

# Calendar No. 118

108TH CONGRESS  
1ST SESSION

# S. 1162

To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 2, 2003

Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. WARNER, Mr. ROCKEFELLER, Ms. COLLINS, Mr. REED, Mr. JEFFORDS, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JOHNSON, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, Mr. BREAUX, Mr. EDWARDS, Mr. LIEBERMAN, Mr. REID, Mr. SCHUMER, Mr. LAUTENBERG, Mr. KERRY, Mr. GRAHAM of Florida, Mr. BAUCUS, Mr. SARBANES, Ms. MIKULSKI, Mrs. MURRAY, Mr. LEAHY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. LEVIN, Mr. CARPER, Mr. HOLLINGS, Mr. BIDEN, Mr. SPECTER, Ms. CANTWELL, Mr. DASCHLE, Ms. STABENOW, Mr. DODD, Mr. CONRAD, Mr. VOINOVICH, Mr. AKAKA, Mr. DORGAN, Mr. CHAFEE, Mr. KOHL, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. BAYH) introduced the following bill; which was read the first time

JUNE 3, 2003

Read the second time and placed on the calendar

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## A BILL

To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Working Taxpayer  
3 Fairness Restoration Act”.

4 **TITLE I—ACCELERATION OF IN-**  
5 **CREASE IN REFUNDABILITY**  
6 **OF THE CHILD TAX CREDIT**

7 **SEC. 101. ACCELERATION OF INCREASE IN REFUNDABILITY**  
8 **OF THE CHILD TAX CREDIT.**

9 (a) **IN GENERAL.**—Section 24(d)(1)(B)(i) of the In-  
10 ternal Revenue Code of 1986 (relating to portion of credit  
11 refundable) is amended by striking “(10 percent in the  
12 case of taxable years beginning before January 1, 2005)”.

13 (b) **EFFECTIVE DATE.**—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2002.

16 **TITLE II—REVENUE PROVISIONS**  
17 **Subtitle A—Enron-Related Tax**  
18 **Shelter Provisions**

19 **SEC. 201. LIMITATION ON TRANSFER OR IMPORTATION OF**  
20 **BUILT-IN LOSSES.**

21 (a) **IN GENERAL.**—Section 362 of the Internal Rev-  
22 enue Code of 1986 (relating to basis to corporations) is  
23 amended by adding at the end the following new sub-  
24 section:

25 “(e) **LIMITATIONS ON BUILT-IN LOSSES.**—

1           “(1) LIMITATION ON IMPORTATION OF BUILT-  
2           IN LOSSES.—

3           “(A) IN GENERAL.—If in any transaction  
4           described in subsection (a) or (b) there would  
5           (but for this subsection) be an importation of a  
6           net built-in loss, the basis of each property de-  
7           scribed in subparagraph (B) which is acquired  
8           in such transaction shall (notwithstanding sub-  
9           sections (a) and (b)) be its fair market value  
10          immediately after such transaction.

11          “(B) PROPERTY DESCRIBED.—For pur-  
12          poses of subparagraph (A), property is de-  
13          scribed in this subparagraph if—

14               “(i) gain or loss with respect to such  
15               property is not subject to tax under this  
16               subtitle in the hands of the transferor im-  
17               mediately before the transfer, and

18               “(ii) gain or loss with respect to such  
19               property is subject to such tax in the  
20               hands of the transferee immediately after  
21               such transfer.

22          In any case in which the transferor is a part-  
23          nership, the preceding sentence shall be applied  
24          by treating each partner in such partnership as

1 holding such partner's proportionate share of  
2 the property of such partnership.

3 “(C) IMPORTATION OF NET BUILT-IN  
4 LOSS.—For purposes of subparagraph (A),  
5 there is an importation of a net built-in loss in  
6 a transaction if the transferee's aggregate ad-  
7 justed bases of property described in subpara-  
8 graph (B) which is transferred in such trans-  
9 action would (but for this paragraph) exceed  
10 the fair market value of such property imme-  
11 diately after such transaction.

12 “(2) LIMITATION ON TRANSFER OF BUILT-IN  
13 LOSSES IN SECTION 351 TRANSACTIONS.—

14 “(A) IN GENERAL.—If—

15 “(i) property is transferred by a  
16 transferor in any transaction which is de-  
17 scribed in subsection (a) and which is not  
18 described in paragraph (1) of this sub-  
19 section, and

20 “(ii) the transferee's aggregate ad-  
21 justed bases of such property so trans-  
22 ferred would (but for this paragraph) ex-  
23 ceed the fair market value of such property  
24 immediately after such transaction,

1 then, notwithstanding subsection (a), the trans-  
2 feree's aggregate adjusted bases of the property  
3 so transferred shall not exceed the fair market  
4 value of such property immediately after such  
5 transaction.

6 “(B) ALLOCATION OF BASIS REDUC-  
7 TION.—The aggregate reduction in basis by  
8 reason of subparagraph (A) shall be allocated  
9 among the property so transferred in proportion  
10 to their respective built-in losses immediately  
11 before the transaction.

12 “(C) EXCEPTION FOR TRANSFERS WITHIN  
13 AFFILIATED GROUP.—Subparagraph (A) shall  
14 not apply to any transaction if the transferor  
15 owns stock in the transferee meeting the re-  
16 quirements of section 1504(a)(2). In the case of  
17 property to which subparagraph (A) does not  
18 apply by reason of the preceding sentence, the  
19 transferor's basis in the stock received for such  
20 property shall not exceed its fair market value  
21 immediately after the transfer.”.

22 (b) COMPARABLE TREATMENT WHERE LIQUIDA-  
23 TION.—Paragraph (1) of section 334(b) of the Internal  
24 Revenue Code of 1986 (relating to liquidation of sub-  
25 sidiary) is amended to read as follows:

1           “(1) IN GENERAL.—If property is received by a  
2           corporate distributee in a distribution in a complete  
3           liquidation to which section 332 applies (or in a  
4           transfer described in section 337(b)(1)), the basis of  
5           such property in the hands of such distributee shall  
6           be the same as it would be in the hands of the trans-  
7           feror; except that the basis of such property in the  
8           hands of such distributee shall be the fair market  
9           value of the property at the time of the distribu-  
10          tion—

11                   “(A) in any case in which gain or loss is  
12                   recognized by the liquidating corporation with  
13                   respect to such property, or

14                   “(B) in any case in which the liquidating  
15                   corporation is a foreign corporation, the cor-  
16                   porate distributee is a domestic corporation,  
17                   and the corporate distributee’s aggregate ad-  
18                   justed bases of property described in section  
19                   362(e)(1)(B) which is distributed in such liq-  
20                   uidation would (but for this subparagraph) ex-  
21                   ceed the fair market value of such property im-  
22                   mediately after such liquidation.”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24          this section shall apply to transactions after February 13,  
25          2003.

1 **SEC. 202. NO REDUCTION OF BASIS UNDER SECTION 734 IN**  
2 **STOCK HELD BY PARTNERSHIP IN COR-**  
3 **PORATE PARTNER.**

4 (a) IN GENERAL.—Section 755 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(c) NO ALLOCATION OF BASIS DECREASE TO  
8 STOCK OF CORPORATE PARTNER.—In making an alloca-  
9 tion under subsection (a) of any decrease in the adjusted  
10 basis of partnership property under section 734(b)—

11 “(1) no allocation may be made to stock in a  
12 corporation (or any person which is related (within  
13 the meaning of section 267(b) or 707(b)(1)) to such  
14 corporation) which is a partner in the partnership,  
15 and

16 “(2) any amount not allocable to stock by rea-  
17 son of paragraph (1) shall be allocated under sub-  
18 section (a) to other partnership property.

19 Gain shall be recognized to the partnership to the extent  
20 that the amount required to be allocated under paragraph  
21 (2) to other partnership property exceeds the aggregate  
22 adjusted basis of such other property immediately before  
23 the allocation required by paragraph (2).”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply to distributions after February 13,  
26 2003.

1 **SEC. 203. REPEAL OF SPECIAL RULES FOR FASITS.**

2 (a) IN GENERAL.—Part V of subchapter M of chap-  
3 ter 1 of the Internal Revenue Code of 1986 (relating to  
4 financial asset securitization investment trusts) is hereby  
5 repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (6) of section 56(g) of the Inter-  
8 nal Revenue Code of 1986 is amended by striking  
9 “REMIC, or FASIT” and inserting “or REMIC”.

10 (2) Clause (ii) of section 382(l)(4)(B) of such  
11 Code is amended by striking “a REMIC to which  
12 part IV of subchapter M applies, or a FASIT to  
13 which part V of subchapter M applies,” and insert-  
14 ing “or a REMIC to which part IV of subchapter M  
15 applies,”.

16 (3) Paragraph (1) of section 582(c) of such  
17 Code is amended by striking “, and any regular in-  
18 terest in a FASIT,”.

19 (4) Subparagraph (E) of section 856(c)(5) of  
20 such Code is amended by striking the last sentence.

21 (5) Paragraph (5) of section 860G(a) of such  
22 Code is amended by adding “and” at the end of sub-  
23 paragraph (B), by striking “, and” at the end of  
24 subparagraph (C) and inserting a period, and by  
25 striking subparagraph (D).



1           (6) Subparagraph (C) of section 1202(e)(4) of  
2 such Code is amended by striking “REMIC, or  
3 FASIT” and inserting “or REMIC”.

4           (7) Subparagraph (C) of section 7701(a)(19) of  
5 such Code is amended by adding “and” at the end  
6 of clause (ix), by striking “, and” at the end of  
7 clause (x) and inserting a period, and by striking  
8 clause (xi).

9           (8) The table of parts for subchapter M of  
10 chapter 1 of such Code is amended by striking the  
11 item relating to part V.

12       (c) EFFECTIVE DATE.—

13           (1) IN GENERAL.—Except as provided in para-  
14 graph (2), the amendments made by this section  
15 shall take effect on February 14, 2003.

16           (2) EXCEPTION FOR EXISTING FASITS.—The  
17 amendments made by this section shall not apply to  
18 any FASIT in existence on the date of the enact-  
19 ment of this Act to the extent that regular interests  
20 issued by the FASIT before such date continue to  
21 remain outstanding in accordance with the original  
22 terms of issuance of such interests.

1 **SEC. 204. EXPANDED DISALLOWANCE OF DEDUCTION FOR**  
2 **INTEREST ON CONVERTIBLE DEBT.**

3 (a) **IN GENERAL.**—Paragraph (2) of section 163(l)  
4 of the Internal Revenue Code of 1986 is amended by strik-  
5 ing “or a related party” and inserting “or equity held by  
6 the issuer (or any related party) in any other person”.

7 (b) **EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED**  
8 **BY DEALERS IN SECURITIES.**—Section 163(l) of the In-  
9 ternal Revenue Code of 1986 is amended by redesignating  
10 paragraphs (4) and (5) as paragraphs (5) and (6) and  
11 by inserting after paragraph (3) the following new para-  
12 graph:

13 “(4) **EXCEPTION FOR CERTAIN INSTRUMENTS**  
14 **ISSUED BY DEALERS IN SECURITIES.**—For purposes  
15 of this subsection, the term ‘disqualified debt instru-  
16 ment’ does not include indebtedness issued by a  
17 dealer in securities (or a related party) which is pay-  
18 able in, or by reference to, equity (other than equity  
19 of the issuer or a related party) held by such dealer  
20 in its capacity as a dealer in securities. For purposes  
21 of this paragraph, the term ‘dealer in securities’ has  
22 the meaning given such term by section 475.”.

23 (c) **CONFORMING AMENDMENT.**—Paragraph (3) of  
24 section 163(l) of the Internal Revenue Code of 1986 is  
25 amended by striking “or a related party” in the material

1 preceding subparagraph (A) and inserting “or any other  
2 person”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to debt instruments issued after  
5 February 13, 2003.

6 **SEC. 205. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**  
7 **FITS UNDER SECTION 269.**

8 (a) IN GENERAL.—Subsection (a) of section 269 of  
9 the Internal Revenue Code of 1986 (relating to acqui-  
10 sitions made to evade or avoid income tax) is amended to  
11 read as follows:

12 “(a) IN GENERAL.—If—

13 “(1)(A) any person acquires stock in a corpora-  
14 tion, or

15 “(B) any corporation acquires, directly or indi-  
16 rectly, property of another corporation and the basis  
17 of such property, in the hands of the acquiring cor-  
18 poration, is determined by reference to the basis in  
19 the hands of the transferor corporation, and

20 “(2) the principal purpose for which such acqui-  
21 sition was made is evasion or avoidance of Federal  
22 income tax by securing the benefit of a deduction,  
23 credit, or other allowance,

24 then the Secretary may disallow such deduction, credit,  
25 or other allowance.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to stock and property acquired  
3 after February 13, 2003.

4 **SEC. 206. MODIFICATIONS OF CERTAIN RULES RELATING**  
5 **TO CONTROLLED FOREIGN CORPORATIONS.**

6 (a) LIMITATION ON EXCEPTION FROM PFIC RULES  
7 FOR UNITED STATES SHAREHOLDERS OF CONTROLLED  
8 FOREIGN CORPORATIONS.—Paragraph (2) of section  
9 1297(e) of the Internal Revenue Code of 1986 (relating  
10 to passive investment company) is amended by adding at  
11 the end the following flush sentence:

12 “Such term shall not include any period if there is  
13 only a remote likelihood of an inclusion in gross in-  
14 come under section 951(a)(1)(A)(i) of subpart F in-  
15 come of such corporation for such period.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to taxable years on controlled for-  
18 eign corporation beginning after February 13, 2003, and  
19 to taxable years of United States shareholder in which or  
20 with which such taxable years of controlled foreign cor-  
21 porations end.

22 **SEC. 207. CONTROLLED ENTITIES INELIGIBLE FOR REIT**  
23 **STATUS.**

24 (a) IN GENERAL.—Subsection (a) of section 856 of  
25 the Internal Revenue Code of 1986 (relating to definition

1 of real estate investment trust) is amended by striking  
2 “and” at the end of paragraph (6), by redesignating para-  
3 graph (7) as paragraph (8), and by inserting after para-  
4 graph (6) the following new paragraph:

5 “(7) which is not a controlled entity (as defined  
6 in subsection (l)); and”.

7 (b) CONTROLLED ENTITY.—Section 856 of the Inter-  
8 nal Revenue Code of 1986 is amended by adding at the  
9 end the following new subsection:

10 “(l) CONTROLLED ENTITY.—

11 “(1) IN GENERAL.—For purposes of subsection  
12 (a)(7), an entity is a controlled entity if, at any time  
13 during the taxable year, one person (other than a  
14 qualified entity)—

15 “(A) in the case of a corporation, owns  
16 stock—

17 “(i) possessing at least 50 percent of  
18 the total voting power of the stock of such  
19 corporation, or

20 “(ii) having a value equal to at least  
21 50 percent of the total value of the stock  
22 of such corporation, or

23 “(B) in the case of a trust, owns beneficial  
24 interests in the trust which would meet the re-

1            requirements of subparagraph (A) if such inter-  
2            ests were stock.

3            “(2) QUALIFIED ENTITY.—For purposes of  
4            paragraph (1), the term ‘qualified entity’ means—

5                    “(A) any real estate investment trust, and

6                    “(B) any partnership in which one real es-  
7            tate investment trust owns at least 50 percent  
8            of the capital and profits interests in the part-  
9            nership.

10           “(3) CONTRIBUTION RULES.—For purposes of  
11           this paragraphs (1) and (2)—

12                    “(A) IN GENERAL.—Rules similar to the  
13           rules of subsections (d)(5) and (h)(3) shall  
14           apply; except that section 318(a)(3)(C) shall  
15           not be applied under such rules to treat stock  
16           owned by a qualified entity as being owned by  
17           a person which is not a qualified entity.

18                    “(B) STAPLED ENTITIES.—A group of en-  
19           tities which are stapled entities (as defined in  
20           section 269B(c)(2)) shall be treated as one per-  
21           son.

22           “(4) EXCEPTION FOR CERTAIN NEW REITS.—

23                    “(A) IN GENERAL.—The term ‘controlled  
24           entity’ shall not include an incubator REIT.

1           “(B) INCUBATOR REIT.—A corporation  
2 shall be treated as an incubator REIT for any  
3 taxable year during the eligibility period if it  
4 meets all the following requirements for such  
5 year:

6                   “(i) The corporation elects to be treat-  
7 ed as an incubator REIT.

8                   “(ii) The corporation has only voting  
9 common stock outstanding.

10                   “(iii) Not more than 50 percent of the  
11 corporation’s real estate assets consist of  
12 mortgages.

13                   “(iv) From not later than the begin-  
14 ning of the last half of the second taxable  
15 year, at least 10 percent of the corpora-  
16 tion’s capital is provided by lenders or eq-  
17 uity investors who are unrelated to the cor-  
18 poration’s largest shareholder.

19                   “(v) The corporation annually in-  
20 creases the value of its real estate assets  
21 by at least 10 percent.

22                   “(vi) The directors of the corporation  
23 adopt a resolution setting forth an intent  
24 to engage in a going public transaction.

1 No election may be made with respect to any  
2 REIT if an election under this subsection was  
3 in effect for any predecessor of such REIT.

4 “(C) ELIGIBILITY PERIOD.—

5 “(i) IN GENERAL.—The eligibility pe-  
6 riod (for which an incubator REIT election  
7 can be made) begins with the REIT’s sec-  
8 ond taxable year and ends at the close of  
9 the REIT’s third taxable year, except that  
10 the REIT may, subject to clauses (ii), (iii),  
11 and (iv), elect to extend such period for an  
12 additional 2 taxable years.

13 “(ii) GOING PUBLIC TRANSACTION.—

14 A REIT may not elect to extend the eligi-  
15 bility period under clause (i) unless it en-  
16 ters into an agreement with the Secretary  
17 that if it does not engage in a going public  
18 transaction by the end of the extended eli-  
19 gibility period, it shall pay Federal income  
20 taxes for the 2 years of the extended eligi-  
21 bility period as if it had not made an incu-  
22 bator REIT election and had ceased to  
23 qualify as a REIT for those 2 taxable  
24 years.



1                   “(iii) RETURNS, INTEREST, AND NO-  
2                   TICE.—

3                   “(I) RETURNS.—In the event the  
4                   corporation ceases to be treated as a  
5                   REIT by operation of clause (ii), the  
6                   corporation shall file any appropriate  
7                   amended returns reflecting the change  
8                   in status within 3 months of the close  
9                   of the extended eligibility period.

10                  “(II) INTEREST.—Interest shall  
11                  be payable on any tax imposed by rea-  
12                  son of clause (ii) for any taxable year  
13                  but, unless there was a finding under  
14                  subparagraph (D), no substantial un-  
15                  derpayment penalties shall be im-  
16                  posed.

17                  “(III) NOTICE.—The corporation  
18                  shall, at the same time it files its re-  
19                  turns under subclause (I), notify its  
20                  shareholders and any other persons  
21                  whose tax position is, or may reason-  
22                  ably be expected to be, affected by the  
23                  change in status so they also may file  
24                  any appropriate amended returns to  
25                  conform their tax treatment consistent

1 with the corporation's loss of REIT  
2 status.

3 “(IV) REGULATIONS.—The Sec-  
4 retary shall provide appropriate regu-  
5 lations setting forth transferee liabil-  
6 ity and other provisions to ensure col-  
7 lection of tax and the proper adminis-  
8 tration of this provision.

9 “(iv) Clauses (ii) and (iii) shall not  
10 apply if the corporation allows its incu-  
11 bator REIT status to lapse at the end of  
12 the initial 2-year eligibility period without  
13 engaging in a going public transaction if  
14 the corporation is not a controlled entity as  
15 of the beginning of its fourth taxable year.  
16 In such a case, the corporation's directors  
17 may still be liable for the penalties de-  
18 scribed in subparagraph (D) during the eli-  
19 gibility period.

20 “(D) SPECIAL PENALTIES.—If the Sec-  
21 retary determines that an incubator REIT elec-  
22 tion was filed for a principal purpose other than  
23 as part of a reasonable plan to undertake a  
24 going public transaction, an excise tax of  
25 \$20,000 shall be imposed on each of the cor-

1           poration’s directors for each taxable year for  
2           which an election was in effect.

3           “(E) GOING PUBLIC TRANSACTION.—For  
4           purposes of this paragraph, a going public  
5           transaction means—

6                   “(i) a public offering of shares of the  
7                   stock of the incubator REIT;

8                   “(ii) a transaction, or series of trans-  
9                   actions, that results in the stock of the in-  
10                  cubator REIT being regularly traded on an  
11                  established securities market and that re-  
12                  sults in at least 50 percent of such stock  
13                  being held by shareholders who are unre-  
14                  lated to persons who held such stock before  
15                  it began to be so regularly traded; or

16                  “(iii) any transaction resulting in  
17                  ownership of the REIT by 200 or more  
18                  persons (excluding the largest single share-  
19                  holder) who in the aggregate own at least  
20                  50 percent of the stock of the REIT.

21           For the purposes of this subparagraph, the  
22           rules of paragraph (3) shall apply in deter-  
23           mining the ownership of stock.

1                   “(F) DEFINITIONS.—The term ‘established  
2                   securities market’ shall have the meaning set  
3                   forth in the regulations under section 897.”.

4           (c) CONFORMING AMENDMENT.—Paragraph (2) of  
5 section 856(h) of the Internal Revenue Code of 1986 is  
6 amended by striking “and (6)” each place it appears and  
7 inserting “, (6), and (7)”.

8           (d) EFFECTIVE DATE.—

9                   (1) IN GENERAL.—The amendments made by  
10 this section shall apply to taxable years ending after  
11 May 8, 2003.

12                   (2) EXCEPTION FOR EXISTING CONTROLLED  
13 ENTITIES.—The amendments made by this section  
14 shall not apply to any entity which is a controlled  
15 entity (as defined in section 856(l) of the Internal  
16 Revenue Code of 1986, as added by this section) as  
17 of May 8, 2003, which is a real estate investment  
18 trust for the taxable year which includes such date,  
19 and which has significant business assets or activi-  
20 ties as of such date. For purposes of the preceding  
21 sentence, an entity shall be treated as such a con-  
22 trolled entity on May 8, 2003, if it becomes such an  
23 entity after such date in a transaction—

1 (A) made pursuant to a written agreement  
2 which was binding on such date and at all times  
3 thereafter, or

4 (B) described on or before such date in a  
5 filing with the Securities and Exchange Com-  
6 mission required solely by reason of the trans-  
7 action.

8 **Subtitle B—Extension of Internal**  
9 **Revenue Service User Fees**

10 **SEC. 211. EXTENSION OF INTERNAL REVENUE SERVICE**  
11 **USER FEES.**

12 (a) IN GENERAL.—Chapter 77 of the Internal Rev-  
13 enue Code of 1986 (relating to miscellaneous provisions)  
14 is amended by adding at the end the following new section:

15 **“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

16 **“(a) GENERAL RULE.—**The Secretary shall establish  
17 a program requiring the payment of user fees for—

18 **“(1)** requests to the Internal Revenue Service  
19 for ruling letters, opinion letters, and determination  
20 letters, and

21 **“(2)** other similar requests.

22 **“(b) PROGRAM CRITERIA.—**

23 **“(1) IN GENERAL.—**The fees charged under the  
24 program required by subsection (a)—

1           “(A) shall vary according to categories (or  
2 subcategories) established by the Secretary,

3           “(B) shall be determined after taking into  
4 account the average time for (and difficulty of)  
5 complying with requests in each category (and  
6 subcategory), and

7           “(C) shall be payable in advance.

8           “(2) EXEMPTIONS, ETC.—

9           “(A) IN GENERAL.—The Secretary shall  
10 provide for such exemptions (and reduced fees)  
11 under such program as the Secretary deter-  
12 mines to be appropriate.

13           “(B) EXEMPTION FOR CERTAIN REQUESTS  
14 REGARDING PENSION PLANS.—The Secretary  
15 shall not require payment of user fees under  
16 such program for requests for determination  
17 letters with respect to the qualified status of a  
18 pension benefit plan maintained solely by 1 or  
19 more eligible employers or any trust which is  
20 part of the plan. The preceding sentence shall  
21 not apply to any request—

22           “(i) made after the later of—

23           “(I) the fifth plan year the pen-  
24 sion benefit plan is in existence, or

1                   “(II) the end of any remedial  
2                   amendment period with respect to the  
3                   plan beginning within the first 5 plan  
4                   years, or

5                   “(ii) made by the sponsor of any pro-  
6                   totype or similar plan which the sponsor  
7                   intends to market to participating employ-  
8                   ers.

9                   “(C) DEFINITIONS AND SPECIAL RULES.—

10                   For purposes of subparagraph (B)—

11                   “(i) PENSION BENEFIT PLAN.—The  
12                   term ‘pension benefit plan’ means a pen-  
13                   sion, profit-sharing, stock bonus, annuity,  
14                   or employee stock ownership plan.

15                   “(ii) ELIGIBLE EMPLOYER.—The  
16                   term ‘eligible employer’ means an eligible  
17                   employer (as defined in section  
18                   408(p)(2)(C)(i)(I)) which has at least 1  
19                   employee who is not a highly compensated  
20                   employee (as defined in section 414(q))  
21                   and is participating in the plan. The deter-  
22                   mination of whether an employer is an eli-  
23                   gible employer under subparagraph (B)  
24                   shall be made as of the date of the request  
25                   described in such subparagraph.

1                   “(iii) DETERMINATION OF AVERAGE  
 2                   FEES CHARGED.—For purposes of any de-  
 3                   termination of average fees charged, any  
 4                   request to which subparagraph (B) applies  
 5                   shall not be taken into account.

6                   “(3) AVERAGE FEE REQUIREMENT.—The aver-  
 7                   age fee charged under the program required by sub-  
 8                   section (a) shall not be less than the amount deter-  
 9                   mined under the following table:

| <b>“Category</b>                        | <b>Average<br/>Fee</b> |
|---|------------------------|
| Employee plan ruling and opinion .....  | \$250                  |
| Exempt organization ruling .....        | \$350                  |
| Employee plan determination .....       | \$300                  |
| Exempt organization determination ..... | \$275                  |
| Chief counsel ruling .....              | \$200.                 |

10                  “(c) TERMINATION.—No fee shall be imposed under  
 11 this section with respect to requests made after September  
 12 30, 2013.”.

13                  (b) CONFORMING AMENDMENTS.—

14                   (1) The table of sections for chapter 77 of the  
 15 Internal Revenue Code of 1986 is amended by add-  
 16 ing at the end the following new item:

“Sec. 7528. Internal Revenue Service user fees.”.

17                   (2) Section 10511 of the Revenue Act of 1987  
 18 is repealed.

19                   (3) Section 620 of the Economic Growth and  
 20 Tax Relief Reconciliation Act of 2001 is repealed.



1           (c) LIMITATIONS.—Notwithstanding any other provi-  
2 sion of law, any fees collected pursuant to section 7528  
3 of the Internal Revenue Code of 1986, as added by sub-  
4 section (a), shall not be expended by the Internal Revenue  
5 Service unless provided by an appropriations Act.

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to requests made after the date  
8 of the enactment of this Act.

**Calendar No. 118**

108TH CONGRESS  
1ST SESSION

**S. 1162**

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**A BILL**

To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

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JUNE 3, 2003

Read the second time and placed on the calendar