

United States tax code that has been ruled an unfair subsidy and therefore does not comply with the WTO. In addition this bill seeks to preserve jobs and production activities in the United States via the simplification of international tax laws and a mix of investment incentives. A \$10 million tobacco buyout, minus the Food and Drug Administration's regulation, is also incorporated within this bill.

This bill would replace the current export subsidy that has been ruled unfair by the WTO with a new \$77 billion tax break on manufacturing income. Companies will also be able to exclude 9 percent of their manufacturing profits from taxation and multinational companies will receive \$43 billion in a variety of tax cuts on their overseas income. These tax breaks and incentives are instrumental in our attempt to comply with the WTO while ensuring American jobs stay at home.

Also included in this package is a landmark change. This bill contains provisions to terminate the Federal tobacco quota program. This tobacco quota program was created during the 1930s and has provided controls on the production of tobacco for decades. And it has worked well. However, since 1998 tobacco quotas have been cut by over 50 percent leaving tobacco farmers with no where to turn. This package provides compensation for those farmers and quota holders who have lost over half of their assets through no fault of their own.

Compensation of \$7 to quota owners and \$3 to producers based on the 2002 effective quota level is provided in this package while at the same time it keeps producers free of potential burdensome regulations advocated by some in the industry. I am pleased that the funding for this buyout comes at no cost to the taxpayer without granting authority to the FDA to regulate tobacco and tobacco products.

In terms of the economy, this legislation will have a significant impact on rural Georgia. Mr. President, \$607 million will be provided over a ten year period. Additionally growers can continue to produce tobacco without government constraints and be competitive in the world tobacco market.

I support the passage of this significant legislation because it will benefit the manufacturing industry in Georgia while ensuring American jobs are not lost overseas due to burdensome and unfair tax regulations. I also support the passage of this bill because of the unregulated FDA tobacco buyout provisions that compensate tobacco farmers for assets that have been plundered by the Federal Government.

It is because of my son's wedding this weekend in Georgia that I regret that I will not be able to actually vote on this legislation. However, if I was in attendance and able to cast my vote on H.R. 4520, it would be in support of this bill.●

Mr. BINGAMAN. Mr. President, I come to the floor to thank the chair-

man and ranking member of the Finance Committee for their assistance in getting my amendment on the Civil Rights Tax Review in the conference report to accompany H.R. 4520, the American Jobs Creation Act of 2004.

The law with respect to the tax treatment of attorneys' fees paid by those that receive settlements or judgments in connection with a claim of unlawful discrimination, a Qui Tam proceeding or actions containing damages for non-physical injuries was unclear and that its application was questionable as interpreted by the IRS. It was never the intent of Congress that the attorneys' fees portions of such recoveries should be included in taxable income whether for regular income or alternative minimum tax purposes. The language contained in section 703 of H.R. 4520, the American Jobs Creation Act of 2004 is intended to clarify the proper interpretation of the prior law, and any settlements prior to the date of enactment should be treated in a manner consistent with such intent.

The conferees are acting to make it clear that attorneys' fees and costs in these cases are not taxable income, especially where the plaintiff, or in the case of a Qui Tam proceeding, the relator, never actually receives the portion of the award paid to the attorneys. Despite differing opinions by certain jurisdictions and the IRS, this is the correct interpretation of the law prior to enactment of section 703 as it will be going forward. In adopting this provision, the Congress in no way intends to prejudice the tax treatment of settlements or awards made prior to that time and the courts and IRS should not treat attorneys' fees and other costs as taxable income.

UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that at 11:15 a.m. on Saturday, October 9, the Senate proceed to votes in relation to any pending amendments to the McConnell-Reid amendment to S. Res. 445; provided further that it be in order prior to the votes for Senators to offer a qualified amendment from the unanimous consent list of last night; provided further that following the disposition of those amendments the Senate proceed to a vote on the adoption of the pending McConnell-Reid substitute, to be followed by the immediate vote on cloture on the underlying resolution; further, that if cloture is invoked, the Senate immediately proceed to a vote on adoption of the resolution, as amended, with no intervening action or debate.

I now ask unanimous consent it then be in order during Saturday's session for the Senate to consider a resolution submitted by Senator HARKIN regarding the sense of the Senate on agricultural emergencies which is currently at the desk; further, that when the Senate finishes S. Res. 445, the Senate imme-

diately proceed to a vote on the adoption of the Harkin resolution, with no intervening action or debate and the preamble then be agreed to.

I further ask unanimous consent that the vote with respect to cloture on the conference report to accompany H.R. 4520 occur at 1 p.m. Sunday, October 10.

Finally, I ask unanimous consent that during Sunday's session it be in order for the Senate to consider a bill regarding overtime compensation and a bill regarding FDA and tobacco products which are currently at the desk; I ask unanimous consent that on Sunday those bills be read a third time and passed, en bloc, with the motions to reconsider laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not, this does not preclude other matters that might be worked out either by consent or otherwise during that time; is that correct?

Mr. FRIST. That is correct.

Mr. LEAHY. I will not object.

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

The Senator from Vermont.

THE DNA ACT

Mr. LEAHY. Mr. President, I have been in a lot of discussions today by phone, with my staff, and elsewhere, on H.R. 5107, something referred to as the innocent protection act and by others as the DNA act.

I think we are close. In some ways, it is like the perils of Pauline, you are up the hill, down the hill, if we can excuse, at 10 minutes of 8 in the evening, mixed metaphors.

But this is a bill that passed with overwhelming bipartisan support in the other body, from the most conservative to the most liberal Members of the other body. Then there is just a little difference, or at the last moment the Department of Justice comes up with some little thing they just thought of.

After a while, one wonders if even with the proven, overwhelming support—polls show overwhelming support for it; the other body has passed it overwhelmingly. I would guess if we actually had a vote in this body, 80 to 90 Members would vote for it. There are always a couple of Members who have some reason for holding it up. I hope we get rid of that. I hope we are coming closer.

I only wanted to say this for my colleagues both in the House and in the Senate who have been working with me and my staff today and working with people everywhere, from church groups to prosecutors' groups throughout yesterday and late last night and throughout today, I am hoping we can settle. That is why I asked the question of the distinguished Senator from Tennessee, to make sure we reach such an agreement at some point and we can move forward.