into the United States without triggering this amendment.

How about coffee? The only place I know we grow coffee in the United States is in Hawaii, and that was 25 years ago. Maybe they do not even grow it there now. We have lots of coffee shops on our streets these days. If they set up their own coffee plantation

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in Brazil, they would get hit under this amendment that is before us. I do not know whether we raise coffee anywhere else in the United States, but we sure do not raise it in Iowa.

It appears the amendment of Senator *Dorgan* and Senator *Mikulski* would allow a U.S. company to sell foreign goods to anyone in the world except to America. That does not make sense to me.

I have described how the bill would operate, but I do not think that is the intent of this legislation. What I believe is intended is that deferrals should be denied if a company closes a U.S. plant, produces the goods offshore, and then imports the goods back into the United States. This does not actually happen very often. The latest Department of Commerce data on U.S. multinationals shows that only 7 percent of foreign subsidiary sales were into the United States.

Nevertheless, this amendment insists that the rule of deferral in our tax law is somehow a tax benefit that moves jobs offshore and allows a company to not pay taxes on foreign income.

Of course, this is not true. Deferral has nothing to do with moving jobs, and it never forgives taxes that are owed on foreign products of U.S. companies. The rule of deferral exists to keep U.S. companies competitive in the global marketplace. Let me repeat. The rule of deferral exists to keep U.S. companies competitive in the global marketplace, and it has been that way in our tax laws since 1918. For 85 years it has been the law.

We are going to hear a great deal about deferrals this week. We will hear wild accusations about how this rule, which has been in place since 1918, spells doom for American workers. None of this is true. In fact, just the opposite is true. By enhancing the international competitiveness of U.S. companies, deferral ensures an ever-growing base of opportunity for U.S. companies and their employees at home and abroad.

U.S. multinationals are a critical component of our economy. These companies operate in virtually every industry and have investments of more than \$13 trillion in

facilities located across our great country.

As employers, they provided 23 million jobs for Americans in 2001, nearly 18 percent of the payrolls in the country. With a payroll in excess of \$1.1 trillion, U.S. multinationals create more than 53 percent of the manufacturing jobs in America and employ more than two U.S. employees for every foreign worker.

During the 10 years between 1991 and 2001, U.S. multinationals increased domestic employment at a faster rate than the overall economy. We have a recent study confirming that U.S. multinationals are significant job creators, and those jobs are not created through exporting jobs to foreign nations with low labor and low tax costs, as the amendment infers.

The Department of Commerce data shows that the bulk of U.S. investment abroad occurred in high-income, high-wage countries. In the year 2001, 79 percent of the foreign assets and 67 percent of foreign employment of U.S. multinationals were located in high-

income, developed nations, such as Australia, Canada, Hong Kong, Japan, New Zealand, Singapore, South Africa, and the countries of the European Union.

We have to remind ourselves that corporations are comprised of people. People like good roads, safe water, reliable power grids, and stable societies. That is the only kind of environment where business can flourish. So it is only rational that if a U.S. corporation is going to make a foreign investment, it is going to make the safest investment possible. That means going to fully developed countries with thriving markets and highly paid workers.

We also have to remember a simple maxim for why companies go into foreign markets: You have to be there to sell there.

Today, fully 95 percent of the world's population and 80 percent of the purchasing power is located outside the United States. In other words, the United States is 5 percent of the world's population. But if we want to sell, we go where the people are. Ninety-five percent of the people are outside the United States. If you want to make sales, you go where the people are.

We have an instance in which foreign sales growth has outstripped domestic sales growth. So this increased growth requires increased foreign involvement. The good news is foreign growth also results in U.S. job growth.

A recent study confirmed that during the 10 years, 1991 through 2001, for every job U.S. multinationals created abroad, they created nearly two jobs in the United States in their parent corporation. That is why it is critical to our company that U.S. companies remain competitive in this international marketplace.

Let's review for a moment a more rational explanation for deferral and how it works to keep our U.S. companies competitive.

The United States taxes all of the worldwide income of its citizens and corporations. The U.S. income tax applies to all domestic and foreign earnings of U.S. companies. The United States fully taxes income earned overseas by foreign subsidiaries of U.S. companies. However, many foreign countries tax their companies on a territorial basis, meaning they only tax income earned within their country's borders and do not impose tax on the earnings of foreign subsidiaries.

Countries that use a territorial system, such as Australia, Belgium, Canada, Denmark, Finland, France, Germany, Luxembourgian, the Netherlands, Sweden, and Switzerland, among other countries, have a great advantage over a U.S. company.

We have to take that into consideration. The tax system is the cost of operation, and if we do not have a more level playing field for our companies, how do we expect to compete in this world marketplace?

I will give an example. A U.S. company with a Singapore subsidiary will pay U.S. tax and a Singapore tax on the subsidiary's income. A French company with a Singapore subsidiary will pay Singapore tax but not any tax in Paris. That means the U.S. company in Singapore has a higher tax burden than the French company in Singapore. Two basic tax rules answer this problem and seek to put U.S. companies on a level playing field with foreign competitors from territorial countries.

The first rule says when foreign income is brought home, the U.S. allows a reduction against U.S. tax for any foreign tax paid on that income. This foreign tax credit prevents the U.S. from double-taxing foreign earnings. Does anybody believe in double taxing?

In effect, that would make our companies noncompetitive in this international marketplace. Like deferral, this too has been on the tax laws of the United States since 1918. The foreign tax credit is limited. It may only offset up to 35 percent of the U.S. corporate tax. If the foreign tax rate is higher, the credit stops where we stop taxing corporations at 25 percent. If the credit is lower, say 10 percent, then an additional U.S. tax will be owed up to the full 35 percent. In this example, the additional 25 percent of taxes would be owed to the U.S., which is the difference between the 10 percent and our 35-percent top rate.

The second basic tax rule is U.S. companies are allowed to defer U.S. tax on income from the active business operation of a foreign subsidiary until that income is brought back to the United States, and that is usually brought back in the form of a dividend paid to the U.S. parent. This is referred to as the rule of deferral, meaning the U.S. tax is deferred until the earnings are brought back. This is the rule this amendment attacks.

It is important to note deferral is not a forgiveness of a tax. It simply means we impose full U.S. tax tomorrow instead of today. We do not forgive tax under deferral because we do not want to create incentives to move operations offshore. The reason we defer tax on active business operations is so U.S. companies can remain competitive with foreign companies, from those countries that have a territorial tax system.

We do not defer tax on passive activities such as setting up an offshore bank account. We tax passive activities yearly, and active operations are subject to competitive disadvantage. For example, if we impose U.S. tax today on the profits of a Singapore subsidiary, then a U.S. company will pay 35-percent U.S. taxes plus any Singapore taxes, but the French competitor located next door will only pay the Singapore tax and not the Paris tax.

If a Singapore tax rate is less than the 35-percent U.S. tax rate, then the

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French competitor will have a tax advantage. This is because the U.S. allows the foreign tax credit offset against U.S. income tax imposed on those foreign earnings but only up to a 35-percent top corporate rate.

If the foreign rate is less than the U.S. 35-percent rate, then residual U.S. taxes are owed on the difference between the U.S. and foreign rates.

In another example, if the Singapore tax is 15 percent and the U.S. tax 35 percent, then the U.S. will impose an additional 20-percent tax on those Singapore earnings. The French company, however, will only pay 15 percent Singapore tax, no tax in Paris.

If we did not allow deferral of that additional 20-percent tax, then the U.S. company today would have to pay 20-percent tax compared to the French company. The question on repealing deferral is whether we want to hand over the world markets to companies from France and Germany.

This amendment is being offered presumably to save jobs in America, but when we have a tax system like they want, there is going to be an incentive for moving those jobs. Repealing deferral means we export our high U.S. tax rates to U.S. operations around the globe.

The U.S. has one of the highest corporate tax rates in the world. There are very few countries with higher marginal corporate rates. This means without deferral, U.S. companies will be at a continual worldwide disadvantage compared to their foreign competitors. That is why we defer U.S. tax on active business operations, to allow U.S. companies to be competitive in the global marketplace.

Some Senators today propose repealing deferral or cutting back. These proposals would export the high U.S. tax rate to U.S. operations around the world. That would be fine if all companies around the world were paying the high U.S. tax rate, but they are not. Companies of foreign countries are not subject to our tax laws and are usually taxed at a lower rate.

That brings us back then to the implications of the amendment before the Senate. Our focus in considering this amendment must be on the ability of American companies to compete within the United States. The issue is not whether we tax foreign earnings currently but whether we cede the U.S. market to foreign competition: You compete or you die.

The Dorgan-Mikulski amendment will increase taxes on U.S. companies, but their foreign competitors in the United States will not face a similar tax increase. This can lead to a loss of domestic market share, or even if market share is maintained losses may be incurred on domestic sales because of pricing pressures and uncompetitive margins created by the additional tax burden.

The best measure of an economic impact of their tax increase is the very concerns Senators **DORGAN** and **MIKULSKI** cite in debating their amendment, whether U.S. employment levels of the U.S. companies will drop after this additional tax is imposed. This goes to the issue of whether salespeople, purchasing agents, line workers, or others

could lose their jobs if the Dorgan-Mikulski tax increase is imposed on companies' imports.

Keep in mind their amendment would attack imports of bananas from Costa Rica and coffee from Brazil. That is going to cost U.S. jobs. The amendment will kill U.S. jobs and the amendment is defeating its own purpose and should not be supported in the Senate.

If the objective of Senators **DORGAN** and **MIKULSKI** is to ensure companies do not reduce U.S. employment by round-tripping production, then it is equally important to ensure their tax increase does not reduce U.S. employment.

Increasing taxes on U.S. companies will not bring those jobs back to America. A company will only pay taxes if the company is profitable, and they will only stay profitable if they remain competitive in their markets.

But in the United States, taxes are a 35-percent cost to profit, and that is where a competitiveness disadvantage can occur when the U.S. company is competing against foreign companies that will not incur this tax increase.

Senator *Baucus* and I, in trying to develop this bipartisan bill that is before us, held hearings last July regarding the effects of international competition within the United States. So I think we have a right to believe we are very familiar with the domestic effects of these kinds of rate differentials.

I would like to close with a quote from Joseph Guttentag, International Tax Counsel for the Clinton administration. He gave this testimony before the Senate Finance Committee 9 years ago, July 21, 1995. He said this:

Current U.S. tax policy generally strikes a reasonable balance between deferral and current taxation in order to ensure that our tax laws do not interfere with the ability of our companies to be competitive with their foreign-based counterparts.

I hope a statement from another administration, particularly from a recent Democratic administration, the Clinton administration, will carry a lot of weight with both Republicans and Democrats in helping to defeat this amendment on which we will soon be voting.

I hope Senators will join me in voting against the job losses that will result from this amendment and this tax increase that comes on American business with this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was sitting here wondering how someone would actually support a tax provision that incentivizes the moving of U.S. jobs overseas. I thought: That is hard to support. I am going to call this defense the banana defense

because my colleague talked a couple of times now about bananas from, I believe, Costa Rica. So we will call that the banana defense.

I have great respect for my colleague from Iowa. I enjoy his work and I think he is a good legislator. But in my judgment, some of the statements that have just been made are not accurate, and I would like to at least give a response to them so people understand.

First of all, this is not a tax increase. What a bunch of nonsense. This eliminates a tax break for those companies who want to move jobs overseas. This is very simple. If we are going to shut down loopholes that incentivize the moving of jobs overseas and have people call it a tax increase, I am sorry; it is not. That is not the purpose of it, that is not the intention of it, and not the effect of it.

My colleague talks about the 35-percent corporate tax rate. I am sorry, he knows that is a statutory rate. He also knows very few corporations pay a 35-percent tax rate.

Mr. President, 61 percent of the U.S. domestic corporations in this country pay zero--not 5 percent, 20 percent, 30 percent, or 35 percent; they pay zero. That is according to a recent GAO report. The rest that do pay do not pay the 35-percent statutory rate. They pay substantially less than that.

About 40 to 50 years ago, corporations paid 40 percent of the total taxes paid in this country. They now pay less than 9 percent, and the American people, individuals, pick up the rest.

My colleague says this defers taxes; it doesn't mean we forgive taxes. Of course, it does. This very bill brings to the floor of the Senate the most generous

provision I have ever heard of. It says repatriate all your earnings from overseas that have never been taxed, and we will let you be taxed at 5.25 percent. You repatriate it and we will reduce your taxes to 5.25 percent. I say how about my constituents in North Dakota? Why don't we give all those constituents--regular people, family farmers--an opportunity to pay a 5-percent tax rate? Why just the folks who decided to invest overseas? Why not everybody? If 5 percent is good enough for those who have over \$600 billion in unrepatriated income, and you say bring it back and we will cut your tax rate to 5 percent, let's do it for the folks from Iowa and North Dakota. Let me get their names and let's give them a 5-percent tax rate.

This notion we are not forgiving taxes is wrong. Of course we are forgiving taxes. This bill forgives taxes of those that are big enough to earn billions overseas, and says to them: If you want to repatriate it, we will give you a huge, big tax break.

Let me say with respect to the issue of a company that has never been located here with a manufacturing plant, deciding to manufacture in China versus here--my proposal, and the amendment we have introduced, deals only with sales back into this country. So the question that will be asked by

someone who is building a manufacturing plant for the purpose of producing the little red wagon called the Radio Flyer, for a company to decide where to manufacture this, what the underlying provision in law does is to say: Make a decision. Either build it here or build it there. By the way, if you decide to build it there--in this case China--we will give you a tax break.

My colleague says this bill closes all these things--not true. In fact, it produces a very generous, juicy, big tax break at 5.25 percent, and in addition it leaves untouched this tax break.

I can quote a good number of economists who say there is embedded in this tax law a provision that says build it here or build it there. Make a decision to build it there. Take it offshore. Take it outside this country.

In my judgment, it ought not be a significant choice for this Congress to change this. This is a loophole that ought to be closed.

With respect to competition, my colleague talked about competitiveness. Let me ask this question. Let's assume that you are the corporation that stays in this country to build a bicycle. Your manufacturing plant is here. Now you are competing with the Huffly bicycle company that moved to China. The difference? They pay less in taxes than you do because you stayed here and they left. What about that competitiveness? What about the competitive issue of the company that stayed and now pays higher taxes than the company that left? Incidentally, this company did leave. They fired the workers. Why? Because it cost too much at \$11 an hour to have them keep making bicycles in our country.

This cannot be obfuscated so much that we can't see what this question is before the Senate. Do you want to continue to have a Tax Code that incentivizes the movement of jobs overseas, or do you want to close the loophole? This is not an attack on all ``deferral." This is a much narrower amendment. The Senate is going to vote on this, and it is not going to be able to waltz around and tap dance. This is not about having an American corporation with a foreign subsidiary in Bangladesh that is producing a product to ship to South Korea, and therefore it must be competitive with a company from France. That has nothing to do with this amendment. So in addition to the banana defense, we now have the French defense, I guess, or the U.S. corporation against French competition. I don't understand that. That is not what this amendment is about. We could debate that at some later point, but it is not what this amendment is about.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DORGAN. I respect those who disagree with me. They have a right to disagree. My colleague ended with a quote from someone from the Clinton administration. Let me quote Will Rogers. He said:

It's not what they know that bothers me. It's what they say they know for sure that just ain't so.

In this case, this narrow question with respect to deferral simply asks whether we want to continue to make it beneficial for someone to close a plant here and move it elsewhere, or to answer the question, if requested: Should I build it here or build it there, to answer the question by saying let's build it there because our Tax Code provides a benefit for me if I build it there. Move a job to China and our tax bill rewards you. Keep a job here and you actually face unfair competition because of the provision that is now in law, the one I want to get rid of. This is very simple. I reserve the remainder of my time.

Mr. KOHL. Mr. President, I rise in support of the amendment of the Senators from North Dakota and Maryland. I supported this amendment because it repeals an unfair provision that pulls jobs away from the American manufacturing sector. I supported this amendment because it gives a tax break to companies who ship jobs overseas and then compete with domestic manufacturers. And I supported this amendment because Wisconsin has seen a steady decline in manufacturing jobs, with many of these jobs being sent offshore because the U.S. Government would not tax their profits.

Under current law, a U.S. company that moves its manufacturing operations overseas may defer paying U.S. taxes on the profits it makes abroad until those profits are sent back to the U.S. This process, known as deferral, clearly serves as a reward for foreign investment and for shifting jobs off American soil. This reward comes at the cost of American taxpayers; as much as \$2.2 billion over 7 years is lost for this misguided incentive. A tax policy that moves American jobs abroad at the expense of American taxpayers--clearly this is not something that Congress should continue to endorse.

In addition to providing an incentive to move overseas, current law puts domestic manufacturers who keep jobs in the U.S. at a competitive disadvantage. While foreign companies can reinvest profits abroad without paying any U.S. taxes, U.S.-based manufacturers investing in American jobs have their profits subject to U.S. taxes. Multinational companies should pay the same taxes that domestic companies pay, and companies keeping jobs in America should not be penalized for doing so.

This is especially true given the continuing job loss in the manufacturing sector. Wisconsin has been especially hard hit by the loss of manufacturing jobs to overseas competitors. My State is one where manufacturing jobs have historically made up the core of our economy. Due in part to tax incentives such as deferral, Wisconsin has lost one out of every seven manufacturing jobs since 2000. The State's economy has not been able to absorb this increase in unemployed workers, resulting in a stagnant unemployment rate.

The Dorgan-Mikulski amendment would repeal the tax incentive for American companies to move overseas. Our Tax Code should not endorse the continued loss of American jobs to companies investing overseas. The Dorgan-Mikulski amendment is the first part of a prolonged solution to the continuing loss of American manufacturing jobs. The amendment would partially repeal deferral, and targets the repeal to apply only to firms that move production overseas but continue to sell those products in the U.S. Thus, the amendment would repeal the competitive advantage that companies moving their production facilities offshore currently receive.

At a time when the country's manufacturers are struggling, we cannot continue to give a benefit for those companies who send American jobs abroad. We must bring equity to the tax code, and bring jobs back to America.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I think I have about 3 1/2 minutes. I am going to take 1 1/2 minutes for myself, and then I hope Senator *Kyl* will get over here. He asked me for 2 minutes. Then that would use up our time.

The first reaction to the response to my remarks that I have that I want to clear up is that the author of the amendment speaks to the point that it only hits imports coming into the United States if a company moved overseas. The fact is--it may be a flaw in the way it is written--this amendment hits all imports coming into the United States.

The second point is, it was stated that this was not a tax increase. This amendment raises \$6.5 billion. In my judgment, when you change tax law and you bring revenue in, that is a tax increase.

The second issue regarding Huffly moving overseas, the response to that is, their competition is in China and Taiwan. Companies have to do what they can to meet the competition. Would they rather have a Huffly company that existed as a U.S. corporation competing with China and Taiwan manufacturers or would they rather have the whole company go out of business? If you do not meet your competition, you do not compete you die.

Then there was reference to the fact the GAO report says 61 percent of companies did not pay taxes. That could be true. But that also includes new companies and it includes companies that maybe are dormant; in fact, it does include all of those.

Here is the significant thing about this GAO report: It says 96 percent of all large corporations in America pay tax.

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We are back to the issue of what this amendment does or does not do. It does not do enough.

I have to ask the Presiding Officer if Senator *Kyl* does not arrive and I have 1 or 2 minutes remaining, what do I do? I want to save the time for him, if I can, under the rules of the Senate.

I yield the floor and save my time for Senator *Kyl*.

Mr. DORGAN. Senator *Kyl* is here.

Mr. GRASSLEY. Mr. President, I don't have much time remaining, 2 minutes.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. GRASSLEY. Could the Senator be kind enough to give him an additional minute and a half for our side? That is infinitesimal. We will argue for a minute and a half over it.

Mr. DORGAN. I ask unanimous consent that a minute and a half be added to the Republican side and a minute and a half be added to our side.

Mr. GRASSLEY. I yield Senator *Kyl* my remaining time.

Mr. KYL. I thank the Senator from Iowa and I thank the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it seems to me the amendment of the Senator from North Dakota does both too little and too much. A lot of thought went into crafting the bill before the Senate by staff and members on the Finance Committee. It is hard to get this exactly right. We have done that. This is very complicated.

What I mean by doing too little and too much is this: The amendment only affects about 7 percent of the products according to the Commerce Department; 7 percent of the goods and services these multinational corporations produce are imported back into the United States. That is the only part of the new deferral rule that would be affected.

In that sense, it probably does not do much to accomplish the purposes of the authors of the amendment. But it does too much in the sense that anything that impedes the competitive advantage of the U.S. corporations and the quality of their products is going to hurt their ability to do business.

What we have tried to do with the deferral rules is to even the balance between the European corporations, for example, and the American corporations, so our companies are not taxed more than their competitors. This would, to the extent it changes these deferral rules, impose a higher tax

on American businesses than their European counterparts are required to pay. In that sense, it changes this competitive balance. It is exactly what we are trying to get away from.

I urge my colleagues to reject the amendment of the Senator from North Dakota, acknowledge the work of the Finance Committee which, as I said, very carefully tried to get this balance right and ensure American companies would not be at a competitive disadvantage vis-a-vis their European competitors.

I urge my colleagues to defeat the amendment of the Senator from North Dakota and support the Finance Committee.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. Fifteen minutes total on the minority side remains. The Senator from North Dakota has 2 1/2 minutes.

Mr. DORGAN. Mr. President, let me consume the 2 1/2 minutes. Does that include the 1 1/2 minutes?

The PRESIDING OFFICER. It does not.

Mr. DORGAN. Mr. President, Senator *Baucus* has left the room. Let me consume 5 minutes, with Senator *Baucus*'s consent, of the minority time after which I will yield back the time and I believe all time will have been yielded back on this issue. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

Mr. DORGAN. Let me make a couple of comments about the facts. First of all, the number of manufacturing jobs we have lost in this country. This chart shows the number of manufacturing jobs we have lost since the year 2000, a little over 2.7 million manufacturing jobs.

One cannot make the case this is not a problem. Of course, we are losing manufacturing jobs. The number of jobs in foreign manufacturing affiliates of U.S. firms has grown by a million in an 8-year period. So, of course, they are gaining jobs. We are losing manufacturing jobs and they are gaining jobs. It is hard to make the case there is not an issue here.

Now with respect to the issue of the corporations, 61 percent of whom pay no taxes according to the GAO, my colleague says, well, probably some of them are dormant. The U.S. corporations made \$2.7 trillion in gross income on which they paid zero in taxes. If that is dormancy, it is an interesting state of affairs, in my judgment.

Second, the issue of Huffy bicycles. I have used the issue of Huffy bicycles and the Radio Flyer wagon to make the point. The point is jobs are migrating overseas. This Radio Flyer red wagon was made here for a century and now it is being made in China. This Huffy bicycle was made here for a long time. Now it is gone. It is made in China. We saw the little red wagons and Huffy bicycles leave America and move to China.

With respect to Huffy, the workers here made \$11 an hour. The company said that is way too much; I will hire a Chinese worker at 33 cents an hour, 7 days a week, 12 hours a day.

As we did that, we said, We will give you a tax break. Move this plant to China and we will give you a tax break. That is what our amendment would shut down.

I was trying to think how would we construct a defense, or how will I hear a defense about this, and it started out with trade. The Europeans are hitting us with these trade sanctions. Yes, well, we are really weak-kneed on trade. This country has a beef problem with Europe, so we slap them around. Do you know what we do with the Europeans? We slap them around with sanctions on truffles, goose liver, and Roquefort cheese. My God, that will send fear into an adversary.

If Members want to talk trade, spend time talking about trade and wonder why we do not have a spine and backbone and strong knees to stand up for this

country for a change.

But this is not about trade. This is about an insidious, perverse little provision in the Tax Code that says, Move your jobs, decide to build overseas rather than here, and we will give you a little tax break.

If we cannot take a baby step in doing this, if we cannot close this loophole, what on Earth can we do?

With respect to the fact it is alleged this is a tax increase, my guess is almost everything will be alleged to be a tax increase in the future. It does not matter what you talk about, they will say it is a tax increase. Is closing a loophole that is fundamentally unfair, that incentivizes the moving of American jobs overseas, is that really a tax increase, or is it closing a loophole? Do you want to keep doing this?

Should we take taxpayers' money, incentivize it to say, let's pay these guys to move bicycles and red wagons overseas? Or, let's pay them to move Fig Newton cookies to Mexico, or pay them to move tennis shoes to Indonesia. Is that what we want to do, pay them to do that? That is what exists in our Tax Code.

This is the simplest possible amendment. If Members want to support American jobs and want to at least have a neutral Tax Code and want to stop the perversity of saying let's actually help finance and keep jobs from moving overseas, then vote for this. If you

want to talk about competition between Bangladesh and France and Costa Rica, and construct all kinds of interesting theories that have nothing to do with this amendment, then vote against it. There is nothing wrong with that. I have lost before. I hope I will not lose today.

This amendment will come up again and again because this country should not be subsidizing the loss of jobs to other countries. Those jobs are going in part because they can buy 33 cent an hour labor and put 12 people in a room and work them 7 days a week and say, if you try to organize as a group of workers, you are fired. If you complain about an unsafe work plant, you are fired. So that is the incentive to move jobs overseas.

On top of that, we actually, in public policy, say we will buy you a little cherry on top of the sundae. The cherry on top of the sundae is you actually get a tax break here. The company you are competing against, that you left back

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in the United States--tough luck for them. They are paying higher taxes than you are.

It seems to me if we cannot think our way through this short little maze, this Congress cannot think its way through anything. This is not organizing a two-car caravan. This is simple. This is easy. And the choice, when we cast this vote, is not going to be complicated at all. Either you believe this incentive should not be in the Tax Code or you believe we ought to continue to subsidize jobs that are moved overseas.

We have more to do. We have a debate on trade that has to come. I don't expect we will get to the debate on trade because of the Central American Free Trade Agreement. It should be brought to the floor and debated, but will not be before the election because, I am guessing, the President does not want to have that debate--I would love it. Let's get it here tomorrow, as far as I am concerned.

There is much more to discuss on this issue. With respect to this alone, the Senator from Maryland and I have offered an amendment that is painfully simple and I hope will be painless to vote for.

Mr. President, I yield the floor.

**JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT -- (Senate - May 05,  
2004)**

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VOTE ON AMENDMENT NO. 3110

The PRESIDING OFFICER. The question is on agreeing to the Dorgan amendment.

Mr. GRASSLEY. Mr. President, I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. *Kerry*) is necessarily absent.

The PRESIDING OFFICER (Ms. **MURKOWSKI**). Are there any other Senators in the Chamber desiring to vote?

The result was announced--yeas 60, nays 39, as follows:

[Rollcall Vote No. 83 Leg.]  
YEAS--60

Alexander

Allard

Allen

Baucus

Bennett

Bond

Breaux

Brownback

Bunning

Burns

Campbell

Cantwell

Chafee

Chambliss

Cochran

Coleman

Collins

Cornyn

Craig

Crapo

DeWine

Dole

Domenici

Ensign

Enzi

Fitzgerald

Frist

Graham (SC)

Grassley

Gregg

Hagel

Hatch

Hutchison

Inhofe

Jeffords

Kyl

Lieberman

Lott

Lugar

McCain

McConnell

Miller

Murkowski

Murray

Nelson (NE)

Nickles

Pryor

Roberts

Santorum

Sessions

Shelby

Smith

Snowe

Specter

Stevens

Sununu

Talent

Thomas

Voinovich

Warner

NAYS--39

Akaka

Bayh

Biden

Bingaman

Boxer

Byrd

Carper

Clinton

Conrad

Corzine

Daschle

Dayton

Dodd

Dorgan

Durbin

Edwards

Feingold

Feinstein

Graham (FL)

Harkin

Hollings

Inouye

Johnson

Kennedy

Kohl

Landrieu

Lautenberg

Leahy

Levin

Lincoln

Mikulski

Nelson (FL)

Reed

Reid

Rockefeller

Sarbanes

Schumer

Stabenow

Wyden

NOT VOTING--1

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Kerry

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The motion was agreed to.