(A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such exclusion.

''(ii) For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(c) FUTA.—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(v) EXCLUSION OF CERTAIN AMOUNTS FROM WAGES.—

''(1) IN GENERAL.—For purposes of applying subsection (b) with respect to expenses described in paragraph (2)(B) of such subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FROM WAGES.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 2004.

Mr. GRAHAM of Florida. Mr. President, I am pleased to join my colleague from Oregon, Senator SMITH, in introducing the Domestic Partner Health Benefits Equity Act, which corrects an inequity in our current tax law. Employees who receive health benefits from their employers are not taxed on the value of this benefit. The tax benefit also applies to health care that covers the employee's spouse and dependents.

In growing numbers, both public and private sector employers are providing domestic partner benefits to employees. For example, more than one-third of the Fortune 500 companies and 146 State and local governments provide such benefits. Unlike health benefits provided to their other employees, however, health care that covers a domestic partner is taxable to both the employee and the employer.

An employer's payroll tax liability is calculated based on its employees' taxable incomes. When contributions for domestic partner benefits are included in employees' incomes, employers pay higher payroll taxes. This provision also places an administrative burden on employers by requiring them to identify those employees utilizing their benefits for a partner rather than a spouse. Employers must then calculate the portion of their contribution that is attributable to the partner, and create and maintain a separate payroll function for these employees' income tax withholding and payroll tax. Thus, the employer is penalized for making a sound business decision that contributes to stability in the workforce.

Senator SMITH and I have drafted legislation to amend the tax law to allow health benefits to domestic partners to be received by employees on the same tax-free basis as ''spouses.'' Specifically, the bill changes the definition of ''dependent'' in the code—for purposes of employer-provided health benefits only—to be any beneficiary allowed by the health plan.

Although the primary beneficiaries of this legislation will be employees with domestic partners, the change will also benefit employees who provide health insurance to family members who may not qualify as a ''dependent'' under current law. For example, the change would make it easier for an employee to include a brother, sister or parent on an employer's health plan even if the employee does not provide more than one-half of the support for that individual, a requirement for a person being a ''dependent''.

I commend Senator SMITH for his leadership in correcting this inequity in our tax laws. I also thank Senators CHAFEE, WYDEN, CORZINE and BOXER for joining us in this effort. I urge my colleagues to cosponsor our bill.

By Mr. SMITH:

S. 1703. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with Senators WYDEN, BROWNBACK, SPECTER, and BURNS to introduce the Local Railroad Rehabilitation and Investment Act. The bill provides a Federal tax credit for short line railroad rehabilitation and addresses a critical need in small town America.

There are some 500 short line railroads serving large areas of the country that are no longer served by the large Class I railroads. These railroads keep our farmers and our small businesses connected to the national main line railroad system and are the only alternative to increasing truck traffic on local roads.

Many of today's short lines were once the light density branch lines of the large Class I railroads. As Class I systems began to lose money, these branch lines received little investment and were gradually abandoned. As an alternative to abandonment, the Federal Government encouraged spinning off these lines to form new local railroads that would preserve service and jobs.

Today, this local service is threatened due to the introduction of the new, heavier 286,000-pound railcar that the Class I's are making the new industry standard. Because of the interconnectivity of our Nation's rail network, short lines are forced to use these heavier cars. This places an added strain on track structure and makes rehabilitation even more important and more urgent. Studies indicate that it will take $7 billion in new investment for our nation's short lines to accommodate these heavier rail cars.

My legislation is not intended to fund this entire rehabilitation. Rather, it is intended to help small railroads make the improvements required to grow traffic so they can earn the additional investment income needed to complete the $7 billion capital upgrade.

Short lines operate 50,000 miles of track in 49 states, employ over 23,000 workers at an average wage of $47,000, and earn $3 billion in annual revenue. Railroading is one of the most capital-intensive industries in the country. That capital effort is also labor intensive and my legislation will result in the immediate creation of jobs needed to undertake these rehabilitation projects.

The major provisions of the Local Railroad Rehabilitation and Investment Act include:

Authorization of a federal tax credit against qualified railroad track maintenance expenditures paid or incurred by a taxpayer during taxable years 2004 to 2008.

The qualified railroad track maintenance expenditures include expenditures, whether or not otherwise chargeable to capital account, for maintaining or upgrading railroad track, including roadbed, bridges and related structures, owned or leased by the taxpayer of a Class II or Class III railroad.

The total tax credit is capped at $10,000 for every mile of railroad track owned or leased by a Class II or Class III railroad, provided that the expenditure is certified by the State as part of an essential rail upgrade. For example, a 20-mile railroad qualifies for a $200,000 credit.

And, to maximize private investment in this critical infrastructure, the bill allows railroads that are unable to fully utilize credits earned to transfer such credits to other railroads, railroad shippers, or railroad suppliers and contractors.

For rural America, the specter of losing rail access is a serious matter. As characterized in the American Association of State Highway Transportation Officials' (AASHTO) recent Freight-Rail Bottom Line Report, short lines ''often provide the first and last service miles in the door-to-door collection and distribution of railcars.'' The Association of American Railroads estimates that short lines originate or terminate one out of every four carloads moved by the domestic railroad industry. Preserving short line rail service is important to the national transportation system; it is absolutely critical to the rural transportation system. This legislation provides a modest and efficient way to help the short line industry help itself.

I urge my colleagues to join me and support this important legislation. I