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[Report No. 109–82]

To amend the Internal Revenue Code of 1986 to provide for the extension of the Highway Trust Fund and the Aquatic Resources Trust Fund expenditure authority and related taxes and to provide for excise tax reform and simplification, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2005

Mr. GRASSLEY from the Committee on Finance reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to provide for the extension of the Highway Trust Fund and the Aquatic Resources Trust Fund expenditure authority and related taxes and to provide for excise tax reform and simplification, 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,*

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;
TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Highway Reauthorization and Excise Tax Simplification Act of 2005”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:
 Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TRUST FUND REAUTHORIZATION

Sec. 101. Extension of highway-related taxes and trust funds.
 Sec. 102. Modification of adjustments of apportionments.

TITLE II—EXCISE TAX REFORM AND SIMPLIFICATION

Subtitle A—Highway Excise Taxes

Sec. 201. Modification of gas guzzler tax.

Subtitle B—Aquatic Excise Taxes

Sec. 211. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
 Sec. 212. Repeal of harbor maintenance tax on exports.
 Sec. 213. Cap on excise tax on certain fishing equipment.

Subtitle C—Aerial Excise Taxes

Sec. 221. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
 Sec. 222. Modification of rural airport definition.
 Sec. 223. Exemption from taxes for transportation provided by seaplanes.
 Sec. 224. Certain sightseeing flights exempt from taxes on air transportation.

Subtitle D—Taxes Relating to Alcohol

- Sec. 231. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
- Sec. 232. Modification of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.
- Sec. 233. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
- Sec. 234. Quarterly excise tax filing for small alcohol excise taxpayers.

Subtitle E—Sport Excise Taxes

- Sec. 241. Custom gunsmiths.

TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Motor Fuel Tax Enforcement Advisory Commission.
- Sec. 302. National Surface Transportation Infrastructure Financing Commission.
- Sec. 303. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.
- Sec. 304. Delta regional transportation plan.
- Sec. 305. Build America Corporation.
- Sec. 306. Increase in dollar limitation for qualified transportation fringe benefits.

TITLE IV—FUELS-RELATED TECHNICAL CORRECTIONS

- Sec. 401. Fuels-related technical corrections.

TITLE V—REVENUE OFFSET PROVISIONS

- Sec. 501. Treatment of contingent payment convertible debt instruments.
- Sec. 502. Frivolous tax submissions.
- Sec. 503. Increase in certain criminal penalties.
- Sec. 504. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
- Sec. 505. Modification of interaction between subpart F and passive foreign investment company rules.
- Sec. 506. Declaration by chief executive officer relating to Federal annual corporate income tax return.
- Sec. 507. Treasury regulations on foreign tax credit.

1 **TITLE I—TRUST FUND**

2 **REAUTHORIZATION**

3 **SEC. 101. EXTENSION OF HIGHWAY-RELATED TAXES AND**

4 **TRUST FUNDS.**

5 (a) EXTENSION OF TAXES.—

1 (1) IN GENERAL.—The following provisions are
2 each amended by striking “2005” each place it ap-
3 pears and inserting “2011”:

4 (A) Section 4041(a)(1)(C)(iii)(I) (relating
5 to rate of tax on certain buses).

6 (B) Section 4041(a)(2)(B) (relating to rate
7 of tax on special motor fuels).

8 (C) Section 4041(m)(1) (relating to certain
9 alcohol fuels).

10 (D) Section 4051(c) (relating to termi-
11 nation of tax on heavy trucks and trailers).

12 (E) Section 4071(d) (relating to termi-
13 nation of tax on tires).

14 (F) Section 4081(d)(1) (relating to termi-
15 nation of tax on gasoline, diesel fuel, and ker-
16 osene).

17 (G) Section 4481(f) (relating to period tax
18 in effect).

19 (H) Section 4482(c)(4) (relating to taxable
20 period).

21 (I) Section 4482(d) (relating to special
22 rule for taxable period in which termination
23 date occurs).

1 (2) FLOOR STOCKS REFUNDS.—Section
 2 6412(a)(1) (relating to floor stocks refunds) is
 3 amended—

4 (A) by striking “2005” each place it ap-
 5 pears and inserting “2011”, and

6 (B) by striking “2006” each place it ap-
 7 pears and inserting “2012”.

8 (b) EXTENSION OF CERTAIN EXEMPTIONS.—The fol-
 9 lowing provisions are each amended by striking “2005”
 10 and inserting “2011”:

11 (1) Section 4221(a) (relating to certain tax-free
 12 sales).

13 (2) Section 4483(h) (relating to termination of
 14 exemptions for highway use tax).

15 (c) EXTENSION OF DEPOSITS INTO TRUST FUNDS.—

16 (1) IN GENERAL.—Paragraphs (1) and (2) of
 17 subsection (b), and paragraphs (2) and (3) of sub-
 18 section (c), of section 9503 (relating to the Highway
 19 Trust Fund) are each amended—

20 (A) by striking “2005” each place it ap-
 21 pears and inserting “2011”, and

22 (B) by striking “2006” each place it ap-
 23 pears and inserting “2012”.

24 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
 25 TRANSFERS.—

1 (A) IN GENERAL.—Paragraphs (4)(A)(i)
 2 and (5)(A) of section 9503(c) are each amended
 3 by striking “2005” and inserting “2011”.

4 (B) CONFORMING AMENDMENTS TO LAND
 5 AND WATER CONSERVATION FUND.—Section
 6 201(b) of the Land and Water Conservation
 7 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
 8 amended—

9 (i) by striking “2003” and inserting
 10 “2009”, and

11 (ii) by striking “2004” each place it
 12 appears and inserting “2010”.

13 (d) EXTENSION AND EXPANSION OF EXPENDITURES
 14 FROM TRUST FUNDS.—

15 (1) HIGHWAY TRUST FUND.—

16 (A) HIGHWAY ACCOUNT.—Paragraph (1)
 17 of section 9503(c) is amended—

18 (i) in the matter before subparagraph
 19 (A), by striking “June 1, 2005” and in-
 20 serting “October 1, 2009”,

21 (ii) by striking “or” at the end of sub-
 22 paragraph (J),

23 (iii) by striking the period at the end
 24 of subparagraph (K) and inserting “, or”,

1 (iv) by inserting after subparagraph
 2 (K) the following new subparagraph:

3 “(L) authorized to be paid out of the
 4 Highway Trust Fund under the Safe, Account-
 5 able, Flexible, and Efficient Transportation Eq-
 6 uity Act of 2005.”, and

7 (v) in the matter after subparagraph
 8 (L), as added by clause (iv), by striking
 9 “Surface Transportation Extension Act of
 10 2004, Part V” and inserting “Safe, Ac-
 11 countable, Flexible, and Efficient Trans-
 12 portation Equity Act of 2005”.

13 (B) MASS TRANSIT ACCOUNT.—Paragraph
 14 (3) of section 9503(e) is amended—

15 (i) in the matter before subparagraph
 16 (A), by striking “June 1, 2005” and in-
 17 serting “October 1, 2009”,

18 (ii) by striking “or” at the end of sub-
 19 paragraph (H),

20 (iii) by inserting “or” at the end of
 21 subparagraph (I),

22 (iv) by inserting after subparagraph
 23 (I) the following new subparagraph:

24 “(J) Safe, Accountable, Flexible, and Effi-
 25 cient Transportation Equity Act of 2005.”, and

1 (v) in the matter after subparagraph
 2 (J), as added by clause (iv), by striking
 3 “Surface Transportation Extension Act of
 4 2004, Part V” and inserting “Safe, Ac-
 5 countable, Flexible, and Efficient Trans-
 6 portation Equity Act of 2005”.

7 (C) EXCEPTION TO LIMITATION ON TRANS-
 8 FERS.—Subparagraph (B) of section
 9 9503(b)(6) is amended by striking “June 1,
 10 2005” and inserting “October 1, 2009”.

11 (2) AQUATIC RESOURCES TRUST FUND.—

12 (A) SPORT FISH RESTORATION AC-
 13 COUNT.—Paragraph (2) of section 9504(b) is
 14 amended by striking “Surface Transportation
 15 Extension Act of 2004, Part V” each place it
 16 appears and inserting “Safe, Accountable,
 17 Flexible, and Efficient Transportation Equity
 18 Act of 2005” .

19 (B) EXCEPTION TO LIMITATION ON TRANS-
 20 FERS.—Paragraph (2) of section 9504(d) is
 21 amended by striking “June 1, 2005” and in-
 22 serting “October 1, 2009”.

23 (e) EFFECTIVE DATE.—The amendments made by
 24 this section shall take effect on the date of the enactment
 25 of this Act.

1 **SEC. 102. MODIFICATION OF ADJUSTMENTS OF APPOR-**
 2 **TIONMENTS.**

3 (a) IN GENERAL.—Section 9503(d) (relating to ad-
 4 justments for apportionments) is amended—

5 (1) by striking “24-month” in paragraph
 6 (1)(B) and inserting “48-month”, and

7 (2) by striking “2 YEARS’ ” in the heading for
 8 paragraph (3) and inserting “4 YEARS’ ”.

9 (b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—
 10 Section 9503(d) is amended by redesignating paragraph
 11 (6) as paragraph (7) and by inserting after paragraph (5)
 12 the following new paragraph:

13 “(6) MEASUREMENT OF NET HIGHWAY RE-
 14 CEIPTS.—For purposes of making any estimate
 15 under paragraph (1) of net highway receipts for pe-
 16 riods ending after the date specified in subsection
 17 (b)(1), the Secretary shall treat—

18 “(A) each expiring provision of subsection
 19 (b) which is related to appropriations or trans-
 20 fers to the Highway Trust Fund to have been
 21 extended through the end of the 48-month pe-
 22 riod referred to in paragraph (1)(B), and

23 “(B) with respect to each tax imposed
 24 under the sections referred to in subsection
 25 (b)(1), the rate of such tax during the 48-
 26 month period referred to in paragraph (1)(B)

1 to be the same as the rate of such tax as in ef-
 2 fect on the date of such estimate.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall take effect on the date of the enactment
 5 of this Act.

6 **TITLE II—EXCISE TAX REFORM** 7 **AND SIMPLIFICATION**

8 **Subtitle A—Highway Excise Taxes**

9 **SEC. 201. MODIFICATION OF GAS GUZZLER TAX.**

10 (a) UNIFORM APPLICATION OF TAX.—Subparagraph
 11 (A) of section 4064(b)(1) (defining automobile) is amend-
 12 ed by striking the second sentence.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall take effect on October 1, 2005.

15 **Subtitle B—Aquatic Excise Taxes**

16 **SEC. 211. ELIMINATION OF AQUATIC RESOURCES TRUST** 17 **FUND AND TRANSFORMATION OF SPORT** 18 **FISH RESTORATION ACCOUNT.**

19 (a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY
 20 ACCOUNT.—

21 (1) IN GENERAL.—Section 9503(c)(4) (relating
 22 to transfers from Trust Fund for motorboat fuel
 23 taxes) is amended—

24 (A) by striking “Fund—” and all that fol-
 25 lows through “shall be transferred” in subpara-

graph (B) and inserting “Fund which is attributable to motorboat fuel taxes shall be transferred”,

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 9503(c)(4), as redesignated by paragraph (1)(C), is amended—

(i) by striking “ACCOUNT” in the heading and inserting “AND BOATING TRUST FUND”,

(ii) by striking “or (B)” in clause (ii), and

(iii) by striking “account in the Aquatic Resources” and inserting “and Boating”.

(B) Paragraph (5) of section 9503(c) is amended by striking “Account in the Aquatic Resources” in subparagraph (A) and inserting “and Boating”.

(b) MERGING OF ACCOUNTS.—

1 (1) IN GENERAL.—Subsection (a) of section
2 9504 is amended to read as follows:

3 “(a) CREATION OF TRUST FUND.—There is hereby
4 established in the Treasury of the United States a trust
5 fund to be known as the ‘Sport Fish Restoration and
6 Boating Trust Fund’. Such Trust Fund shall consist of
7 such amounts as may be appropriated, credited, or paid
8 to it as provided in this section, section 9503(c)(4), section
9 9503(c)(5), or section 9602(b).”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subsection (b) of section 9504, as
12 amended by section 101 of this Act, is amend-
13 ed—

14 (i) by striking “ACCOUNT” in the
15 heading and inserting “AND BOATING
16 TRUST FUND”,

17 (ii) by striking “Account” both places
18 it appears in paragraphs (1) and (2) and
19 inserting “and Boating Trust Fund”, and

20 (iii) by striking “ACCOUNT” both
21 places it appears in the headings for para-
22 graphs (1) and (2) and inserting “AND
23 BOATING TRUST FUND”.

(B) Subsection (d) of section 9504, as amended by section 101 of this Act, is amended—

(i) by striking “AQUATIC RESOURCES” in the heading,

(ii) by striking “any Account in the Aquatic Resources” in paragraph (1) and inserting “the Sports Fish Restoration and Boating”, and

(iii) by striking “any such Account” in paragraph (1) and inserting “such Trust Fund”.

(C) Subsection (e) of section 9504 is amended by striking “Boat Safety Account and Sport Fish Restoration Account” and inserting “Sport Fish Restoration and Boating Trust Fund”.

(D) Section 9504 is amended by striking “**AQUATIC RESOURCES**” in the heading and inserting “**SPORT FISH RESTORATION AND BOATING**”.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking “aquatic re-

1 sources” and inserting “sport fish restoration
2 and boating”.

3 (c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Sub-
4 section (c) of section 9504 is amended to read as follows:

5 “(c) EXPENDITURES FROM BOAT SAFETY AC-
6 COUNT.—Amounts remaining in the Boat Safety Account
7 on October 1, 2005, and amounts thereafter credited to
8 the Account under section 9602(b), shall be available,
9 without further appropriation, for making expenditures
10 before October 1, 2010, to carry out the purposes of sec-
11 tion 15 of the Dingell-Johnson Sport Fish Restoration Act
12 (as in effect on the date of the enactment of the Safe,
13 Accountable, Flexible, and Efficient Transportation Eq-
14 uity Act of 2005). For purposes of section 9602, the Boat
15 Safety Account shall be treated as a Trust Fund estab-
16 lished by this subchapter.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on October 1, 2005.

19 **SEC. 212. REPEAL OF HARBOR MAINTENANCE TAX ON EX-**
20 **PORTS.**

21 (a) IN GENERAL.—Subsection (d) of section 4462
22 (relating to definitions and special rules) is amended to
23 read as follows:

24 “(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The
25 tax imposed by section 4461(a) shall not apply to any port

1 use with respect to any commercial cargo to be exported
 2 from the United States.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 4461(c)(1) is amended by adding
 5 “or” at the end of subparagraph (A), by striking
 6 subparagraph (B), and by redesignating subpara-
 7 graph (C) as subparagraph (B).

8 (2) Section 4461(c)(2) is amended by striking
 9 “imposed—” and all that follows through “in any
 10 other case,” and inserting “imposed”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect before, on, and after the date
 13 of the enactment of this Act.

14 **SEC. 213. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIP-**
 15 **MENT.**

16 (a) IN GENERAL.—Paragraph (1) of section 4161(a)
 17 (relating to sport fishing equipment) is amended to read
 18 as follows:

19 “(1) IMPOSITION OF TAX.—

20 “(A) IN GENERAL.—There is hereby im-
 21 posed on the sale of any article of sport fishing
 22 equipment by the manufacturer, producer, or
 23 importer a tax equal to 10 percent of the price
 24 for which so sold.

1 “(B) LIMITATION ON TAX IMPOSED ON
 2 FISHING RODS AND POLES.—The tax imposed
 3 by subparagraph (A) on any fishing rod or pole
 4 shall not exceed \$10.”.

5 (b) CONFORMING AMENDMENTS.—Section
 6 4161(a)(2) is amended by striking “paragraph (1)” both
 7 places it appears and inserting “paragraph (1)(A)”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to articles sold by the manufac-
 10 turer, producer, or importer after September 30, 2005.

11 **Subtitle C—Aerial Excise Taxes**

12 **SEC. 221. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR** 13 **AGRICULTURAL AERIAL APPLICATORS AND** 14 **EXEMPTION FOR FIXED-WING AIRCRAFT EN-** 15 **GAGED IN FORESTRY OPERATIONS.**

16 (a) NO WAIVER BY FARM OWNER, TENANT, OR OP-
 17 ERATOR NECESSARY.—Subparagraph (B) of section
 18 6420(c)(4) (relating to certain farming use other than by
 19 owner, etc.) is amended to read as follows:

20 “(B) if the person so using the gasoline is
 21 an aerial or other applicator of fertilizers or
 22 other substances and is the ultimate purchaser
 23 of the gasoline, then subparagraph (A) of this
 24 paragraph shall not apply and the aerial or

1 other applicator shall be treated as having used
2 such gasoline on a farm for farming purposes.”.

3 (b) EXEMPTION INCLUDES FUEL USED BETWEEN
4 AIRFIELD AND FARM.—Section 6420(c)(4), as amended
5 by subsection (a), is amended by adding at the end the
6 following new flush sentence:

7 “In the case of an aerial applicator, gasoline shall be
8 treated as used on a farm for farming purposes if
9 the gasoline is used for the direct flight between the
10 airfield and 1 or more farms.”.

11 (c) EXEMPTION FROM TAX ON AIR TRANSPOR-
12 TATION OF PERSONS FOR FORESTRY PURPOSES EX-
13 TENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of
14 section 4261 (relating to tax on air transportation of per-
15 sons) is amended to read as follows:

16 “(f) EXEMPTION FOR CERTAIN USES.—No tax shall
17 be imposed under subsection (a) or (b) on air transpor-
18 tation—

19 “(1) by helicopter for the purpose of trans-
20 porting individuals, equipment, or supplies in the ex-
21 ploration for, or the development or removal of, hard
22 minerals, oil, or gas, or

23 “(2) by helicopter or by fixed-wing aircraft for
24 the purpose of the planting, cultivation, cutting, or

1 transportation of, or caring for, trees (including log-
 2 ging operations),
 3 but only if the helicopter or fixed-wing aircraft does not
 4 take off from, or land at, a facility eligible for assistance
 5 under the Airport and Airway Development Act of 1970,
 6 or otherwise use services provided pursuant to section
 7 44509 or 44913(b) or subchapter I of chapter 471 of title
 8 49, United States Code, during such use. In the case of
 9 helicopter transportation described in paragraph (1), this
 10 subsection shall be applied by treating each flight segment
 11 as a distinct flight.”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to fuel use or air transportation
 14 after September 30, 2005.

15 **SEC. 222. MODIFICATION OF RURAL AIRPORT DEFINITION.**

16 (a) IN GENERAL.—Section 4261(e)(1)(B) (defining
 17 rural airport) is amended—

18 (1) by inserting “(in the case of any airport de-
 19 scribed in clause (ii)(III), on flight segments of at
 20 least 100 miles)” after “by air” in clause (i), and

21 (2) by striking “or” at the end of subclause (I)
 22 of clause (ii), by striking the period at the end of
 23 subclause (II) of clause (ii) and inserting “, or”, and
 24 by adding at the end of clause (ii) the following new
 25 subclause:

1 “(III) is not connected by paved
2 roads to another airport.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on October 1, 2005.

5 **SEC. 223. EXEMPTION FROM TAXES FOR TRANSPORTATION**
6 **PROVIDED BY SEAPLANES.**

7 (a) IN GENERAL.—Section 4261 (relating to imposi-
8 tion of tax) is amended by redesignating subsection (i) as
9 subsection (j) and by inserting after subsection (h) the fol-
10 lowing new subsection:

11 “(i) EXEMPTION FOR SEAPLANES.—No tax shall be
12 imposed by this section or section 4271 on any air trans-
13 portation by a seaplane with respect to any segment con-
14 sisting of a takeoff from, and a landing on, water, but
15 only if the places at which such takeoff and landing occur
16 have not received and are not receiving financial assist-
17 ance from the Airport and Airways Trust Fund.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to transportation beginning after
20 September 30, 2005.

21 **SEC. 224. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM**
22 **TAXES ON AIR TRANSPORTATION.**

23 (a) IN GENERAL.—Section 4281 (relating to small
24 aircraft on nonestablished lines) is amended by adding at
25 the end the following new sentence: “For purposes of this

1 section, an aircraft shall not be considered as operated on
 2 an established line at any time during which such aircraft
 3 is being operated on a flight the sole purpose of which
 4 is sightseeing.”.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 this section shall apply with respect to transportation be-
 7 ginning after September 30, 2005, but shall not apply to
 8 any amount paid before such date for such transportation.

9 **Subtitle D—Taxes Relating to** 10 **Alcohol**

11 **SEC. 231. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON** 12 **PRODUCERS AND MARKETERS OF ALCO-** 13 **HOLIC BEVERAGES.**

14 (a) REPEAL OF OCCUPATIONAL TAXES.—

15 (1) IN GENERAL.—The following provisions of
 16 part II of subchapter A of chapter 51 (relating to
 17 occupational taxes) are hereby repealed:

18 (A) Subpart A (relating to proprietors of
 19 distilled spirits plants, bonded wine cellars,
 20 etc.).

21 (B) Subpart B (relating to brewer).

22 (C) Subpart D (relating to wholesale deal-
 23 ers) (other than sections 5114 and 5116).

24 (D) Subpart E (relating to retail dealers)
 25 (other than section 5124).

1 (E) Subpart G (relating to general provi-
 2 sions) (other than sections 5142, 5143, 5145,
 3 and 5146).

4 (2) NONBEVERAGE DOMESTIC DRAWBACK.—
 5 Section 5131 is amended by striking “, on payment
 6 of a special tax per annum,”.

7 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—
 8 Section 5276 is hereby repealed.

9 (b) CONFORMING AMENDMENTS.—

10 (1)(A) The heading for part II of subchapter A
 11 of chapter 51 and the table of subparts for such
 12 part are amended to read as follows:

13 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping and registration by dealers.

“Subpart D. Other provisions.”.

14 (B) The table of parts for such subchapter A
 15 is amended by striking the item relating to part II
 16 and inserting the following new item:

“Part II. Miscellaneous provisions.”.

17 (2) Subpart C of part II of such subchapter
 18 (relating to manufacturers of stills) is redesignated
 19 as subpart A.

20 (3)(A) Subpart F of such part II (relating to
 21 nonbeverage domestic drawback claimants) is reded-
 22 ignated as subpart B and sections 5131 through

1 5134 are redesignated as sections 5111 through
2 5114, respectively.

3 (B) The table of sections for such subpart B,
4 as so redesignated, is amended—

5 (i) by redesignating the items relating to
6 sections 5131 through 5134 as relating to sec-
7 tions 5111 through 5114, respectively, and

8 (ii) by striking “and rate of tax” in the
9 item relating to section 5111, as so redesign-
10 nated.

11 (C) Section 5111, as redesignated by subpara-
12 graph (A), is amended—

13 (i) by striking “**AND RATE OF TAX**” in
14 the section heading,

15 (ii) by striking the subsection heading for
16 subsection (a), and

17 (iii) by striking subsection (b).

18 (4) Part II of subchapter A of chapter 51 is
19 amended by adding after subpart B, as redesignated
20 by paragraph (3), the following new subpart:

21 **“Subpart C—Recordkeeping and Registration by**

22 **Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of premises
for inspection.

“Sec. 5124. Registration by dealers.”.

1 (5)(A) Section 5114 (relating to records) is
 2 moved to subpart C of such part II and inserted
 3 after the table of sections for such subpart.

4 (B) Section 5114 is amended—

5 (i) by striking the section heading and in-
 6 serting the following new heading:

7 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

8 and

9 (ii) by redesignating subsection (c) as sub-
 10 section (d) and by inserting after subsection (b) the
 11 following new subsection:

12 “(c) WHOLESALE DEALERS.—For purposes of this
 13 part—

14 “(1) WHOLESALE DEALER IN LIQUORS.—The
 15 term ‘wholesale dealer in liquors’ means any dealer
 16 (other than a wholesale dealer in beer) who sells, or
 17 offers for sale, distilled spirits, wines, or beer, to an-
 18 other dealer.

19 “(2) WHOLESALE DEALER IN BEER.—The term
 20 ‘wholesale dealer in beer’ means any dealer who
 21 sells, or offers for sale, beer, but not distilled spirits
 22 or wines, to another dealer.

23 “(3) DEALER.—The term ‘dealer’ means any
 24 person who sells, or offers for sale, any distilled spir-
 25 its, wines, or beer.

1 “(4) PRESUMPTION IN CASE OF SALE OF 20
 2 WINE GALLONS OR MORE.—The sale, or offer for
 3 sale, of distilled spirits, wines, or beer, in quantities
 4 of 20 wine gallons or more to the same person at
 5 the same time, shall be presumptive evidence that
 6 the person making such sale, or offer for sale, is en-
 7 gaged in or carrying on the business of a wholesale
 8 dealer in liquors or a wholesale dealer in beer, as the
 9 case may be. Such presumption may be overcome by
 10 evidence satisfactorily showing that such sale, or
 11 offer for sale, was made to a person other than a
 12 dealer.”.

13 (C) Paragraph (3) of section 5121(d), as so re-
 14 designated, is amended by striking “section 5146”
 15 and inserting “section 5123”.

16 (6)(A) Section 5124 (relating to records) is
 17 moved to subpart C of part II of subchapter A of
 18 chapter 51 and inserted after section 5121.

19 (B) Section 5124 is amended—

20 (i) by striking the section heading and in-
 21 serting the following new heading:

22 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

23 (ii) by striking “section 5146” in subsection (c)
 24 and inserting “section 5123”, and

1 (iii) by redesignating subsection (c) as sub-
 2 section (d) and inserting after subsection (b) the fol-
 3 lowing new subsection:

4 “(c) RETAIL DEALERS.—For purposes of this sec-
 5 tion—

6 “(1) RETAIL DEALER IN LIQUORS.—The term
 7 ‘retail dealer in liquors’ means any dealer (other
 8 than a retail dealer in beer or a limited retail dealer)
 9 who sells, or offers for sale, distilled spirits, wines,
 10 or beer, to any person other than a dealer.

11 “(2) RETAIL DEALER IN BEER.—The term ‘re-
 12 tail dealer in beer’ means any dealer (other than a
 13 limited retail dealer) who sells, or offers for sale,
 14 beer, but not distilled spirits or wines, to any person
 15 other than a dealer.

16 “(3) LIMITED RETAIL DEALER.—The term ‘lim-
 17 ited retail dealer’ means any fraternal, civic, church,
 18 labor, charitable, benevolent, or ex-servicemen’s or-
 19 ganization making sales of distilled spirits, wine or
 20 beer on the occasion of any kind of entertainment,
 21 dance, picnic, bazaar, or festival held by it, or any
 22 person making sales of distilled spirits, wine or beer
 23 to the members, guests, or patrons of bona fide
 24 fairs, reunions, picnics, carnivals, or other similar

1 outings, if such organization or person is not other-
2 wise engaged in business as a dealer.

3 “(4) DEALER.—The term ‘dealer’ has the
4 meaning given such term by section 5121(c)(3).”.

5 (7) Section 5146 is moved to subpart C of part
6 II of subchapter A of chapter 51, inserted after sec-
7 tion 5122, and redesignated as section 5123.

8 (8) Subpart C of part II of subchapter A of
9 chapter 51, as amended by paragraph (7), is amend-
10 ed by adding at the end the following new section:

11 **“SEC. 5124. REGISTRATION BY DEALERS.**

12 “Every dealer who is subject to the recordkeeping re-
13 quirements under section 5121 or 5122 shall register with
14 the Secretary such dealer’s name or style, place of resi-
15 dence, trade or business, and the place where such trade
16 or business is to be carried on. In case of a firm or com-
17 pany, the names of the several persons constituting the
18 same, and the places of residence, shall be so registered.”.

19 (9) Section 7012 is amended by redesignating
20 paragraphs (4) and (5) as paragraphs (5) and (6),
21 respectively, and by inserting after paragraph (3)
22 the following new paragraph:

23 “(4) For provisions relating to registration by
24 dealers in distilled spirits, wines, and beer, see sec-
25 tion 5124.”.

1 (10) Part II of subchapter A of chapter 51 is
 2 amended by inserting after subpart C the following
 3 new subpart:

4 **“Subpart D—Other Provisions**

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”.

5 (11) Section 5116 is moved to subpart D of
 6 part II of subchapter A of chapter 51, inserted after
 7 the table of sections, redesignated as section 5131,
 8 and amended by inserting “(as defined in section
 9 5121(c))” after “dealer” in subsection (a).

10 (12) Subpart D of part II of subchapter A of
 11 chapter 51 is amended by adding at the end the fol-
 12 lowing new section:

13 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

14 “(a) IN GENERAL.—Except as provided in regula-
 15 tions prescribed by the Secretary, it shall be unlawful for
 16 a dealer to purchase distilled spirits for resale from any
 17 person other than a wholesale dealer in liquors who is re-
 18 quired to keep the records prescribed by section 5121.

19 “(b) LIMITED RETAIL DEALERS.—A limited retail
 20 dealer may lawfully purchase distilled spirits for resale
 21 from a retail dealer in liquors.

22 “(c) PENALTY AND FORFEITURE.—

“For penalty and forfeiture provisions applicable to violations of subsection (a),
 see sections 5687 and 7302.”.

1 (13) Subsection (b) of section 5002 is amend-
2 ed—

3 (A) by striking “section 5112(a)” and in-
4 serting “section 5121(c)(3)”,

5 (B) by striking “section 5112” and insert-
6 ing “section 5121(c)”,

7 (C) by striking “section 5122” and insert-
8 ing “section 5122(c)”.

9 (14) Subparagraph (A) of section 5010(c)(2) is
10 amended by striking “section 5134” and inserting
11 “section 5114”.

12 (15) Subsection (d) of section 5052 is amended
13 to read as follows:

14 “(d) BREWER.—For purposes of this chapter, the
15 term ‘brewer’ means any person who brews beer or pro-
16 duces beer for sale. Such term shall not include any person
17 who produces only beer exempt from tax under section
18 5053(e).”.

19 (16) The text of section 5182 is amended to
20 read as follows:

“For provisions requiring recordkeeping by wholesale liquor dealers, see
section 5112, and by retail liquor dealers, see section
5122.”.

21 (17) Subsection (b) of section 5402 is amended
22 by striking “section 5092” and inserting “section
23 5052(d)”.

1 (18) Section 5671 is amended by striking “or
2 5091”.

3 (19)(A) Part V of subchapter J of chapter 51
4 is hereby repealed.

5 (B) The table of parts for such subchapter J is
6 amended by striking the item relating to part V.

7 (20)(A) Sections 5142, 5143, and 5145 are
8 moved to subchapter D of chapter 52, inserted after
9 section 5731, redesignated as sections 5732, 5733,
10 and 5734, respectively, and amended by striking
11 “this part” each place it appears and inserting “this
12 subchapter”.

13 (B) Section 5732, as redesignated by subpara-
14 graph (A), is amended by striking “(except the tax
15 imposed by section 5131)” each place it appears.

16 (C) Paragraph (2) of section 5733(c), as redesi-
17 gnated by subparagraph (A), is amended by striking
18 “liquors” both places it appears and inserting “to-
19 bacco products and cigarette papers and tubes”.

20 (D) The table of sections for subchapter D of
21 chapter 52 is amended by adding at the end the fol-
22 lowing:

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”.

1 (E) Section 5731 is amended by striking sub-
 2 section (c) and by redesignating subsection (d) as
 3 subsection (c).

4 (21) Subsection (c) of section 6071 is amended
 5 by striking “section 5142” and inserting “section
 6 5732”.

7 (22) Paragraph (1) of section 7652(g) is
 8 amended—

9 (A) by striking “subpart F” and inserting
 10 “subpart B”, and

11 (B) by striking “section 5131(a)” and in-
 12 serting “section 5111”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect on July 1, 2008, but shall
 15 not apply to taxes imposed for periods before such date.

16 **SEC. 232. MODIFICATION OF LIMITATION ON RATE OF RUM**
 17 **EXCISE TAX COVER OVER TO PUERTO RICO**
 18 **AND VIRGIN ISLANDS.**

19 (a) IN GENERAL.—Section 7652(f)(1) (relating to
 20 limitation on cover over of tax on distilled spirits) is
 21 amended by inserting “, and \$13.50 in the case of distilled
 22 spirits brought into the United States after December 31,
 23 2005, and before January 1, 2007” after “2006”.

24 (b) SPECIAL RULE.—

1 (1) IN GENERAL.—After December 31, 2005,
 2 and before January 1, 2007, the Commonwealth of
 3 Puerto Rico shall make a Conservation Trust Fund
 4 transfer from the treasury of Puerto Rico within 30
 5 days from the date of each cover overpayment to
 6 such treasury under section 7652(e) of the Internal
 7 Revenue Code of 1986.

8 (2) CONSERVATION TRUST FUND TRANSFER.—

9 (A) IN GENERAL.—For purposes of this
 10 subsection, the term “Conservation Trust Fund
 11 transfer” means a transfer to the Puerto Rico
 12 Conservation Trust Fund of an amount equal
 13 to 50 cents per proof gallon of the taxes im-
 14 posed under section 5001 or section 7652 of
 15 such Code on distilled spirits that are covered
 16 over to the treasury of Puerto Rico under sec-
 17 tion 7652(e) of such Code.

18 (B) TREATMENT OF TRANSFER.—Each
 19 Conservation Trust Fund transfer shall be
 20 treated as principal for an endowment, the in-
 21 come from which to be available for use by the
 22 Puerto Rico Conservation Trust Fund for the
 23 purposes for which the Trust Fund was estab-
 24 lished.

25 (C) RESULT OF NONTRANSFER.—

1 (i) IN GENERAL.—Upon notification
2 by the Secretary of the Interior that a
3 Conservation Trust Fund transfer has not
4 been made by the Commonwealth of Puer-
5 to Rico, the Secretary of the Treasury
6 shall, except as provided in clause (ii), de-
7 duct and withhold from the next cover
8 overpayment to be made to the treasury of
9 Puerto Rico under section 7652(e) of such
10 Code an amount equal to the appropriate
11 Conservation Trust Fund transfer and in-
12 terest thereon at the underpayment rate
13 established under section 6621 of such
14 Code as of the due date of such transfer.
15 The Secretary of the Treasury shall trans-
16 fer such amount deducted and withheld,
17 and the interest thereon, directly to the
18 Puerto Rico Conservation Trust Fund.

19 (ii) GOOD-CAUSE EXCEPTION.—If the
20 Secretary of the Interior finds, after con-
21 sultation with the Governor of Puerto
22 Rico, that the failure by the Common-
23 wealth of Puerto Rico to make a required
24 transfer was for good cause, and notifies
25 the Secretary of the Treasury of the find-

1 ing of such good cause before the due date
 2 of the next cover overpayment following
 3 the notification of nontransfer, then the
 4 Secretary of the Treasury shall not deduct
 5 the amount of such nontransfer from any
 6 cover overpayment.

7 (3) PUERTO RICO CONSERVATION TRUST
 8 FUND.—For purposes of this subsection, the term
 9 “Puerto Rico Conservation Trust Fund” means the
 10 fund established pursuant to a Memorandum of Un-
 11 derstanding between the United States Department
 12 of the Interior and the Commonwealth of Puerto
 13 Rico, dated December 24, 1968.

14 **SEC. 233. INCOME TAX CREDIT FOR DISTILLED SPIRITS**
 15 **WHOLESALE AND FOR DISTILLED SPIRITS**
 16 **IN CONTROL STATE BAILMENT WAREHOUSES**
 17 **FOR COSTS OF CARRYING FEDERAL EXCISE**
 18 **TAXES ON BOTTLED DISTILLED SPIRITS.**

19 (a) IN GENERAL.—Subpart A of part I of subchapter
 20 A of chapter 51 (relating to gallonage and occupational
 21 taxes) is amended by adding at the end the following new
 22 section:

1 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
 2 **CARRYING EXCISE TAX.**

3 “(a) IN GENERAL.—For purposes of section 38, the
 4 amount of the distilled spirits credit for any taxable year
 5 is the amount equal to the product of—

6 “(1) in the case of—

7 “(A) any eligible wholesaler, the number of
 8 cases of bottled distilled spirits—

9 “(i) which were bottled in the United
 10 States, and

11 “(ii) which are purchased by such
 12 wholesaler during the taxable year directly
 13 from the bottler of such spirits, or

14 “(B) any person which is subject to section
 15 5005 and which is not an eligible wholesaler,
 16 the number of cases of bottled distilled spirits
 17 which are stored in a warehouse operated by, or
 18 on behalf of, a State or political subdivision
 19 thereof, or an agency of either, on which title
 20 has not passed on an unconditional sale basis,
 21 and

22 “(2) the average tax-financing cost per case for
 23 the most recent calendar year ending before the be-
 24 ginning of such taxable year.

25 “(b) ELIGIBLE WHOLESALER.—For purposes of this
 26 section, the term ‘eligible wholesaler’ means any person

1 which holds a permit under the Federal Alcohol Adminis-
 2 tration Act as a wholesaler of distilled spirits which is not
 3 a State or political subdivision thereof, or an agency of
 4 either.

5 “(c) AVERAGE TAX-FINANCING COST.—

6 “(1) IN GENERAL.—For purposes of this sec-
 7 tion, the average tax-financing cost per case for any
 8 calendar year is the amount of interest which would
 9 accrue at the deemed financing rate during a 60-day
 10 period on an amount equal to the deemed Federal
 11 excise tax per case.

12 “(2) DEEMED FINANCING RATE.—For purposes
 13 of paragraph (1), the deemed financing rate for any
 14 calendar year is the average of the corporate over-
 15 payment rates under paragraph (1) of section
 16 6621(a) (determined without regard to the last sen-
 17 tence of such paragraph) for calendar quarters of
 18 such year.

19 “(3) DEEMED FEDERAL EXCISE TAX PER
 20 CASE.—For purposes of paragraph (1), the deemed
 21 Federal excise tax per case is \$25.68.

22 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—
 23 For purposes of this section—

24 “(1) CASE.—The term ‘case’ means 12 80-
 25 proof 750-milliliter bottles.

1 “(2) NUMBER OF CASES IN LOT.—The number
2 of cases in any lot of distilled spirits shall be deter-
3 mined by dividing the number of liters in such lot
4 by 9.”.

5 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
6 NESS CREDIT.—Section 38(b) (relating to current year
7 business credit) is amended by striking “plus” at the end
8 of paragraph (18), by striking the period at the end of
9 paragraph (19), and inserting “, plus”, and by adding at
10 the end the following new paragraph:

11 “(20) the distilled spirits credit determined
12 under section 5011(a).”.

13 (c) CONFORMING AMENDMENT.—The table of sec-
14 tions for subpart A of part I of subchapter A of chapter
15 51 is amended by adding at the end the following new
16 item:

 “Sec. 5011. Income tax credit for average cost of carrying excise tax.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 September 30, 2005.

20 **SEC. 234. QUARTERLY EXCISE TAX FILING FOR SMALL AL-**
21 **COHOL EXCISE TAXPAYERS.**

22 (a) IN GENERAL.—Subsection (d) of section 5061
23 (relating to time for collecting tax on distilled spirits,
24 wines, and beer) is amended by redesignating paragraphs
25 (4) and (5) as paragraphs (5) and (6), respectively, and

1 by inserting after paragraph (3) the following new para-
2 graph:

3 “(4) TAXPAYERS LIABLE FOR TAXES OF NOT
4 MORE THAN \$50,000.—

5 “(A) IN GENERAL.—In the case of any
6 taxpayer who reasonably expects to be liable for
7 not more than \$50,000 in taxes imposed with
8 respect to distilled spirits, wines, and beer
9 under subparts A, C, and D for the calendar
10 year and who was liable for not more than
11 \$50,000 in such taxes in the preceding calendar
12 year, the last day for the payment of tax shall
13 be the 14th day after the last day of the cal-
14 endar quarter during which the action giving
15 rise to the imposition of such tax occurs.

16 “(B) NO APPLICATION AFTER LIMIT EX-
17 CEEDED.—Subparagraph (A) shall not apply to
18 any taxpayer for any portion of the calendar
19 year following the first date on which the aggre-
20 gate amount of tax due under subparts A, C,
21 and D from such taxpayer during such calendar
22 year exceeds \$50,000, and any tax under such
23 subparts which has not been paid on such date
24 shall be due on the 14th day after the last day

1 of the semimonthly period in which such date
 2 occurs.

3 “(C) CALENDAR QUARTER.—For purposes
 4 of this paragraph, the term ‘calendar quarter’
 5 means the three-month period ending on March
 6 31, June 30, September 30, or December 31.”.

7 (b) CONFORMING AMENDMENT.—Section
 8 5061(d)(6), as redesignated by subsection (a), is amended
 9 by striking “paragraph (4)” and inserting “paragraph
 10 (5)”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply with respect to quarterly periods
 13 beginning on and after January 1, 2006.

14 **Subtitle E—Sport Excise Taxes**

15 **SEC. 241. CUSTOM GUNSMITHS.**

16 (a) SMALL MANUFACTURERS EXEMPT FROM FIRE-
 17 ARMS EXCISE TAX.—Section 4182 (relating to exemp-
 18 tions) is amended by redesignating subsection (c) as sub-
 19 section (d) and by inserting after subsection (b) the fol-
 20 lowing new subsection:

21 “(c) SMALL MANUFACTURERS, ETC.—

22 “(1) IN GENERAL.—The tax imposed by section
 23 4181 shall not apply to any pistol, revolver, or fire-
 24 arm described in such section if manufactured, pro-
 25 duced, or imported by a person who manufactures,

1 produces, and imports less than an aggregate of 50
2 of such articles during the calendar year.

3 “(2) CONTROLLED GROUPS.—All persons treat-
4 ed as a single employer for purposes of subsection
5 (a) or (b) of section 52 shall be treated as one per-
6 son for purposes of paragraph (1).”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall apply to articles sold by the manu-
10 facturer, producer, or importer after September 30,
11 2005.

12 (2) NO INFERENCE.—Nothing in the amend-
13 ments made by this section shall be construed to
14 create any inference with respect to the proper tax
15 treatment of any sales before the effective date of
16 such amendments.

17 **TITLE III—MISCELLANEOUS** 18 **PROVISIONS**

19 **SEC. 301. MOTOR FUEL TAX ENFORCEMENT ADVISORY** 20 **COMMISSION.**

21 (a) ESTABLISHMENT.—There is established a Motor
22 Fuel Tax Enforcement Advisory Commission (in this sec-
23 tion referred to as the “Commission”).

24 (b) FUNCTION.—The Commission shall—

1 (1) review motor fuel revenue collections, histor-
2 ical and current;

3 (2) review the progress of investigations;

4 (3) develop and review legislative proposals with
5 respect to motor fuel taxes;

6 (4) monitor the progress of administrative regu-
7 lation projects relating to motor fuel taxes;

8 (5) review the results of Federal and State
9 agency cooperative efforts regarding motor fuel
10 taxes;

11 (6) review the results of Federal interagency co-
12 operative efforts regarding motor fuel taxes; and

13 (7) evaluate and make recommendations to the
14 President and Congress regarding—

15 (A) the effectiveness of existing Federal
16 enforcement programs regarding motor fuel
17 taxes,

18 (B) enforcement personnel allocation, and

19 (C) proposals for regulatory projects, legis-
20 lation, and funding.

21 (c) MEMBERSHIP.—

22 (1) APPOINTMENT.—The Commission shall be
23 composed of the following representatives appointed
24 by the Chairmen and the Ranking Members of the
25 Committee on Finance of the Senate and the Com-

1 mittee on Ways and Means of the House of Rep-
2 resentatives:

3 (A) At least 1 representative from each of
4 the following Federal entities: the Department
5 of Homeland Security, the Department of
6 Transportation—Office of Inspector General,
7 the Federal Highway Administration, the De-
8 partment of Defense, and the Department of
9 Justice.

10 (B) At least 1 representative from the
11 Federation of State Tax Administrators.

12 (C) At least 1 representative from any
13 State department of transportation.

14 (D) 2 representatives from the highway
15 construction industry.

16 (E) 6 representatives from industries relat-
17 ing to fuel distribution — refiners (2 represent-
18 atives), distributors (1 representative), pipelines
19 (1 representative), and terminal operators (2
20 representatives).

21 (F) 1 representative from the retail fuel in-
22 dustry.

23 (G) 2 representatives from the staff of the
24 Committee on Finance of the Senate and 2 rep-
25 resentatives from the staff of the Committee on

1 Ways and Means of the House of Representa-
2 tives.

3 (2) TERMS.—Members shall be appointed for
4 the life of the Commission.

5 (3) VACANCIES.—A vacancy in the Commission
6 shall be filled in the manner in which the original
7 appointment was made.

8 (4) TRAVEL EXPENSES.—Members shall serve
9 without pay but shall receive travel expenses, includ-
10 ing per diem in lieu of subsistence, in accordance
11 with sections 5702 and 5703 of title 5, United
12 States Code.

13 (5) CHAIRMAN.—The Chairman of the Commis-
14 sion shall be elected by the members.

15 (d) FUNDING.—Such sums as are necessary shall be
16 available from the Highway Trust fund for the expenses
17 of the Commission.

18 (e) CONSULTATION.—Upon request of the Commis-
19 sion, representatives of the Department of the Treasury
20 and the Internal Revenue Service shall be available for
21 consultation to assist the Commission in carrying out its
22 duties under this section.

23 (f) OBTAINING DATA.—The Commission may secure
24 directly from any department or agency of the United
25 States, information (other than information required by

1 any law to be kept confidential by such department or
 2 agency) necessary for the Commission to carry out its du-
 3 ties under this section. Upon request of the Commission,
 4 the head of that department or agency shall furnish such
 5 nonconfidential information to the Commission. The Com-
 6 mission shall also gather evidence through such means as
 7 it may deem appropriate, including through holding hear-
 8 ings and soliciting comments by means of Federal Reg-
 9 ister notices.

10 (g) TERMINATION.—The Commission shall terminate
 11 as of the close of September 30, 2009.

12 **SEC. 302. NATIONAL SURFACE TRANSPORTATION INFRA-**
 13 **STRUCTURE FINANCING COMMISSION.**

14 (a) ESTABLISHMENT.—There is established a Na-
 15 tional Surface Transportation Infrastructure Financing
 16 Commission (in this section referred to as the “Commis-
 17 sion”). The Commission shall hold its first meeting within
 18 90 days of the appointment of the eighth individual to be
 19 named to the Commission.

20 (b) FUNCTION.—

21 (1) IN GENERAL.—The Commission shall, with
 22 respect to the period beginning on the date of the
 23 enactment of this Act and ending before 2016—

24 (A) make a thorough investigation and
 25 study of revenues flowing into the Highway

1 Trust Fund under current law, including the in-
2 dividual components of the overall flow of such
3 revenues;

4 (B) consider whether the amount of such
5 revenues is likely to increase, decline, or remain
6 unchanged, absent changes in the law, particu-
7 larly by taking into account the impact of pos-
8 sible changes in public vehicular choice, fuel
9 use, or travel alternatives that could be ex-
10 pected to reduce or increase revenues into the
11 Highway Trust Fund;

12 (C) consider alternative approaches to gen-
13 erating revenues for the Highway Trust Fund,
14 and the level of revenues that such alternatives
15 would yield;

16 (D) consider highway and transit needs
17 and whether additional revenues into the High-
18 way Trust Fund, or other Federal revenues
19 dedicated to highway and transit infrastructure,
20 would be required in order to meet such needs;
21 and

22 (E) study such other matters closely re-
23 lated to the subjects described in the preceding
24 subparagraphs as it may deem appropriate.

1 (2) PREPARATION OF REPORT.—Based on such
2 investigation and study, the Commission shall de-
3 velop a final report, with recommendations and the
4 bases for those recommendations, indicating policies
5 that should be adopted, or not adopted, to achieve
6 various levels of annual revenue for the Highway
7 Trust Fund and to enable the Highway Trust Fund
8 to receive revenues sufficient to meet highway and
9 transit needs. Such recommendations shall address,
10 among other matters as the Commission may deem
11 appropriate—

12 (A) what levels of revenue are required by
13 the Federal Highway Trust Fund in order for
14 it to meet needs to maintain and improve the
15 condition and performance of the Nation’s high-
16 way and transit systems;

17 (B) what levels of revenue are required by
18 the Federal Highway Trust Fund in order to
19 ensure that Federal levels of investment in
20 highways and transit do not decline in real
21 terms; and

22 (C) the extent, if any, to which the High-
23 way Trust Fund should be augmented by other
24 mechanisms or funds as a Federal means of fi-

1 nancing highway and transit infrastructure in-
2 vestments.

3 (c) MEMBERSHIP.—

4 (1) APPOINTMENT.—The Commission shall be
5 composed of 15 members, appointed as follows:

6 (A) 7 members appointed by the Secretary
7 of Transportation, in consultation with the Sec-
8 retary of the Treasury.

9 (B) 2 members appointed by the Chairman
10 of the Committee on Ways and Means of the
11 House of Representatives.

12 (C) 2 members appointed by the Ranking
13 Minority Member of the Committee on Ways
14 and Means of the House of Representatives.

15 (D) 2 members appointed by the Chairman
16 of the Committee on Finance of the Senate.

17 (E) 2 members appointed by the Ranking
18 Minority Member of the Committee on Finance
19 of the Senate.

20 (2) QUALIFICATIONS.—Members appointed pur-
21 suant to paragraph (1) shall be appointed from
22 among individuals knowledgeable in the fields of
23 public transportation finance or highway and transit
24 programs, policy, and needs, and may include rep-
25 resentatives of interested parties, such as State and

1 local governments or other public transportation au-
2 thorities or agencies, representatives of the transpor-
3 tation construction industry (including suppliers of
4 technology, machinery and materials), transportation
5 labor (including construction and providers), trans-
6 portation providers, the financial community, and
7 users of highway and transit systems.

8 (3) TERMS.—Members shall be appointed for
9 the life of the Commission.

10 (4) VACANCIES.—A vacancy in the Commission
11 shall be filled in the manner in which the original
12 appointment was made.

13 (5) TRAVEL EXPENSES.—Members shall serve
14 without pay but shall receive travel expenses, includ-
15 ing per diem in lieu of subsistence, in accordance
16 with sections 5702 and 5703 of title 5, United
17 States Code.

18 (6) CHAIRMAN.—The Chairman of the Commis-
19 sion shall be elected by the members.

20 (d) STAFF.—The Commission may appoint and fix
21 the pay of such personnel as it considers appropriate.

22 (e) FUNDING.—Funding for the Commission shall be
23 provided by the Secretary of the Treasury and by the Sec-
24 retary of Transportation, out of funds available to those
25 agencies for administrative and policy functions.

1 (f) STAFF OF FEDERAL AGENCIES.—Upon request
2 of the Commission, the head of any department or agency
3 of the United States may detail any of the personnel of
4 that department or agency to the Commission to assist
5 in carrying out its duties under this section.

6 (g) OBTAINING DATA.—The Commission may secure
7 directly from any department or agency of the United
8 States, information (other than information required by
9 any law to be kept confidential by such department or
10 agency) necessary for the Commission to carry out its du-
11 ties under this section. Upon request of the Commission,
12 the head of that department or agency shall furnish such
13 nonconfidential information to the Commission. The Com-
14 mission shall also gather evidence through such means as
15 it may deem appropriate, including through holding hear-
16 ings and soliciting comments by means of Federal Reg-
17 ister notices.

18 (h) REPORT.—Not later than 2 years after the date
19 of its first meeting, the Commission shall transmit its final
20 report, including recommendations, to the Secretary of
21 Transportation, the Secretary of the Treasury, and the
22 Committee on Ways and Means of the House of Rep-
23 resentatives, the Committee on Finance of the Senate, the
24 Committee on Transportation and Infrastructure of the
25 House of Representatives, the Committee on Environment

1 and Public Works of the Senate, and the Committee on
2 Banking, Housing, and Urban Affairs of the Senate.

3 (i) TERMINATION.—The Commission shall terminate
4 on the 180th day following the date of transmittal of the
5 report under subsection (h). All records and papers of the
6 Commission shall thereupon be delivered to the Adminis-
7 trator of General Services for deposit in the National Ar-
8 chives.

9 **SEC. 303. EXPANSION OF HIGHWAY TRUST FUND EXPENDI-**
10 **TURE PURPOSES TO INCLUDE FUNDING FOR**
11 **STUDIES OF SUPPLEMENTAL OR ALTER-**
12 **NATIVE FINANCING FOR THE HIGHWAY**
13 **TRUST FUND.**

14 (a) IN GENERAL.—From amounts available in the
15 Highway Trust Fund, there is authorized to be expended
16 for 2 comprehensive studies of supplemental or alternative
17 funding sources for the Highway Trust Fund—

18 (1) \$1,000,000 to the Western Transportation
19 Institute of the College of Engineering at Montana
20 State University for the study and report described
21 in subsection (b), and

22 (2) \$16,500,000 to the Public Policy Center of
23 the University of Iowa for the study and report de-
24 scribed in subsection (c).

1 (b) STUDY OF FUNDING MECHANISMS.—Not later
 2 than December 31, 2006, the Western Transportation In-
 3 stitute of the College of Engineering at Montana State
 4 University shall report to the Secretary of the Treasury
 5 and the Secretary of Transportation on a study of highway
 6 funding mechanisms of other industrialized nations, an ex-
 7 amination of the viability of alternative funding proposals,
 8 including congestion pricing, greater reliance on tolls, pri-
 9 vatization of facilities, and bonding for construction of
 10 added capacity, and an examination of increasing the rates
 11 of motor fuels taxes in effect on the date of the enactment
 12 of this Act, including the indexation of such rates.

13 (c) STUDY ON FIELD TEST OF ONBOARD COMPUTER
 14 ASSESSMENT OF HIGHWAY USE TAXES.—Not later than
 15 December 31, 2011, the Public Policy Center of the Uni-
 16 versity of Iowa shall direct, analyze, and report to the Sec-
 17 retary of the Treasury and the Secretary of Transpor-
 18 tation on a long-term field test of an approach to assessing
 19 highway use taxes based upon actual mileage driven by
 20 a specific vehicle on specific types of highways by use of
 21 an onboard computer—

22 (1) which is linked to satellites to calculate
 23 highway mileage traversed,

24 (2) which computes the appropriate highway
 25 use tax for each of the Federal, State, and local gov-

1 ernments as the vehicle makes use of the highways,
2 and

3 (3) the data from which is periodically
4 downloaded by the vehicle owner to a collection cen-
5 ter for an assessment of highway use taxes due in
6 each jurisdiction traversed. The components of the
7 field test shall include 2 years for preparation, in-
8 cluding selection of vendors and test participants,
9 and 3-year testing period.

10 **SEC. 304. DELTA REGIONAL TRANSPORTATION PLAN.**

11 (a) STUDY.—The Delta Regional Authority shall con-
12 duct a study of the transportation assets and needs in the
13 States of Alabama, Arkansas, Illinois, Kentucky, Lou-
14 isiana, Mississippi, Missouri, and Tennessee which com-
15 prise the Delta region.

16 (b) REGIONAL STRATEGIC TRANSPORTATION
17 PLAN.—Upon completion of the study required under sub-
18 section (a), the Delta Regional Authority shall establish
19 a regional strategic transportation plan to achieve efficient
20 transportation systems in the Delta region. In developing
21 the regional strategic transportation plan, the Delta Re-
22 gional Authority shall consult with local planning and de-
23 velopment districts, local and regional governments, met-
24 ropolitan planning organizations, State transportation en-
25 tities, and Federal transportation agencies.

1 (c) ELEMENTS OF STUDY AND PLAN.—The study
 2 and plan under this section shall include the following
 3 transportation modes and systems: transit, rail, highway,
 4 interstate, bridges, air, airports, waterways, and ports.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
 6 authorized to be appropriated to the Delta Regional Au-
 7 thority \$500,000 for each of the fiscal years 2005 and
 8 2006 to carry out the purposes of this section, to remain
 9 available until expended.

10 **SEC. 305. BUILD AMERICA CORPORATION.**

11 (a) ESTABLISHMENT OF BUILD AMERICA CORPORA-
 12 TION.—There is established a nonprofit corporation, to be
 13 known as the “Build America Corporation”. The Build
 14 America Corporation is not an agency or establishment of
 15 the United States Government. The purpose of the Cor-
 16 poration is to issue Build America bonds. The Corporation
 17 shall be subject, to the extent consistent with this section,
 18 to the laws of the State of Delaware applicable to corpora-
 19 tions not for profit.

20 (b) USE OF BUILD AMERICA BOND PROCEEDS.—The
 21 proceeds from the sale of any Build America bonds issued
 22 by the Build America Corporation as authorized by sub-
 23 section (a) may be used to fund any qualified project.

24 (c) QUALIFIED PROJECTS.—For purposes of this sec-
 25 tion—

1 (1) IN GENERAL.—With respect to any Build
 2 America bonds issued by the Build America Cor-
 3 poration as authorized by subsection (a), the term
 4 “qualified project” means any—

5 (A) qualified highway project,

6 (B) qualified public transportation project,

7 and

8 (C) congestion relief project,

9 proposed by 1 or more States and approved by the
 10 Build America Corporation, which meets the require-
 11 ments under subparagraphs (A), (B), and (C) of
 12 paragraph (5).

13 (2) QUALIFIED HIGHWAY PROJECT.—The term
 14 “qualified highway project” means a project for
 15 highway facilities or other facilities which are eligible
 16 for assistance under title 23, United States Code.

17 (3) QUALIFIED PUBLIC TRANSPORTATION
 18 PROJECT.—The term “qualified public transpor-
 19 tation project” means a project for public transpor-
 20 tation facilities or other facilities which are eligible
 21 for assistance under title 49, United States Code.

22 (4) CONGESTION RELIEF PROJECT.—The term
 23 “congestion relief project” means an intermodal
 24 freight transfer facility, freight rail facility, freight
 25 movement corridor, intercity passenger rail facility,

intercity bus facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(5) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of paragraph (1)—

(A) COSTS OF QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the costs of the qualified project funded by Build America bonds only relate to capital investments and do not include any costs relating to operations, maintenance, or rolling stock.

(B) APPLICABILITY OF FEDERAL LAW.—The requirement of this subparagraph is met if

the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(i) funds made available under Build America bonds for similar qualified projects, and

(ii) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(C) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

SEC. 306. INCREASE IN DOLLAR LIMITATION FOR QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Section 132(f)(2) (relating to limitation on exclusion) is amended—

1 (1) by striking “\$100” in subparagraph (A)
 2 and inserting “\$155”, and

3 (2) by striking “\$175” in subparagraph (B)
 4 and inserting “\$200”.

5 (b) INFLATION ADJUSTMENT CONFORMING AMEND-
 6 MENTS.—Subparagraph (A) of section 132(f)(6) (relating
 7 to inflation adjustment) is amended—

8 (1) by striking the last sentence,

9 (2) by striking “1999” and inserting “2008”,
 10 and

11 (3) by striking “1998” and inserting “2007”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 2005.

15 **TITLE IV—FUELS-RELATED** 16 **TECHNICAL CORRECTIONS**

17 **SEC. 401. FUELS-RELATED TECHNICAL CORRECTIONS.**

18 (a) AMENDMENTS RELATED TO SECTION 301 OF
 19 THE AMERICAN JOBS CREATION ACT OF 2004.—Section
 20 6427 is amended—

21 (1) by striking subsection (f), and

22 (2) by striking subsection (o) and redesignating
 23 subsection (p) as subsection (o).

24 (b) AMENDMENTS RELATED TO SECTION 853 OF
 25 THE AMERICAN JOBS CREATION ACT OF 2004.—

1 (1) Subparagraph (C) of section 4081(a)(2) is
 2 amended by striking “for use in commercial avia-
 3 tion” and inserting “for use in commercial aviation
 4 by a person registered for such use under section
 5 4101”.

6 (2) So much of paragraph (2) of section
 7 4081(d) as precedes subparagraph (A) is amended
 8 to read as follows:

9 “(2) AVIATION FUELS.—The rates of tax speci-
 10 fied in clauses (ii) and (iv) of subsection (a)(2)(A)
 11 shall be 4.3 cents per gallon—”.

12 (c) AMENDMENT RELATED TO SECTION 9005 OF
 13 THE TRANSPORTATION EQUITY ACT FOR THE 21ST CEN-
 14 TURY.—The last sentence of paragraph (2) of section
 15 9504(b) is amended by striking “subparagraph (B)”, and
 16 inserting “subparagraph (C)”.

17 (d) EFFECTIVE DATES.—

18 (1) AMERICAN JOBS CREATION ACT OF 2004.—
 19 The amendments made by subsections (a) and (b)
 20 shall take effect as if included in the provisions of
 21 the American Jobs Creation Act of 2004 to which
 22 they relate.

23 (2) TRANSPORTATION EQUITY ACT FOR THE
 24 21ST CENTURY.—The amendment made by sub-
 25 section (c) shall take effect as if included in the pro-

1 vision of the Transportation Equity Act for the 21st
 2 Century to which it relates.

3 **TITLE V—REVENUE OFFSET**
 4 **PROVISIONS**

5 **SEC. 501. TREATMENT OF CONTINGENT PAYMENT CON-**
 6 **VERTIBLE DEBT INSTRUMENTS.**

7 (a) IN GENERAL.—Section 1275(d) (relating to regu-
 8 lation authority) is amended—

9 (1) by striking “The Secretary” and inserting
 10 the following:

11 “(1) IN GENERAL.—The Secretary”, and

12 (2) by adding at the end the following new
 13 paragraph:

14 “(2) TREATMENT OF CONTINGENT PAYMENT
 15 CONVERTIBLE DEBT.—

16 “(A) IN GENERAL.—In the case of a debt
 17 instrument which—

18 “(i) is convertible into stock of the
 19 issuing corporation, into stock or debt of a
 20 related party (within the meaning of sec-
 21 tion 267(b) or 707(b)(1)), or into cash or
 22 other property in an amount equal to the
 23 approximate value of such stock or debt,
 24 and

1 “(ii) provides for contingent pay-
2 ments,
3 any regulations which require original issue dis-
4 count to be determined by reference to the com-
5 parable yield of a noncontingent fixed-rate debt
6 instrument shall be applied as if the regulations
7 require that such comparable yield be deter-
8 mined by reference to a noncontingent fixed-
9 rate debt instrument which is convertible into
10 stock.

11 “(B) SPECIAL RULE.—For purposes of
12 subparagraph (A), the comparable yield shall be
13 determined without taking into account the
14 yield resulting from the conversion of a debt in-
15 strument into stock.”.

16 (b) CROSS REFERENCE.—Section 163(e)(6) (relating
17 to cross references) is amended by adding at the end the
18 following:

19 “For the treatment of contingent payment con-
20 vertible debt, see section 1275(d)(2).”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to debt instruments issued on or
23 after the date of the enactment of this Act.

1 **SEC. 502. FRIVOLOUS TAX SUBMISSIONS.**

2 (a) CIVIL PENALTIES.—Section 6702 is amended to
3 read as follows:

4 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

5 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
6 TURNS.—A person shall pay a penalty of \$5,000 if—

7 “(1) such person files what purports to be a re-
8 turn of a tax imposed by this title but which—

9 “(A) does not contain information on
10 which the substantial correctness of the self-as-
11 sessment may be judged, or

12 “(B) contains information that on its face
13 indicates that the self-assessment is substan-
14 tially incorrect; and

15 “(2) the conduct referred to in paragraph (1)—

16 “(A) is based on a position which the Sec-
17 retary has identified as frivolous under sub-
18 section (c), or

19 “(B) reflects a desire to delay or impede
20 the administration of Federal tax laws.

21 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
22 SUBMISSIONS.—

23 “(1) IMPOSITION OF PENALTY.—Except as pro-
24 vided in paragraph (3), any person who submits a
25 specified frivolous submission shall pay a penalty of
26 \$5,000.

1 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
2 purposes of this section—

3 “(A) SPECIFIED FRIVOLOUS SUBMIS-
4 SION.—The term ‘specified frivolous submis-
5 sion’ means a specified submission if any por-
6 tion of such submission—

7 “(i) is based on a position which the
8 Secretary has identified as frivolous under
9 subsection (c), or

10 “(ii) reflects a desire to delay or im-
11 pede the administration of Federal tax
12 laws.

13 “(B) SPECIFIED SUBMISSION.—The term
14 ‘specified submission’ means—

15 “(i) a request for a hearing under—

16 “(I) section 6320 (relating to no-
17 tice and opportunity for hearing upon
18 filing of notice of lien), or

19 “(II) section 6330 (relating to
20 notice and opportunity for hearing be-
21 fore levy), and

22 “(ii) an application under—

23 “(I) section 6159 (relating to
24 agreements for payment of tax liabil-
25 ity in installments),

1 “(II) section 7122 (relating to
2 compromises), or

3 “(III) section 7811 (relating to
4 taxpayer assistance orders).

5 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
6 SION.—If the Secretary provides a person with no-
7 tice that a submission is a specified frivolous sub-
8 mission and such person withdraws such submission
9 within 30 days after such notice, the penalty im-
10 posed under paragraph (1) shall not apply with re-
11 spect to such submission.

12 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
13 retary shall prescribe (and periodically revise) a list of po-
14 sitions which the Secretary has identified as being frivo-
15 lous for purposes of this subsection. The Secretary shall
16 not include in such list any position that the Secretary
17 determines meets the requirement of section
18 6662(d)(2)(B)(ii)(II).

19 “(d) REDUCTION OF PENALTY.—The Secretary may
20 reduce the amount of any penalty imposed under this sec-
21 tion if the Secretary determines that such reduction would
22 promote compliance with and administration of the Fed-
23 eral tax laws.

1 “(e) PENALTIES IN ADDITION TO OTHER PEN-
 2 ALTIES.—The penalties imposed by this section shall be
 3 in addition to any other penalty provided by law.”.

4 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
 5 HEARINGS BEFORE LEVY.—

6 (1) FRIVOLOUS REQUESTS DISREGARDED.—

7 Section 6330 (relating to notice and opportunity for
 8 hearing before levy) is amended by adding at the
 9 end the following new subsection:

10 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—

11 Notwithstanding any other provision of this section, if the
 12 Secretary determines that any portion of a request for a
 13 hearing under this section or section 6320 meets the re-
 14 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
 15 then the Secretary may treat such portion as if it were
 16 never submitted and such portion shall not be subject to
 17 any further administrative or judicial review.”.

18 (2) PRECLUSION FROM RAISING FRIVOLOUS

19 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
 20 ed—

21 (A) by striking “(A)” and inserting

22 “(A)(i)”;

23 (B) by striking “(B)” and inserting “(ii)”;

24 (C) by striking the period at the end of the

25 first sentence and inserting “; or”; and

1 (D) by inserting after subparagraph (A)(ii)
 2 (as so redesignated) the following:

3 “(B) the issue meets the requirement of
 4 clause (i) or (ii) of section 6702(b)(2)(A).”.

5 (3) STATEMENT OF GROUNDS.—Section
 6 6330(b)(1) is amended by striking “under sub-
 7 section (a)(3)(B)” and inserting “in writing under
 8 subsection (a)(3)(B) and states the grounds for the
 9 requested hearing”.

10 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
 11 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
 12 6320 is amended—

13 (1) in subsection (b)(1), by striking “under sub-
 14 section (a)(3)(B)” and inserting “in writing under
 15 subsection (a)(3)(B) and states the grounds for the
 16 requested hearing”, and

17 (2) in subsection (c), by striking “and (e)” and
 18 inserting “(e), and (g)”.

19 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
 20 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
 21 MENTS.—Section 7122 is amended by adding at the end
 22 the following new subsection:

23 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
 24 standing any other provision of this section, if the Sec-
 25 retary determines that any portion of an application for

1 an offer-in-compromise or installment agreement sub-
 2 mitted under this section or section 6159 meets the re-
 3 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
 4 then the Secretary may treat such portion as if it were
 5 never submitted and such portion shall not be subject to
 6 any further administrative or judicial review.”.

7 (e) CLERICAL AMENDMENT.—The table of sections
 8 for part I of subchapter B of chapter 68 is amended by
 9 striking the item relating to section 6702 and inserting
 10 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

11 (f) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to submissions made and issues
 13 raised after the date on which the Secretary first pre-
 14 scribes a list under section 6702(c) of the Internal Rev-
 15 enue Code of 1986, as amended by subsection (a).

16 **SEC. 503. INCREASE IN CERTAIN CRIMINAL PENALTIES.**

17 (a) IN GENERAL.—Section 7206 (relating to fraud
 18 and false statements) is amended—

19 (1) by striking “Any person who—” and insert-
 20 ing “(a) IN GENERAL.—Any person who—”, and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
 24 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
 25 FRAUD.—If any portion of any underpayment (as defined

1 in section 6664(a)) or overpayment (as defined in section
 2 6401(a)) of tax required to be shown on a return is attrib-
 3 utable to fraudulent action described in subsection (a), the
 4 applicable dollar amount under subsection (a) shall in no
 5 event be less than an amount equal to such portion. A
 6 rule similar to the rule under section 6663(b) shall apply
 7 for purposes of determining the portion so attributable.”.

8 (b) INCREASE IN PENALTIES.—

9 (1) ATTEMPT TO EVADE OR DEFEAT TAX.—

10 Section 7201 is amended—

11 (A) by striking “\$100,000” and inserting
 12 “\$500,000”,

13 (B) by striking “\$500,000” and inserting
 14 “\$1,000,000”, and

15 (C) by striking “5 years” and inserting
 16 “10 years”.

17 (2) WILLFUL FAILURE TO FILE RETURN, SUP-
 18 PLY INFORMATION, OR PAY TAX.—Section 7203 is
 19 amended—

20 (A) in the first sentence—

21 (i) by striking “Any person” and in-
 22 serting the following:

23 “(a) IN GENERAL.—Any person”, and

24 (ii) by striking “\$25,000” and insert-
 25 ing “\$50,000”,

1 (B) in the third sentence, by striking “sec-
 2 tion” and inserting “subsection”, and

3 (C) by adding at the end the following new
 4 subsection:

5 “(b) AGGRAVATED FAILURE TO FILE.—

6 “(1) IN GENERAL.—In the case of any failure
 7 described in paragraph (2), the first sentence of sub-
 8 section (a) shall be applied by substituting—

9 “(A) ‘felony’ for ‘misdemeanor’,

10 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
 11 (\$100,000’, and

12 “(C) ‘10 years’ for ‘1 year’.

13 “(2) FAILURE DESCRIBED.—A failure described
 14 in this paragraph is a failure to make a return de-
 15 scribed in subsection (a) for a period of 3 or more
 16 consecutive taxable years and the aggregated tax li-
 17 ability for such period is at least \$100,000.”.

18 (3) FRAUD AND FALSE STATEMENTS.—Section
 19 7206(a) (as redesignated by subsection (a)) is
 20 amended—

21 (A) by striking “\$100,000” and inserting
 22 “\$500,000”,

23 (B) by striking “\$500,000” and inserting
 24 “\$1,000,000”, and

1 (C) by striking “3 years” and inserting “5
2 years”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to actions, and failures to act, oc-
5 ccurring after the date of the enactment of this Act.

6 **SEC. 504. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
7 **INTEREST ON UNDERPAYMENTS RELATED TO**
8 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
9 **MENTS.**

10 (a) DETERMINATION OF PENALTY.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, in the case of an applicable tax-
13 payer—

14 (A) the determination as to whether any
15 interest or applicable penalty is to be imposed
16 with respect to any arrangement to which any
17 initiative described in paragraph (2) applied, or
18 to any underpayment of Federal income tax at-
19 tributable to items arising in connection with
20 any arrangement described in paragraph (2),
21 shall be made without regard to section 6664 of
22 the Internal Revenue Code of 1986, and

23 (B) if any such interest or applicable pen-
24 alty is imposed, the amount of such interest or

1 penalty shall be equal to twice that determined
2 without regard to this section.

3 (2) APPLICABLE TAXPAYER.—For purposes of
4 this subsection, the term “applicable taxpayer”
5 means a taxpayer who was eligible to participate in,
6 but did not participate in—

7 (A) the Department of the Treasury’s Off-
8 shore Voluntary Compliance Initiative, or

9 (B) the Department of the Treasury’s vol-
10 untary disclosure initiative which applies to the
11 taxpayer by reason of the taxpayer’s under-
12 reporting of United States income tax liability
13 through financial arrangements which rely on
14 the use of offshore arrangements which were
15 the subject of the initiative described in sub-
16 paragraph (A).

17 (b) DEFINITIONS AND RULES.—For purposes of this
18 section—

19 (1) APPLICABLE PENALTY.—The term “appli-
20 cable penalty” means any penalty, addition to tax,
21 or fine imposed under chapter 68 of the Internal
22 Revenue Code of 1986.

23 (2) VOLUNTARY OFFSHORE COMPLIANCE INI-
24 TIATIVE.—The term “Voluntary Offshore Compli-
25 ance Initiative” means the program established by

1 the Department of the Treasury in January 2003,
2 under which any taxpayer was eligible to voluntarily
3 disclose previously undisclosed income on assets
4 placed in offshore accounts and accessed through
5 credit card and other financial arrangements.

6 (3) PARTICIPATION.—A taxpayer shall be treat-
7 ed as having participated in the Voluntary Offshore
8 Compliance Initiative if the taxpayer submitted the
9 request in a timely manner and all information re-
10 quested by the Secretary of the Treasury or his dele-
11 gate within a reasonable period of time following the
12 request.

13 (c) EFFECTIVE DATE.—The provisions of this section
14 shall apply to interest, penalties, additions to tax, and
15 fines with respect to any taxable year if, as of the date
16 of the enactment of this Act, the assessment of any tax,
17 penalty, or interest with respect to such taxable year is
18 not prevented by the operation of any law or rule of law.

19 **SEC. 505. MODIFICATION OF INTERACTION BETWEEN SUB-**
20 **PART F AND PASSIVE FOREIGN INVESTMENT**
21 **COMPANY RULES.**

22 (a) LIMITATION ON EXCEPTION FROM PFIC RULES
23 FOR UNITED STATES SHAREHOLDERS OF CONTROLLED
24 FOREIGN CORPORATIONS.—Paragraph (2) of section
25 1297(e) (relating to passive foreign investment company)

1 is amended by adding at the end the following flush sen-
2 tence:

3 “Such term shall not include any period if the earn-
4 ing of subpart F income by such corporation during
5 such period would result in only a remote likelihood
6 of an inclusion in gross income under section
7 951(a)(1)(A)(i).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years of controlled for-
10 eign corporations beginning after March 2, 2005, and to
11 taxable years of United States shareholders with or within
12 which such taxable years of controlled foreign corporations
13 end.

14 **SEC. 506. DECLARATION BY CHIEF EXECUTIVE OFFICER**
15 **RELATING TO FEDERAL ANNUAL CORPORATE**
16 **INCOME TAX RETURN.**

17 (a) IN GENERAL.—The Federal annual tax return of
18 a corporation with respect to income shall also include a
19 declaration signed by the chief executive officer of such
20 corporation (or other such officer of the corporation as
21 the Secretary of the Treasury may designate if the cor-
22 poration does not have a chief executive officer), under
23 penalties of perjury, that the corporation has in place
24 processes and procedures that ensure that such return
25 complies with the Internal Revenue Code of 1986 and that

1 the chief executive officer was provided reasonable assur-
2 ance of the accuracy of all material aspects of such return.
3 The preceding sentence shall not apply to any return of
4 a regulated investment company (within the meaning of
5 section 851 of such Code).

6 (b) EFFECTIVE DATE.—This section shall apply to
7 Federal annual tax returns for taxable years ending after
8 the date of the enactment of this Act.

9 **SEC. 507. TREASURY REGULATIONS ON FOREIGN TAX**
10 **CREDIT.**

11 Section 901 (relating to taxes of foreign countries
12 and of possessions of United States) is amended by redes-
13 ignating subsection (m) as subsection (n) and by inserting
14 after subsection (l) the following new subsection:

15 “(m) REGULATIONS.—The Secretary may prescribe
16 regulations disallowing a credit under subsection (a) for
17 all or a portion of any foreign tax, or allocating a foreign
18 tax among 2 or more persons, in cases where the foreign
19 tax is imposed on any person in respect of income of an-
20 other person or in other cases involving the inappropriate
21 separation of the foreign tax from the related foreign in-
22 come.”.

Calendar No. 127

109TH CONGRESS
1ST Session

S. 1230

[Report No. 109-82]

A BILL

To amend the Internal Revenue Code of 1986 to provide for the extension of the Highway Trust Fund and the Aquatic Resources Trust Fund expenditure authority and related taxes and to provide for excise tax reform and simplification, and for other purposes.

JUNE 14, 2005

Read twice and placed on the calendar