

In his last report to the IRS Oversight Board, former Commissioner Rossotti identified corporate tax shelters as one of the top problems facing the IRS. To combat this growing problem, the bill includes measures to crack down on the proliferation of tax shelters. The purpose of these provisions is to reinforce the Treasury department's administrative enforcement regime. A key element of the Service's enforcement regime is their ability to detect potentially abusive transactions. Thus, the bill promotes disclosure of such transactions through a framework of increased penalties and limited defenses in the event of non-disclosure.

The legislation also clarifies the judicially created doctrine of economic substance and imposes a new 40 percent strict-liability penalty for those transactions that fail this new requirement. Clarification of the economic substance doctrine requires that the taxpayer establish that (1) The transaction changes in a meaningful way, apart from the Federal income tax consequences, the taxpayer's economic position, (2) the taxpayer has a substantial non-tax purpose of entering into the transaction, and (3) the transaction is a reasonable means of accomplishing such non-tax purpose.

In addition to cracking down on potentially abusive transactions, our bill will shut down known abusive transactions. Last year, at the request of the Chairman and Ranking Members of the Senate Committee on Finance, the Joint Committee on Taxation investigated Enron's tax returns. One of the areas on which the Joint Committee focused was the tax shelter arrangements, offshore entities, and special purposes entities that Enron used to reduce its tax liability. The Joint Committee issued its report on this investigation on February 13, 2003 and included recommendations for shutting down some of the tax shelters used by the company. This legislation includes those recommendations.

The legislation also eliminates incentives in our tax code that encourage individuals and corporations to renounce their U.S. citizenship to avoid paying U.S. tax. For individuals, the legislation generally subjects U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residence to tax on the net unrealized gain in their property as if such property were sold at fair market value on the day before the expatriation or residency termination. Only a gain in excess of \$600,000, \$1.2 million for a married couple, is subject to tax.

The legislation also establishes new rules to thwart efforts by some U.S. corporations to reincorporate in a foreign country in order to avoid paying U.S. tax. These proposals are identical to legislation passed previously by the Senate.

There is one additional, and crucial, benefit of our legislation. It will not

slow down the current conference negotiations on legislations extending the child credit expansion to low-income families. As my colleagues know, legislation resolving this matter has passed both the House and Senate and the differences between the two bills must be reconciled. It is important for that legislation to get resolved as soon as possible so that the IRS has ample time to send checks out to these families this summer. Some have suggested that resolution of the sales tax issue—a matter not included in either the House or Senate bill—be attached to the child credit bill. I fear that such an attempt would further complicate resolution of that important legislation.

I hope our colleagues will look upon this legislation in the spirit with which it is offered. It is fundamentally unfair that for the past seventeen years the residents of our States have faced higher Federal income tax liabilities than their fellow citizens living in other States. We feel that we have structured our legislation in a manner that corrects this inequity without jeopardizing the tax benefits available to residents of other States. Furthermore, the bill is fiscally responsible and improves the tax system by making it more difficult for those who would use tax shelters and other devices to lower their taxes.●

AMENDMENTS SUBMITTED & PROPOSED

SA 1317. Mr. BYRD (for himself and Ms. STABENOW) proposed an amendment to the bill H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

TEXT OF AMENDMENTS

SA 1317. Mr. BYRD (for himself and Ms. STABENOW) proposed an amendment to the bill H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 75, Line 6, insert the following:
TITLE VII—FULFILLING HOMELAND SECURITY PROMISES

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY
CUSTOMS AND BORDER PROTECTION

For an additional amount for "Customs and Border Protection", \$238,500,000, to remain available until December 31, 2004, of which not less than \$100,000,000 shall be for border ports-of-entry infrastructure improvements, and not less than \$138,500,000 shall be for staffing at the northern border.

TRANSPORTATION SECURITY ADMINISTRATION
AVIATION SECURITY

For additional amounts for necessary expenses of the Transportation Security Administration related to aviation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$100,000,000, to remain available until expended, for air cargo security.

TRANSPORTATION SECURITY ADMINISTRATION
MARITIME AND LAND SECURITY

For additional amounts for necessary expenses of the Transportation Security Ad-

ministration related to maritime and land transportation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$532,000,000 to remain available until December 31, 2004, of which not less than \$57,000,000 shall be available for grants to public transit agencies in urbanized areas for enhancing the security of transit facilities against chemical, biological and other terrorist threats, not less than \$460,000,000 shall be for shortfalls pursuant to Public Law 108-10, for port security grants for the purpose of implementing the provisions of the Maritime Transportation Security Act, and not less than \$15,000,000 for inter-city bus security grants for enhancing inter-city bus and facility protection against terrorists threats.

UNITED STATES COAST GUARD
OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$70,000,000, to remain available until December 31, 2004, of which not less than \$70,000,000 shall be for costs pursuant to Public Law 107-295 for implementing the Maritime Transportation Security Act including those costs associated with the review of vessel and facility security plans and the development of area security plans.

OFFICE FOR DOMESTIC PREPAREDNESS

For additional amounts for the "Office for Domestic Preparedness," \$729,500,000: Provided, That of the amount made available under this heading: \$250,000,000 shall be available for grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3711); \$250,000,000 shall be for discretionary grants for use in high-threat urban areas, as determined by the Secretary of Homeland Security; \$79,500,000 shall be for interoperable communications equipment; \$150,000,000, to remain available through December 31, 2004, shall be for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

OFFICE OF THE UNDER SECRETARY FOR INFORMATION

ANALYSIS AND INFRASTRUCTURE PROTECTION

For an additional amount for the "Office of the Under Secretary for Information Analysis and Infrastructure Protection", \$80,000,000, to remain available until December 31, 2004, for chemical facility security assessments.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Monday, July 21 at 2 p.m. for a hearing titled, "Oversight Hearing on Government Sponsored Enterprises: The Risks and Benefits to Consumers."

PRIVILEGE OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and intern be granted the privilege of the floor for the consideration of the fiscal year 2004 Homeland Security appropriations bill and any votes that may occur in relation thereto: Les Spivey, Rachele Schroeder, Carol Cribbs, James Hayes, Josh Manley, and Elizabeth Ferriday Mansel.

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

Mr. BYRD. Mr. President, I ask unanimous consent that committee staff Alexa Sewell and Scott Nance and fellows on the staff of the Committee on Appropriations Peter Edge and Cynthia Stowe be granted the privileges of the floor during debate and rollcall votes on the fiscal year 2004 Homeland Security appropriations bill and the conference report thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TEXT OF H.R. 2658 AS PREVIOUSLY PASSED

On July 17, 2003, the Senate passed H.R. 2658, as amended, as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I MILITARY PERSONNEL MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$28,282,764,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$23,309,791,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,994,426,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$22,993,072,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for per-

sonnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,584,735,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,027,945,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$587,619,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,332,301,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,598,504,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serv-

ing on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,228,830,000.

TITLE II

OPERATION AND MAINTENANCE OPERATION AND MAINTENANCE, ARMY (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,034,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$24,922,949,000: Provided, That of the funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,463,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$28,183,284,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,418,023,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,801,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$26,698,375,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$16,279,006,000, of which not to exceed \$35,000,000, may be available for the CINC initiative fund; and of which not to exceed \$45,000,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That \$2,700,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that