federal benefit start before any state-financed extended benefit.

As the Senators from Washington know, the Senate put forward a bill in February that provided a simple 13-week extension to all States, which would begin immediately after the exhaustion of regular UI benefits.

There are a number of States that did act in providing State-financed extended benefits before the House finally agreed to send us this compromise legislation, and those States deserve the maximum federal benefit.

This is about giving workers a chance to get back on their feet.

We have worked hard to recognize the technical concerns of the Senators from Washington and ensure that we were providing the maximum assistance to all States.

So I will say clearly that it was the Congress' intent to provide the federal benefit immediately after regular UI and I will work with the Senators to ensure that the Department conforms with that intent.

INCOME FORECAST METHOD

Mr. DASCHLE. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman and ranking member of the Finance Committee, Senator BAUCUS and Senator GRASSLEY, regarding a tax issue that I had hoped to clarify as part of this legislation, which will have serious economic ramifications for several important industries.

Recently, some uncertainty has arisen regarding the proper tax treatment of residuals and participations under the income forecast method of depreciation. I would ask the distinguished chairman and ranking member if they could clarify this issue.

Mr. BAUCUS. In 1993, the United States Court of Appeals for the Ninth Circuit held in Transamerica Corporation v U.S. that, for purposes of the income forecast depreciation method, the anticipated cost of participations and residuals should be included in a property's cost basis at the beginning of the property's depreciable life.

As the Ninth Circuit determined in Transamerica, inclusion of participations and residuals in a property's initial cost basis is necessary to properly match the income and expenses associated with the property and to clearly reflect income. Yet, it is my understanding that the IRS is not currently permitting such treatment. To eliminate the current uncertainty, Senator GRASSLEY and I have encouraged Treasury to consider regulations clarifying that participations and residuals may be included in a property's initial cost basis for purposes of the income forecast method of depreciation.

Mr. GRASSLEY. I agree with Senator BAUCUS. Excluding participations and residuals from a property's initial depreciable cost basis under the income forecast method results in a mismatching of income from the property and the expenses incurred in producing the property. The Ninth Circuit reached this conclusion in Transamerica. Moreover, I would note that including participations and residuals in the initial depreciable cost basis is consistent with industry standards in computing income for financial accounting purposes. We should remove this uncertainty to avoid needless disputes and to ensure the accurate reflection of taxpayers' income.

Mr. DASCHLE. I want to thank both of my distinguished colleagues for this important clarification. I understand that Treasury is considering this issue currently as part of its 2001 Priority Guidance Plan. For the record, I would note that Senators BAUCUS and GRASSLEY previously sent a letter to Treasury Secretary O'Neill asking him to consider regulations that eliminate the current uncertainty by clarifying that participations and residuals may be included in a property's initial cost basis for purposes of the income forecast method of depreciation. I agree with my colleagues and urge Treasury to issue such regulations.

Mr. BREAUX. Mr. President, I completely agree with the previous colloquy of my distinguished colleagues on the income forecast method of depreciation. The motion picture industry presently is facing a legal cloud that has serious economic implications for the industry. The cloud concerns the tax treatment of residual and participation payments under the income forecast method of accounting, the predominant method of accounting for the industry.

In 1993, the Ninth Circuit held in Transamerica Corporation v U.S. that participations and residuals are included in the initial cost basis of a property for purposes of the income forecast method. Yet, despite this clear result, I understand that the Internal Revenue Service is beginning to challenge that treatment. Simply put, this is wrong—as a matter of law, as a matter of policy, and as a matter of fairness.

The Transamerica decision continues to remain the proper result under present law. As the Transamerica Court found, the inclusion of participations and residuals in the film's costs is necessary in order to match income and expenses property and to clearly reflect income.

I believe we must quickly lift this cloud of uncertainty from one of our most critical industries. I am in agreement with my colleagues that Treasury should issue regulations which eliminate the current uncertainty this year as part of its 2001 Priority Guidance Plan.

CLARIFICATION REGARDING THE FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES

Mr. HATCH. Mr. President, the Job Creation and Worker Assistance Act of 2002, being considered by the Senate today, contains an important provision to extend the general net operating loss (''NOL'') carryback provision to 5 years (from 2 years) for NOLs arising in taxable years ending in 2001 and 2002. The Joint Committee on Taxation's Technical Explanation of the Act contains a footnote indicating that the NOL provision ''does not affect the terms and conditions that the Internal Revenue Service may impose on a taxpayer seeking approval for a change in its annual accounting period.''

I want to clarify with the distinguished chairman of the Finance Committee, Senator BAUCUS, that this footnote was not intended to limit the Internal Revenue Service's authority to alter or modify the terms and conditions that may have been imposed on taxpayers that had already received permission to change accounting periods, particularly under circumstances where the events of September 11, 2001, have resulted in unanticipated and severe hardships, and the waiver or modification would not result in the planning activity that the NOL Condition was intended to prevent.

Specifically, I want to clarify that the IRS has authority to permit an NOL incurred in a short taxable year to be carried back notwithstanding that the taxpayer may have agreed as a condition to securing the change to carry over the NOL only to future years.

Mr. BAUCUS. I would agree that the relevant footnote merely restates the Internal Revenue Service's present authority, and is not intended to limit that authority in cases where modification of an approval is sought, and such a modification would be consistent with the government's overall response to September 11.

AIRCRAFT

Mr. BROWNBACK. Mr. President, I would like to engage my colleagues, Senator BAUCUS and Senator GRASSLEY in a colloquy. I have a question regarding the special depreciation allowance provisions of H.R. 3090, the ''Job Creation and Worker Assistance Act of 2002.'' Do the depreciation provisions in the bill cover all aircraft?

Mr. BAUCUS. It is our intention to cover all types of aircraft, including commercial, chartered, privately-owned, or crop-dusting aircraft, to the extent the aircraft is otherwise eligible for depreciation.

Mr. GRASSLEY. I agree with Senator BAUCUS' remarks. These special depreciation allowance provisions are intended to cover all aircraft.

Mr. BROWNBACK. I thank my colleagues for that clarification.

HATE CRIMES: WHY WE CAN'T WAIT

Mrs. FEINSTEIN. Mr. President, if you were to walk past the driveway at 222 West Micheltorena Street in Santa Barbara, California today you would see a makeshift memorial of flowers and candles. On a tree nearby, you

would also see a note that reads, ''United We Stand. Never be forgotten. Always to be loved. A symbol of silence that needs to be broken.''

That memorial has been erected outside the home of Clinton Scott Risetter, 37, the victim of a hate crime.

On February 24, 2002, Clint Risetter awoke in his apartment engulfed in flames and then tried to escape as he was burning. When firefighters arrived, they found him dead on his patio. Two days later, Martin Thomas Hartmann walked into the Santa Barbara Police Department and admitted to entering Clint's apartment, pouring gasoline on him as he slept, and then setting him on fire.

Martin Hartmann had known Clint for several months but had learned just recently that Clint was gay. He told police about his hatred toward gays and how he ''. . . decided to put [Clint] out of his misery,'' because he was gay. He believed that he was doing the right thing and that Clint deserved to die.

The note on the tree outside Clint Risetter's apartment expresses not only the views of its author, but also the views of the more than 500 people that joined together Monday night in Santa Barbara to light candles in a vigil for Clint. One of the vigil's attendees, Russ Chaffin, said, ''I can't be silent. This is my community. I cannot stand it that something like this could happen in my community.''

I simply cannot stand silent when such a violent act is committed against an innocent person. I was deeply saddened and disturbed to hear the horrific details of Clint's death. It's hard for me to imagine a more heinous act of hatred than to set another human being on fire. Unfortunately, Clint's death is characteristic of many hate crimes in America; where an attacker repeatedly beats, stabs or severely burns his victim as if he is removing whatever it is he hates out of the person. And the attacker feels justified in doing so, as if he is doing a great service to humanity by killing the person.

In California, I have seen, first-hand, the devastating impact hate crimes have on victims, their families and their communities. A hate crime divides neighborhoods and breeds a sense of mistrust and fear within a community, just like it has in Santa Barbara. This is why I have long supported legislation aimed at protecting citizens from crimes based on race, ethnicity, religion, gender, disability, or sexual orientation.

According to the FBI's latest statistics, hate crimes based on sexual orientation rose every year between 1994 and 2000. Yet, current Federal hate crimes law does not include crimes against others because of sexual orientation. It only covers crimes motivated by bias on the basis of race, color, religion or national origin. The current law also limits Federal hate crime prosecutions to instances in which the victim was targeted because he or she was exercising one of six narrowly defined federally-protected activities, such as serving on a jury, voting, attending a public school, eating at a restaurant or lodging at a hotel.

The limitations of current law prevent it from reaching many cases where individuals are killed or injured by just walking down the street, or, as we have now seen, even sleeping in their own homes. It does not extend basic civil rights protections to every American, only to a few and under certain circumstances. Updating the current law would not provide special rights, it would ensure equal protection.

''The Local Law Enforcement Act of 2001,'' legislation of which I am an original cosponsor, would expand current Federal protections against hate crimes based on race, color, religion, and national origin; amend the criminal code to cover hate crimes based on gender, disability, and sexual orientation; authorize grants for State and local programs designed to combat and prevent hate crimes; and enable the federal government to assist State and local law enforcement in investigating and prosecuting hate crimes.

Final passage of ''The Local Law Enforcement Act of 2001,'' is long overdue. It is necessary for the safety and well being of millions of Americans. No American should have to live in fear because of his or her disability. No American should be afraid to walk down the street for fear of a gender-motivated attack. And certainly, no American should be afraid to sleep in their own home because of his or her sexual orientation.

We have had strong bipartisan support for this legislation in the past, and it continues to receive bipartisan support. We just have not been able to get it to the President's desk for his consideration. Today, I ask all of my colleagues to work to ensure that this legislation is not simply supported, but actually gets passed and signed into law. Let's send a signal to Clint Risetter's family, and to all Americans, that our nation will no longer turn a blind eye to hate crimes in this country.

CONFIRMATION OF SHERIFF STEPHEN FITZGERALD TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF WISCONSIN

Mr. KOHL. Mr. President, I rise today in support of the confirmation of Sheriff Stephen Fitzgerald to be United States Marshal for the Western District of Wisconsin.

Sheriff Fitzgerald's qualifications for this position are impressive. He has served as the Sheriff of Dodge County since 1989 and as a detective and patrol officer with the Chicago Police Department before seeing the light and moving to the greener pastures of Wisconsin to continue his lifelong devotion to law enforcement and public service.

Sheriff Fitzgerald received a unanimous vote of the Judiciary Committee yesterday and deserves the support of the full Senate today. We look forward to his service to the Western District of Wisconsin.

FLORIDA'S 2002 OLYMPIC MEDALISTS

Mr. NELSON of Florida. Mr. President, I rise today to recognize five athletes who recently represented our Nation at the 19th Winter Olympic Games in Salt Lake City.

While the accomplishments of these competitors are exceptional by any measure, this group deserves special recognition; that's because Garrett Hines, Derek Parra, Jennifer Rodriguez, Brian Shimer and Chris Thorpe are Floridians. For the record, Florida sees snow a little more often than once every ice age, and the State's highest mountain is but a bunny hill compared to the terrain these athletes saw in Utah.

Nevertheless, these five Floridians won seven medals in the luge, the bobsled and on the speed skating oval.

Garrett Hines, along with teammate Randy Jones, became the first black American males to win a medal in the Winter Olympics, as the United States took silver in the four-man bobsled. Garrett is the pride of Sanford, FL, and I'd like to wish him luck in his future endeavors.

Similarly, Derek Parra achieved a barrier-breaking milestone, becoming the first Hispanic American to medal in the Winter Olympics as he won both a gold and silver in speed skating.

These two pioneers have left a lasting mark on their sports, and I am proud to call them Floridians.

Also, Jennifer Rodriguez, known as ''Miami Ice,'' showed the world that South Florida has a place on the Winter Olympic map. After becoming the first Hispanic American to compete for the United States Winter Olympic Team during the 1998 Games in Japan, Rodriguez not only competed in Salt Lake City, she won two speed skating bronze medals.

Brian Shimer continued the South Florida success, as the Naples native took home a bronze in the four-man bobsled. This five-time Olympian had never before won a medal, but as the driver in this year's bronze medal winning sled, he has realized a career-long goal.

Finally, Daytona Beach resident Chris Thorpe, added a bronze medal in doubles luge to the silver he won four years ago in the Nagano Games. Chris has said this will be his last Olympics, and I'd like to wish him luck as he finishes his undergraduate degree at the University of Florida, Gainesville.

I applaud the commitment these athletes have shown in reaching the pinnacle of their respective sports, and I hope their willingness to sacrifice and their determination to succeed motivates all Americans to exceed expectations and achieve the extraordinary.

I would ask to have printed in the RECORD the names and hometowns of