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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. NETHERCUTT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 2, 2004.

I hereby appoint the Honorable GEORGE R. NETHERCUTT, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, our Redeemer and our Guide, take this country and make it truly Your own. May Your spirit animate our Nation's aspirations and bring about equal justice and a quality of the good life for all its citizens. May virtue abound in the character of the American people, and may our bonds of union be strengthened.

Bring the work of the House of Representatives to a just and blessed closure. As Members and staff begin to enjoy a spring break, we pray that You keep everyone safe and healthy.

May the religious holy days, which Jews and Christians celebrate in coming days, fortify people of faith and bring them joy, for You are the Lord our God, living and true, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. BROWN) come forward and lead the House in the Pledge of Allegiance.

Mr. BROWN of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

The message also announced that the Senate has passed a joint resolution of the following title in which the concurrence of the House is requested:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive five 1-minute speeches from each side.

IN MEMORY OF ANDREW J. COMBS

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, this week my friend, Andrew J. Combs, passed away. Andy was from my hometown, Hanahan, South Carolina, and our friendship spans many decades.

Mr. Speaker, many of my colleagues know his wife, Roberta Combs, President of the National Christian Coalition, whose work is widely known and appreciated by families across this Nation.

Andy was a great man, a World War II and Korean War veteran, a successful businessman and a Republican leader, and someone who devoted countless hours trying to make this world a better place. He triumphed in all of these areas while overcoming the ravages of polio contracted as an adult.

It is difficult to measure the impact that he has had on the many lives he touched. His commitment to serving others and to serving his community leaves a wonderful legacy.

Andy, my friend, you will be sorely missed, but we know that heaven has welcomed you with open arms.

Mr. Speaker, please join me in a moment of silence honoring this great American.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT MEANS QUALITY HEALTH CARE AT LOWER PRICES

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the Medicare Prescription Drug and Modernization Act not only modernizes the benefits seniors receive under Medicare by adding prescription drugs, but, for the first time provides seniors, with chronic illnesses, access to state-of-the-art, cutting-edge, preventive health care.

With seniors living longer, with one-third of our seniors living with five or more chronic illnesses and using 80 percent of Medicare's dollars, access to chronic disease management programs is necessary, fair, and right.

By offering such preventive care, made possible by modern technology,

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our seniors can stay healthier, out of the hospital and emergency rooms and, while living better through modern medicine, reduce Medicare spending. Add this preventive care program to the fact that under this bill, one-half of all senior women will receive their prescription drugs with no premium, no deductible, and no gap in coverage, and $1 to $5 in copayments for generics or brand-name drugs, and our seniors will be able to see that the Medicare Modernization Act we passed offers them much higher quality health care at lower personal cost.

MAKING IN ORDER CONSIDERATION OF PETRI AMENDMENT DURING FURTHER CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. PETRI. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3550, pursuant to House Resolution 593, it shall be in order to consider, prior to any other amendment, the amendment that I have placed at the desk as though printed as an amendment printed in part B of House Report 108–456, to be debatable for not to exceed 10 minutes, equally divided and controlled between myself and the gentleman from Minnesota (Mr. OBERSTAR).

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

AMENDMENT TO H.R. 3350, OFFERED BY MR. PETRI

Page 548, lines 6 and 7, strike ''Jefferson Davis Transitway (Columbia Pike to Pentagon)'' and insert 'Crystal City Potomac Yards Transit''.

Page 548, after line 7, insert the following (and redesignate subsequent paragraphs accordingly):

(99) Northern Virginia—Columbia Pike Rapid Transit Project.

In the table contained in section 3038 of the bill, in item number 25—

(1) strike ''$240,000.00'' and insert ''$912,000.00'';

(2) strike ''$247,500.00'' and insert ''$940,500.00''; and

(3) strike ''$262,500.00'' and insert ''$997,500.00''.

In the table contained in section 3038 of the bill, in item number 26—

(1) strike ''$240,000.00'' and insert ''$912,000.00'';

(2) strike ''$247,500.00'' and insert ''$940,500.00''; and

(3) strike ''$262,500.00'' and insert ''$997,500.00''.

Mr. PETRI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Wisconsin?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore (Mr. BROWN of South Carolina). Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

□ 0913

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. NETHERCUTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, April 1, 2004, a request for a recorded vote on amendment No. 20 printed in part B of House Report 108–456 by the gentleman from New Hampshire (Mr. BRADLEY) had been postponed.

Pursuant to the order of the House of today, it is now in order to consider the amendment at the desk offered by the gentleman from Wisconsin (Mr. PETRI).

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PETRI:

Page 548, lines 6 and 7, strike ''Jefferson Davis Transitway (Columbia Pike to Pentagon)'' and insert 'Crystal City Potomac Yards Transit''.

Page 548, after line 7, insert the following (and redesignate subsequent paragraphs accordingly):

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(3) strike ''$262,500.00'' and insert ''$997,500.00''.

The CHAIRMAN pro tempore. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not believe there is any objection to this technical amendment. It has been reviewed by people on both sides.

Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

This side has looked over the amendment. We have no problem with it whatsoever. We are happy to accept it.

Mr. Chairman, I yield back the balance of my time.

Mr. PETRI. Mr. Chairman, I thank the gentleman from Illinois, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. PETRI).

The amendment was agreed to.

□ 0915

The CHAIRMAN pro tempore (Mr. NETHERCUTT). It is now in order to consider amendment No. 22 printed in House Report 108–456.

AMENDMENT NO. 22 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. KENNEDY of Minnesota:

Title I, amend section 1209 to read as follows (and conform the table of contents accordingly):

SEC. 1209. REPEAL.

Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is repealed.

Title I, strike sections 1603 and 1604 and insert the following (and conform the table of contents of the bill accordingly):

SEC. 1603. FAST FEES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, as amended by section 1208 of the bill, is amended by adding at the end the following:

''§ 168. FAST fees

''(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System FAST Lanes program under which the Secretary, notwithstanding sections 129 and 301, shall permit a State, or a public or private entity designated by a State, to collect fees to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, support, and other structures necessary for that construction) on the Interstate System.

''(b) ELIGIBILITY.—To be eligible to participate in the program, a State shall submit to the Secretary for approval an application that contains—

''(1) an identification of the additional lanes (including any necessary bridge, support, and other structures) to be constructed on the Interstate System under the program;

''(2) in the case of 1 or more additional lanes that affect a metropolitan area, an assurance that the metropolitan planning organization established under section 134 for the area has been consulted during the planning process concerning the placement and amount of fees on the additional lanes; and

''(3) a facility management plan that includes—

''(A) a plan for implementing the imposition of fees on the additional lanes;

''(B) a schedule and finance plan for construction, operation, and maintenance of the additional lanes using revenues from fees (and, as necessary to supplement those revenues, revenues from other sources); and

''(C) a description of the public or private entities that will be responsible for implementation and administration of the program.

''(c) REQUIREMENTS.—The Secretary shall approve the application of a State for participation in the program after the Secretary determines that, in addition to meeting the requirements of subsection (b), the State has entered into an agreement with the Secretary that provides that—

''(1) fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology;

''(2) all revenues from fees received from operation of FAST lanes shall be used only for—

''(A) debt service relating to the investment in FAST lanes;

''(B) reasonable return on investment of any private entity financing the project, as determined by the State;

''(C) any costs necessary for the improvement, and proper operation and maintenance (including reconstruction, resurfacing, restoration, and rehabilitation), of FAST lanes and existing lanes, if the improvement—

''(i) is necessary to integrate existing lanes with the FAST lanes;

''(ii) is necessary for the construction of an interchange (including an on- or off-ramp) from the FAST lane to connect the FAST lane to—

''(I) an existing FAST lane;

''(II) the Interstate System; or

''(III) a highway; and

''(iii) is carried out before the date on which fees for use of FAST lanes cease to be collected in accordance with paragraph (6); or

''(D) the establishment by the State of a reserve account to be used only for long-term maintenance and operation of the FAST lanes;

''(3) fees may be collected only on and for the use of FAST lanes, and may not be collected on or for the use of existing lanes;

''(4) use of FAST lanes shall be voluntary;

''(5) revenues from fees received from operation of FAST lanes may not be used for any other project (except for establishment of a reserve account described in paragraph (2)(D) or as otherwise provided in this section);

''(6) on completion of the project, and on completion of the use of fees to satisfy the requirements for use of revenue described in paragraph (2), no additional fees shall be collected; and

''(7)(A) to ensure compliance with paragraphs (1) through (5), annual audits shall be conducted for each year during which fees are collected on FAST lanes; and

''(B) the results of each audit shall be submitted to the Secretary.

''(d) APPORTIONMENT.—

''(1) IN GENERAL.—Revenues collected from FAST lanes shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

''(2) NO EFFECT ON STATE EXPENDITURE OF FUNDS.—Nothing in this section affects the expenditure by any State of funds apportioned under this chapter.''.

(b) CONFORMING AMENDMENT.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 167, as added by section 1208 of the bill, the following:

''168. FAST fees.''.

(2) Section 301 of title 23, United States Code, is amended by inserting after ''tunnels,'' the following: ''and except as provided in section 168,''.

SEC. 1604. TOLL FEASIBILITY.

Section 106 of title 23, United States Code, as amended by section 1605 of this bill, is further amended by adding at the end the following:

''(j) TOLL FEASIBILITY.—The Secretary shall select and conduct a study on a project under this title that is intended to increase capacity, and that has an estimated total cost of at least $50,000,000, to determine whether—

''(1) a toll facility for the project is feasible; and

''(2) privatizing the construction, operation, and maintenance of the toll facility is financially advisable (while retaining legal and administrative control of the portion of the applicable Interstate route).''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself 2 minutes.

The amendment today addresses the big issues surrounding this year's road bill: how to expand capacity, how to do so without increasing taxes or expanding the deficit, and how do we address our overreliance on the gas tax.

The degree to which the FAST Act, introduced by myself and the gentleman from Washington (Mr. SMITH), has attracted strong bipartisan support reflects the success in addressing these issues by expanding capacity by removing an outdated prohibition again fee-based lanes on the interstate but preserving the trust of the driving public, by doing so only if the fees are charged on new lanes so we have new tar or concrete, charged electronically so there are no toll booths, the fees go away when construction and maintenance costs are provided for, and use of the lanes are optional to drivers and optional for States to use.

It has a broad base of support, and I do believe that this could add $50 billion in capacity to our roads over the road bill period.

I appreciate the chairman's efforts to reflect FAST concepts in the bill and have been very open with him about my intent to offer this amendment, but my concerns are this in TEA LU: that it limits the ability to increase capacity by limiting its FAST-like sections to only three projects; it allows tolls to be charged on existing lanes; it allows tolls to be charged indefinitely; it allows funds raised under these toll programs to be diverted to other uses.

Long term, FAST-style fee lanes can be major solutions to relieving congestion but only if we preserve the trust of the driving public. The types of provisions included in TEA LU could lead to the same distrust and resistance that has resulted in every State referendum on increases in gas tax being defeated. When used with FAST-style protections, it has been accepted by drivers, as witnessed by a recent Minneapolis Star Tribune poll that shows 69 percent in support of FAST-style provisions.

I urge my colleagues to join those that are supporting us, because this is increasing capacity, like the Associated General Contractors, the National Ready Mixed Concrete Association, and the American Association of State Highway Officials, those who are users like the American Trucking Association, Owner-Operator Individual Drivers, NFIB, Food Marketing Institute, and taxpayer groups like the National Taxpayers Union, Americans for Tax Reform, and Citizens for Sound Economy to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) is recognized for 10 minutes.

Mr. LIPINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I commend my colleague from Minnesota for advancing a concept of how we are going to increase capacity. We have deep concerns, I think all of us, that we are in an ultimate downward spiral in terms of the revenue from user fees that provide the resources we need for funding America's transportation future.

While we have refused to index these fees for inflation, we find that there are increasing demands and stresses that are being placed. Ultimately, we are going to have more fuel-efficient vehicles, and that means that we are not going to reduce at all the wear and tear on our highways, we are not going to reduce the demands of congestion, but we will over time reduce revenues.

Now, I appreciate what my colleague from Minnesota and my friend from the State of Washington are doing in terms of helping expand this window. This is an approach that we should explore. However, the approach that they bring to us today is unnecessarily narrow. It would restrict it exclusively to highway projects. That is why you have opposition from the Surface Transportation Policy Project. That is why, in January of this year, there was an extensive correspondence from APTA that was shared with our ranking members and the committee chair that deal with the problems inherent in this.

It is inconceivable that we would not want to have a balanced approach to solving transportation issues. As we have seen in State after State, people want balance.

In Phoenix, one the second highest per capita usage of automobiles in the country, they had problems with road-only initiatives. It was not until they came forward with a balanced transportation initiative that allowed use for transit as well as roads that it had the public support.

The proposal here would preclude what is going on right now in San Diego, a perfect example of how we can use tolling. In San Diego, there are currently 22,000 daily fast track automobile customers generating $2 million a year to pay for the program's operating costs, and they provide $1 million in support of commuter bus service in the I–15 corridor.

Now, I am not here to say that we do not need to expand road capacity. In many cases, we do. I am working to do that with some of the bottlenecks between our States of Oregon and Washington. But to say, as this amendment does, that if you are going to move in the area of other alternatives dealing with tolling, that you cannot use proven, successful initiatives that would add transit, that would add bus rapid transit, it is unnecessarily narrow, restrictive. It is not the best solution.

I tried to have this conversation with the gentleman and his staff, to have a comprehensive solution like we have under ISTEA, like we have under TEA LU, where communities are given the choice to design the best possible solution. I think we could move forward, but if we are going to have something that is narrow, restrictive and turning back to the past, which is actually going to reduce public support as well as reduce effectiveness, I do not think it is worthy of our support at this point. I very reluctantly oppose.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. SMITH), my cosponsor in the FAST Act which had 73 co-sponsors and a perfect partner for bus rapid transit.

Mr. SMITH of Washington. Mr. Chairman, I want to thank the gentleman from Minnesota (Mr. KENNEDY) for bringing this issue up.

What we are trying to do is expand options to fund transportation solutions. As both gentlemen have pointed out, there are many limitations on that, and States throughout the country are struggling with their efforts to find the resources to fund the transportation solutions they want. This is one idea to basically make tolls an option for State projects so that they could receive Federal funds if they wanted to use those tolls to fund it and maintenance of that new construction. The amendment expands this to allow for whatever projects want to apply.

It is my opinion that the bill itself is actually narrower. It only allows an isolated number of projects to have these toll roads. It is not my understanding that this amendment in any way changes the current structure on mass transit. I am not certain that we currently allow Federal funds to go for tolling to fund that. But this amendment, to my understanding, and the gentleman from Minnesota (Mr. KENNEDY) can perhaps correct me, does not speak to what the gentleman from Oregon (Mr. BLUMENAUER) just talked about. It does not further restrict funds for transit. If it did, I would not be supportive of it. It expands what is available for roads.

Toll roads, by definition, are for roads. If there was some way to expand further to deal with mass transit, I would be in favor of it. It was my understanding that this amendment does not further restrict what the law already does. It targets one area and expands the opportunities, whereas the current bill only allows for an isolated number of projects to take advantage of this opportunity. As the gentleman from Minnesota (Mr. KENNEDY) pointed out, it is like three projects throughout the country that could get this, and obviously there are more than that.

So this is an opportunity to expand access to transportation opportunities, and that is why I support the amendment. My State and just about every other State I can think of desperately needs more funds for transportation. This opens up an avenue, a way for them to get those funds and build new roads and opens it up in a way that the public is likely to be supportive of. It funds specifically the road that they would be paying tolls on until it is paid for and the maintenance and care of it.

Getting public support for these issues has long been a challenge. We voted down the gas tax in the State of Washington on several occasions. This would be an opportunity to get people something that they want and expand transportation funds.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I reluctantly rise in opposition to the amendment. It is offered by a very valued and hard-working member of our committee. We have been working with the members of the committee on both sides of the aisle on the FAST proposal. Elements of it are contained in the bill before us. But the amendment as drafted would be disruptive to a number of aspects of the legislation that is currently on the books.

There is a three-State pilot program that would be repealed by the amendment, and there are also several new tolling proposals that are in this legislation that would be repealed by the proposal. We are not opposed to working with the Member and trying to perfect what is in the legislation as it goes forward, but as things stand at this point we oppose the amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I rise today in strong support of this amendment. I disagree with my good friend from Oregon. This does not restrict but expands the options to expand our highway and interstate system.

We do not have to stray very far from the Capitol here to see the congestion that plagues our Nation's roads. Try to drive out of here on a Friday afternoon, which I will, and we will see rush hour traffic that will slow and almost stop the movement of automobiles out of this city.

DOT reports that the average rush hour has increased 18 minutes between 1997 and 2000. Additionally, congestion costs our nation $65 billion annually in lost productivity and wasted motor fuel. The idle time spent in traffic increases transportation costs for U.S. businesses and robs drivers of time they could spend at home with their families.

We must find workable solutions. I believe we have one in this amendment. It is an innovative method of combating this problem. The amendment allows for voluntary collection of fees for construction of additional lanes on the interstate highway system. Specifically, the amendment will allow States to create high-speed toll lanes to be used by motorists willing to pay a toll. Under the FAST lanes provision, the fees are collected electronically; thus, no toll booths. There will be no back-up. The fees collected are then used to pay off the newly constructed lanes. When enough revenue is obtained, they pay off the cost of the expansion. The fees are eliminated.

Mr. Chairman, this amendment is a common-sense approach to dealing with our Nation's increasing congestion problems. The Kennedy amendment provides States with a voluntary means of raising revenues for expanding their highways as much as $50 billion over the 6-year life of this bill, and this approach will free up dollars for other essential transportation projects throughout our States.

Mr. Chairman, this amendment is a win-win for both States and drivers. So I urge passage of the Kennedy amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to say that, in regards to this amendment, we have received word from the United States Department of Transportation that they have very serious concerns about this amendment; and I think that we should take that into consideration when we are weighing supporting it or opposing it.

I would also like to say at this time that in the existing legislation we have two different programs pertaining to tolling. One has to do with new toll ways; one has to do with rehabilitation.

□ 0930

A similar approach was taken 6 years ago to tolling where we had one program where three States could come into a program with tolling. We are far beyond that piece of legislation; and today, we still have no one that has involved themselves in the option of tolling underneath the old program.

So I really believe that rather than disrupt our bill and disrupt several significant sections of our bill, we should stick with what we have. There is actually an opportunity for six different

States to participate in a tolling program for new tollways, for rehabilitation, and I think that that is the way to go.

I can appreciate what the gentleman is trying to do, but I really think it is too disruptive and there will be very few takers for it.

Mr. Chairman, I reserve the balance of my time.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Chairman, I rise today to support the amendment offered by my colleague, the gentleman from Minnesota (Mr. KENNEDY).

This amendment is about financial accountability, projects that are funded by our tolling. Tolling can be an effective method of financing critical road improvements, but it must be done fairly. Tolling should be reasonable. They should not be allowed to go on indefinitely as a tax on road users.

This amendment allows tolls on only new, voluntary-use lanes, and ensures that revenues are dedicated specifically to new highway capacity. It will reduce construction times and cut congestion in high-density areas.

I believe in giving States and local governments the maximum flexibility in dealing with traffic problems. This amendment provides that flexibility without sticking motorists with a permanent toll or travel tax.

I urge my colleagues to support the amendment.

Mr. LIPINSKI. Mr. Chairman, how much time do I have?

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The gentleman from Illinois (Mr. LIPINSKI) has 3½ minutes remaining. The gentleman from Minnesota (Mr. KENNEDY) has 3 minutes remaining.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy, and I wanted to follow up on what my colleagues have said.

I agree with the sentiment of what my friend from Georgia said; but, in fact, the amendment that he was supporting does not provide that balance and that flexibility. That is why this amendment is opposed by the Surface Transportation Policy Project, by STPP, by ASSHTO, by APTA, because it does not provide maximum flexibility.

If you have a congested corridor, like we have in the Portland metropolitan area, you need a balanced approach. We are exploring, and discussing, the potential use of tolling. I think tolling is something that should be studied; but if we approve the approach of the gentleman from Minnesota, it would not permit the use of the tolling for any transit-related alternative, buses or rail.

It would not allow the use of these revenues to deal with reconstruction. In many of our areas, we have problems of congestion and mobility because there are some facilities that are falling apart; but under this amendment, the toll revenues would not be available for the reconstruction of projects, just new lanes.

It is not just a case of providing new transit lanes. Every community that is dealing with congestion knows that you have to deal with how you get on and off the connections, the interchanges, the bridges, and this amendment would not permit that. It is just those lanes.

In many cases, if you increase capacity and you do not have resources around it, I will tell my colleagues, as 10 years as a public works commissioner and having worked in over 100 communities around this country, that is a prescription for disaster.

So I strongly suggest that the concept be refined so that it can have a balanced approach, and then it would be worthy of the support of this body.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself the balance of my time.

I appreciate the comments from my fellow colleagues from Illinois and Oregon and just want to clear up a couple of possible misconceptions.

Our FAST Act does provide for those connections. It does provide for maintenance, and it is a perfect complement to some of the most efficient transit options that are out there in the form of bus rapid transit. If you use congestion pricing on a fast lane, which is provided for, you can make sure that everybody's going 50 miles an hour or above, make it a very attractive option for bus rapid transit. Bus rapid transit is allowed to use these lanes, paid for by the users, free. You can combine it with car pools.

So this is not something that takes away any of the funding for transit that is currently available, can be meshed with bus rapid transit in a very complementary fashion; and when we talk about capacity, six States were mentioned by my friend from Illinois, but it is only six projects in six States.

If we are concerned that this road bill does not provide enough capacity to end the congestion around the country that is keeping people stuck in their traffic too long and away from families and work, why are we not letting fully bloom the FAST Act which could be $50 billion or more if we then try to nitpick it around the six projects in six different States.

Furthermore, the tolling sections that have been put in prior bills and in this bill have so many caveats that they will likely never be allowed to be used. We need a new source of funding. This provides a new source of funding, allows projects like the Katy Freeway in Houston to get done quicker, therefore, cheaper, frees up resources from other projects where the FAST Act would not apply.

If there is a market for the road, the road can be built there. It embraces public/private partnerships. It would encourage us to address the needs that are affecting our economic competitiveness, and this is ultimately about a user choice.

Yes, this amendment would take away the ability to put fees on existing lanes. This is an amendment that does take away the ability to put tolls in existing lanes. We will lose the trust of the driving public if we do so, but it does provide a price-value relationship. You only do FAST if it is on new lanes; therefore, they are getting something in return for it. They are paid for.

If you are stuck in traffic at 10 o'clock in the morning, you should have a choice. Use crosses demographic background. It benefits everyone.

This is the pro-capacity vote. This is the pro-taxpayer vote. That is why it will be scored by the Americans for Tax Reform and the National Taxpayers Union.

I encourage my fellow Members to stand up for drivers around the country and support the Kennedy-Smith amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself the balance of my time.

In closing, I first of all want to say that the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee, strongly opposes this amendment. I have a statement by him which I will insert into the RECORD when we get back into the House.

The gentleman from Minnesota (Mr. KENNEDY) mentioned that there are numerous lanes that can be funded on an existing road. According to the legislation and the way I read the legislation, it is only possible to toll new lanes. You cannot toll existing lanes and improve them, bring them up to a higher standard.

Consequently, once again, I say we have to oppose this amendment because I think in the existing piece of legislation we have very good opportunities, carefully laid out, where if people wish to toll they can do so to build a new toll highway or they can do it to rehabilitate an existing highway.

So I think that this is an amendment that we really have done a better job with in the bill than this amendment would take care of. Consequently, once again, I say we oppose this amendment, and we would like to have everyone in this body join us in opposition to it.

Mr. OBERSTAR. Mr. Chairman, I am in strong opposition to this amendment.

The Kennedy amendment proposes to allow States to charge a toll on ever Interstate Highway across the country. Under the Kennedy amendment, the word "toll" should be spelled "T–A–X." That is because, under the Kennedy amendment, American drivers are taxed twice: first when they pay at the pump and again when they pay the toll on the highway.

The Kennedy amendment proposes to eliminate three programs included in H.R. 3550, the Transportation Equity Act: A Legacy for Users (TEA–LU), that are dedicated to reducing congestion and testing the introduction of tolls on the Interstate: the Congestion Pricing Program and two tolling pilot programs.

Instead of addressing congestion in a comprehensive, multifaceted way, this amendment takes the reckless, single-minded approach of authorizing the use of Federal funds to support adding toll lanes to existing Interstate highways. Essentially, it proposes a permanent, nationwide program of imposing tolls on new Interstate lanes.

Mr. Chairman, the two pilot programs in TEA–LU take a measured, smart approach to tolling. First, TEA–LU authorizes an existing program for reconstructing and rehabilitating existing Interstates, and establishes a similar program to cover construction of new Interstate highways. Each pilot program is limited to three States, and each toll facility is to be chosen by the Secretary of Transportation. These steps will provide us with the opportunity to learn how effective Interstate tolling programs are at easing congestion and what we can do to improve their effectiveness.

Importantly, the programs in TEA–LU provide important protections against inequity and ensure that States are able to maintain their local roads adjacent to toll facilities in a condition sufficient to meet the traffic demands.

When an Interstate highway is tolled, inevitably some drivers will choose to use local, toll-free roads instead of paying the Interstate toll. When that happens, the local roads will likely see an increase in wear and tear and an increase in the number of accidents and injuries. TEA–LU would ensure that States can continue to maintain these local roads as they see fit. In contrast, the Kennedy amendment contains none of these important protections.

For these reasons, I urge a ''no'' vote on the amendment.

Mr. LIPINSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KENNEDY of Minnesota. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) will be postponed.

It is now in order to consider amendment No. 23 printed in House Report 108–456.

AMENDMENT NO. 23 OFFERED BY MR. ISAKSON

Mr. ISAKSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. ISAKSON:

In section 1101(a) of the bill, strike paragraphs (1) through (3) and insert the following:

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,478,227,346 for fiscal year 2004, $4,551,839,370 for fiscal year 2005, $4,644,155,590 for fiscal year, 2006, $4,742,741,342 for fiscal year 2007, $4,859,076,291 for fiscal year 2008, and $4,966,297,676 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,373,872,608 for fiscal year 2004, $5,462,206,628 for fiscal year 2005, $5,572,986,299 for fiscal year 2006, $5,691,289,610 for fiscal year 2007, $5,830,891,142 for fiscal year 2008, and $5,959,556,398 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,842,568,497 for fiscal year 2004, $3,905,731,625 for fiscal year 2005, $3,984,944,542 for fiscal year 2006, $4,069,536,089 for fiscal year 2007, $4,169,358,435 for fiscal year 2008, and $4,261,359,876 for fiscal year 2009.

In section 1101(a) of the bill, strike paragraphs (5) and (6) and insert the following:

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,269,517,870 for fiscal year 2004, $6,372,574,913 for fiscal year 2005, $6,501,817,007 for fiscal year 2006, $6,639,837,878 for fiscal year 2007, $6,802,707,011 for fiscal year 2008, and $6,952,816,137 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,522,597,463 for fiscal year 2004, $1,547,652,365 for fiscal year 2005, $1,579,013,023 for fiscal year 2006, $1,612,531,852 for fiscal year 2007, $1,652,086,163 for fiscal year 2008, and $1,688,541,453 for fiscal year 2009.

In section 1104(a) of the bill, insert ''and'' at the end of paragraph (1).

In section 1104(a) of the bill, strike paragraph (2).

In section 1104(a)(3) of the bill, in the matter proposed to be inserted, insert ''projects of national and regional significance,'' after ''highway safety improvement,''.

In section 1104(b) of the bill, insert ''and'' at the end of paragraph (1).

In section 1104(b) of the bill, strike paragraph (2).

In section 1104(b)(3) of the bill, in the matter proposed to be inserted, insert ''projects of national and regional significance,'' after ''highway safety improvement,''.

At the end of subtitle G of title I, add the following (and conform the table of contents accordingly):

SEC. 1703. SPECIAL RULE.

For purposes of calculating the minimum guarantee allocation of a State for a fiscal year under section 105 of title 23, United States Code, the Secretary shall not include any amounts received by the State for the project numbered 911 in the table contained in section 1702 and $17,000,000 of the amount received by the State for the project numbered 1061 in such table.

The CHAIRMAN pro tempore. Pursuant to House Resolution 593, the gentleman from Georgia (Mr. ISAKSON) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Georgia. (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the gentleman from Alaska (Mr. YOUNG), the committee chairman, and the ranking member for their cooperation in allowing this amendment to come to the floor today.

My colleagues are getting ready to hear a lot of numbers. They are getting ready to see a lot of charts; but in the end, facts are stubborn things.

The current base bill, as presented, if passing the way it does, will reduce the minimum guarantee in the States from 90.5 percent to a scope of 84 percent. The amendment presented today by me and a bipartisan group ensures that the minimum guarantee will remain at 90.5 percent of 93 percent, as it was allocated on scope under TEA 21. Those are the facts. That is what everybody needs to understand.

Do not let any chart with any separate group of assumptions lead my colleagues astray. They cannot make 90.5 percent of 84 percent more than 90.5 percent of 93 percent.

Secondly, some will say it is a donor/donee issue, and to an extent it is; but if the base bill passes as it is, it exacerbates the donor States. All the donor States are asking in this is to maintain where they were under the last highway reauthorization bill.

I hope my colleagues keep those facts in mind. Facts are stubborn things. This is about equity to our States.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Who seeks time in opposition?

Mr. LIPINSKI. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) is recognized for 20 minutes.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to this amendment; but for right now, I reserve the balance of my time until we get organized.

Mr. ISAKSON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Chairman, I join the gentleman from Georgia (Mr. ISAKSON) and other colleagues in supporting this very important bipartisan amendment.

Without our amendment, highway users in Georgia and other States would lose billions of dollars. Already, right now, highway users in Georgia and other States, like California and Texas and Florida, are contributing billions of dollars to other States to help with their transportation needs. For example, in the previous transportation bill, Georgia contributed $1 billion to highway improvements to other States, at a time when we have growing unmet needs for congestion relief and access improvements of our own.

In my own district, for example, I represent five of the fastest growing counties in this country, with untold transportation needs. All of the interstate systems intersect in my district, and yet we gave $1 billion in highway improvements to other States.

We are not asking to change any of this. We do not mind helping other States. We just do not want to take a step backwards. We want to maintain the status quo, hold on to what we have, and this bipartisan amendment would do just that. It will prevent a loss of $500 million just for Georgia and similar large losses for other States.

Our amendment simply prevents a 93 percent to 84 percent reduction in scope of number of programs that fall under the minimum guarantee, the provision in the reauthorization bill that guarantees that each State receives at least 90.5 cents for every dollar its motorists send to Congress through their gas and other taxes. Governors in California and Texas and

Florida are not wrong. We must not take a step backwards.

I urge my colleagues to please pass this important bipartisan amendment.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Chairman, I thank the gentleman from Illinois (Mr. LIPINSKI) for yielding me time.

I have been here 10 years, Mr. Chairman, and I want to say that the other day in our Republican Conference, where this was discussed, the most eloquent talk on behalf of a State was given by the gentleman from Georgia (Mr. ISAKSON) on behalf of the citizens of the State of Georgia, and Georgians should be proud of his representation as well as the other Members who are sponsoring this amendment.

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Having said that, I think he is wrong, however. I am glad he brought up charts because I have three charts that have been given to me over the last couple of days. One chart prepared by the gentleman from Georgia's group shows that Ohio is getting $359 million more over the life of the bill, the 6-year bill; I have a chart that was prepared by the gentleman from Illinois that shows we are getting $225,000 more; and I have a chart prepared by the U.S. Department of Transportation that shows that we are losing $128 million.

Facts are stubborn things. Charts each make different assumptions in this particular debate. That is why the committee has always had the position that, look, the problem with this bill is we need more money. We need more money so we can fix the donor/donee State problem. We need more money so we can fix the distribution problem. But it cannot be fixed with this amendment. I would respectfully ask the sponsors who come from donor States, if the assumptions made under the DOT chart are right, Florida is losing $187 million and Georgia 28. If they happen to be right at the end of the day, then this is not going to be a good thing.

I would hope that the Members that are sponsoring this amendment standing up so valiantly for their States would let us try and work this out in a conference with the other body so we do come to a fair resolution and continue the growth that we had from ISTEA to TEA 21 and make TEA LU a bill that everybody can be proud of.

Mr. ISAKSON. Mr. Chairman, I yield myself 15 seconds. The difference in the charts are the assumptions. In the chart in question, we met with FHWA this morning. They assume the same basis in allocating the charts. Therefore, the numbers change. Numbers are moving all around but 90.5 percent of 93 percent still beats the basis in TEA LU.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. KELLER).

Mr. KELLER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of the Isakson amendment. It is going to benefit all States, donor States and donee states; but I am going to limit my remarks right now to the donor States. Who are the donor States? The 25 donor States are shown here in blue, the largest of which happen to be Florida, Texas, and California. If you are from any one of these 25 donor States, you would be smart to vote for the Isakson amendment.

It would be absolutely crazy for you to vote ''no'' on this amendment. I will tell you why. If you vote for this amendment, your State will do just as good as it did under the old transportation bill. If you vote ''no'' on this amendment, your State, on average, will get 10 cents on the dollar less. For example, Florida goes from 86 cents down to 76 cents.

Some of you have said to me, I am going to make up the difference by getting one of these projects of national significance. Here is the flaw. The Transportation Committee does not even have a complete list of the projects of national significance. They do not know what they are. Miss Cleo does not know what they are. Nostradamus does not know what they are. You do not know what they are.

You might get one. Well, I might win an Academy Award. I might win a gold medal. I might actually keep my New Year's resolution and lose 30 pounds. It might happen. It probably will not happen. The one thing I know for sure is if you vote for Isakson, your State is going to get more.

You came here to represent your people. You came here to fight for your State. Do the right thing and vote ''yes'' on Isakson.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I have great respect for the gentleman from Georgia, as well as my colleague from Florida, the gentleman who just spoke. But I think the key issue on this amendment is the uncertainty of it. They have an analysis by the Federal Highway Administration. We have seen an analysis by the Federal Highway Administration and it is unclear. The Federal Highway Administration says that this amendment is going to cut funding in this bill by $3.7 billion, which means that many States would lose money. I think because of the uncertainty of it, as the gentleman from Ohio said, let us work in conference to fix this problem. There is not enough money in this bill. I think all of us are disappointed that we could not get more money into this bill to fix the donor/donee State problem. But, as I said, the uncertainty, the numbers that I show here, a State like California is going to lose $550 million; Illinois, $346 million; Texas, $275 million over the life of this bill.

Again, I come back to the uncertainty of this. Let the committee get into conference, let us try to work out our problems, but I would urge a ''no'' vote on this bill today because of that uncertainty. We are going to pass this thing and who knows what happens.

Let us work towards getting into conference, and I believe the chairman and the conferees will make the proper adjustments on this bill.

Mr. ISAKSON. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, it is unfortunate that we have a piece of legislation here that seems to divide our States and our Representatives from those States, but frankly this really is not a fair bill to many of our States.

When we bring appropriations bills to the floor, we do our very best, and I think people on both sides would agree, we do our best to make sure that we play fair with everybody in this Chamber. I have looked at the original bill, I have looked at the proposed amendments, I have looked at the manager's amendment; and all I can see is that taxpayers and the highway users in my State of Florida are not being treated fairly.

I understand that there are some very nice incentives in this bill for Florida and for other States that are supporting the gentleman from Georgia. My vote is not going to be bought off because there are some very nice projects in this bill for Florida. I am still going to vote for the amendment offered by Mr. ISAKSON. If we cannot pass Mr. ISAKSON's amendment, I will vote against the bill because it is not a fair piece of legislation for a large part of this country.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, some Members have argued that we should include portions of regional or national significance under minimum guarantee. These projects by definition are vital to the Nation as a whole and should not impact formula distribution to the States.

Let me give you a classic example. Whether you are on the west coast in Oregon or the east coast in the Port of New York-New Jersey, we have a problem. It is called the congestion in the hub in Chicago. You have got to do something. I want to put a lot of money in Chicago to solve that problem. Does that mean because we are dealing with a problem of national significance we should penalize Illinois and have it taken from its allocation? Of course not. This is a Nation. We are dealing as a Nation. We are not just dealing in little individual States.

When I look at this Isakson amendment, it is almost like a roll call of a who's-who of States. State after State

would lose under this. Alabama, Alaska, California, Connecticut, it goes on and on and on.

Mr. Chairman, this does not make sense. We are a national legislative body, not a State legislative body. Let me tell the gentleman from Florida about fairness. I have the highest regard for him, but New Yorkers are not treated fair in so many different categories. I could make a persuasive argument. The gentleman treats us fair, I know it; but we send more than $20 billion to Washington than we get back. Do we complain? Of course we try to jimmy and work some things out to get a better distribution of funds, but the fact of the matter is we recognize we are part of a Federal system and we look at the Federal approach. This is one of the few programs that treats us well.

Let me praise the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) for the outstanding manner in which they have handled this. But when all is said and done, this amendment, while well-intended, does damage to the national system; and I urge its opposition.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 1½ minutes to the distinguished gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Chairman, I thank my colleague from Georgia (Mr. ISAKSON) for bringing this amendment. When Congress passed TEA 21, the folks in Georgia and the Nation breathed a sigh of relief. We all felt we were making progress toward receiving an equitable share of highway funding and the jobs that followed. The Congress at that time adopted a minimum guarantee of 90.5 percent of Federal fuel tax dollars. Unfortunately, this guarantee was applied to only about 93 percent of available funds, making our effective return somewhere between 84 and 87 percent. Not good, but we could live with it.

Unfortunately, it now appears that we are moving in the wrong direction. The current bill will drive the effective minimum rate down substantially because the rate of return is 90.5 percent, but it only applies to about 84 percent of highway dollars. Mr. Chairman, this is unacceptable. I represent one of the most neglected States and districts in the country. We must have a reasonable return on the taxes that we pay in motor fuel tax dollars.

I commend Chairman YOUNG for working with us to achieve fairness and equity. I am sure that he will in conference continue to support fairness; but with all due respect, we cannot regress. I urge that you all vote for transportation fairness and the Isakson amendment.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

The committee has worked a long, long time on this bill. Everyone would like to have more money, but because of the administration, we do not have more money. This bill is a very fair bill to every single State in the Union. It is really beyond my comprehension that there allegedly are people in States that are going to support this amendment whose States would lose tremendous amounts of money. I hear that there are people in California going to do it. That State would lose over $282 million if they supported that amendment. I hear people from Florida talking about supporting this amendment. That State is going to lose $35 million if this amendment passes. My own State of Illinois, a donor State, would lose $140 million underneath this amendment passing. Iowa, $61 million; Kansas, $21 million; Louisiana, $31 million; Maine, $25 million; Maryland, $84 million; Massachusetts, $34 million; Minnesota, $36 million; Mississippi, $14 million; Missouri, $27 million; Nebraska, $25 million; Nevada, $41 million. These are hundreds of millions of dollars.

The list goes on and on: New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin. All those States would be deprived of valuable transportation and infrastructure funds if this amendment passes. Conversely, the program we have set forth here is as fair as possible considering we wanted a bill at $375 billion and thanks to the White House we could only come in at $275 billion.

Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. I thank the gentleman for yielding me this time.

Mr. Chairman, this is an amendment simply about fairness. We can try to complicate this issue with all kinds of charts, all kinds of numbers, and all kinds of formulas; and we can all find a chart or a formula that is going to serve our particular opinion. But the bottom line is this: every State in the Nation sends money to the Federal gas tax trust fund and every State, for every dollar they send, they may get a little bit more or a little bit less back. But under TEA LU as it currently stands, every single State in this Union gets less of a minimum guarantee. As an example, the State of Indiana currently gets about 88 cents for every dollar we send in. Under TEA LU, we will get 76 cents back. But this is not about Indiana going backwards. This is about every single State in the Union going backwards with their minimum guarantee. There is no chart that can dispute that. There is no formula that can dispute that.

This amendment is simply about fairness, about no State going backwards and about staying where we are, so every State can get the minimum guarantee that they currently enjoy and not go backwards. That is why we need to pass this amendment, because it is about fairness for every single State in this Union.

Mr. LIPINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I rise in opposition to this amendment. It is quite clear with the dueling charts that are going on, there are very few, if any, Members of the assembly here who will actually know the impact on their States if this amendment is passed in terms of dollars and cents. But there are things that are very clear: one is that this has the effect of pulling the rug out from underneath the broadest coalition we have ever had developing infrastructure needs in this country. That would be tragic if all of a sudden we are going to be pitting the truckers versus the Sierra Club versus the bikers and the providers of concrete and asphalt and the historic preservationists. That would be wrong and it would have long-term, serious negative consequences for people that want a comprehensive approach to infrastructure.

I find no small amount of irony that for the people who are standing up in protest, the problem is it is self-inflicted. If we had before us the bill that the Senate passed overwhelmingly, that dedicates the trust fund balances, that does not rob money from transportation to deal with international corporate issues, we would have the resources available to put $3 billion for California, $2.5 billion for Texas, $1.6 billion for New York, $1.5 billion for the State of Florida and $1.1 billion for Georgia.

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What we have done is place impossible demands on the committee leadership to parse this out in ways that are unrealistic. And approving this amendment is illusory. It is not going to make it any simpler. It is going to make it harder. They are not going to know what they end up with, and they are going to be fraying this coalition.

But if the Members are really concerned about imbalance, look at metropolitan areas most of us serve, and look at how little they get back on the dollar. It is far less than the State donor-donee. It is more serious, and our constituents back home ought to hold us accountable for that.

Mr. ISAKSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, my dad used to tell me life is not fair, but we almost always get out of things what we put into them. Sadly, that is not true for the highway bill, but really it has never been. But in the last highway bill, Congress actually made States like my home State of Indiana get at least 90½ cents back on every dollar we paid at the pump in gasoline taxes. But

this highway bill that we will consider today actually reduces that amount by about 10 cents on the dollar, for every State in the Union, as my friend from Indiana just said.

The Isakson amendment asks only this: Keep the 90½ cent minimum guarantee for every State in the union just the way it is. We are asking to keep the status quo. Let us keep things the way they are.

Life is not fair, but the way we use taxpayer dollars in the highway bill should be.

Mr. LIPINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise in opposition to the Isakson amendment, which would include high-priority projects as well as projects of national regional Significance within the minimum guarantee program.

Supporters of the amendment claim that by including these projects, which are really Member earmarks, in the minimum guarantee program, funding to States' core programs will be increased. The amendment, however, will actually hurt many States' core programs because Member projects are earmarked and thus not available for States to use on their existing capital plans. Under the existing legislation, California, for example, without the amendment will get its apportioned funds for use in its existing core programs plus the $1 billion it currently has in earmarks. Therefore, it makes no sense for Californians, for example, to vote for this amendment.

The amendment is also dangerous because to include projects of national significance in the minimum guarantee is to negate the entire program of projects for national significance. This category was established to fund projects that have a national significance and impact and that require a significant amount of funding. Eligible projects must be at least $500 million or 75 percent of the State's entire annual highway apportionment. If a project this size were counted against a State's allocation, the State would have virtually no money for its regular core program or existing capital plan. As a practical matter, no State would seek funding under this program.

The purpose of the program is to fund projects of national significance that normally would not get funded because of their multi-State nature or their size. These projects may be necessary because of our national trade policy or to improve national security. It makes no sense to count these projects against a State's formula allocation.

The reality, of course, is that this amendment is offered because its supporters are upset about the minimum guarantee, that it does not rise from 90.5 percent immediately. This amendment will do nothing to address that concern and will in fact punish many States in the process.

I disagree with that position. I believe the minimum guarantee should stay where it is. But if they are upset that funds are allocated 90.5 percent, why would they want to put more programs under this formula? Why not allow all States to receive funds in addition to those allocated by formula? Including projects of national significance in the minimum guarantee certainly does not help them as it has nothing to do with the donor/donee issue. Under this amendment, neither the country as a whole nor any State would be able to benefit from this program, and the whole initiative which is of national significance would be rendered useless. The money would go to waste.

This amendment undercuts much of the progress made in the underlying TEA LU bill, and I urge my colleagues to vote against it.

Mr. ISAKSON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

There are a lot of figures that are running around this floor, but I can tell the Members that what comes to my mind is that figures do not lie, but liars can figure. I am not saying people are lying here, but I think this body is totally confused about what is going on.

Only ask yourself this one question: Is getting back 93 percent or applying the formula to 93 percent worse than applying it to 84 percent? Is 93 percent more than 84 percent? Under the Isakson amendment, every State would be guaranteed a higher level.

In Florida, we plugged these figures in. Florida will send $12 billion in Federal gas tax to Washington under this bill but receive back only $8.5 billion. That is not fair, and I can tell the Members right now, a lot of people who are listening to this debate are totally confused. But the fact is that the States of Florida, California, Georgia, Indiana, Michigan, North Carolina, Oklahoma, South Carolina, Texas, and Missouri are taking a whipping under this bill, and it is not fair.

All we are asking for is equity. We are not asking to get all our dollars back. We wish we could. We are not asking to get them all back. All we are saying is, do not hurt us more than we are already hurt under existing law.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SIMMONS).

(Mr. SIMMONS asked and was given permission to revise and extend his remarks.)

Mr. SIMMONS. Mr. Chairman, there has been a lot of discussion about this amendment and whether it is fair or unfair. I oppose the amendment because I believe the amendment is unfair to Connecticut.

The issue is, what do we get back from the Federal Government? If we look at the aggregate number of dollars that Connecticut gets back from the Federal Government, for every dollar submitted it is 65 cents, 65 cents. That is the second lowest return in the Nation. Florida gets a buck plus. Georgia gets a buck plus. So if we look at the aggregate dollars, there is a whole new picture here.

Why does Connecticut get more transportation dollars than some of the other States? It is very simple. Because if we look at the interstate highway system, the roads converge on New England; and if we look at Connecticut, the New England roads converge on Connecticut. It is a tiny State with six interstates. We need those dollars to support those roads. They are bumper to bumper, not just every weekend or in the summer. They are bumper to bumper every day. And that is why we get more transportation dollars.

The committee compromise is fair. It is a compromise. People do not like compromises. Nobody likes a compromise. But the committee compromise is fair. Vote against the Isakson amendment.

Mr. Chairman, I submit the following document for the RECORD.

CONEG,
Washington, DC, March 30, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As the House prepares to act on H.R. 3550, the Transportation Equity Act: A Legacy for Users (TEA–LU), the Coalition of Northeastern Governors (CONEG) urges the House to maintain its support for the proven needs-based structure of highway and transit programs that have resulted in improved conditions and safety of the nation's highways, bridges and public transit systems.

The Governors appreciate the work of the Transportation and Infrastructure Committee to provide the House with a bill that maintains the effective and proven program and funding structure of the Transportation Equity Act for the 21st Century (TEA–21). In an environment of severe fiscal constraints, the Committee faced difficult choices, and in H.R. 3550, seeks to balance the many diverse interests and demands placed upon the program and available funding. We recognize that addressing all these interests will require more robust funding for federal surface transportation programs.

As the House now takes up H.R. 3550, we urge you to:

Hold firm against any additional changes in highway formulas or transit funding that could adversely impact the core highway programs and transit funding. Additional reductions in core highway programs could undermine flexibility and impede states' efforts to maintain and improve their transportation infrastructure, address congestion and respond to the particular needs of the communities they serve. Equally important, a loss of core highway program funds could hinder a state's ability to move forward with plans and projects already underway in our states, and lessens the immediate job creation and economic development benefits of the pending transportation investment. At the same time, we strongly urge you to keep high-priority projects and projects of national and regional significance out of the ''minimum guarantee'' calculation.

Protect the transit program: We urge you to maintain the Committee's actions to protect and increase public transit funding and largely maintain the current transit program structure, including the traditional 80/

20 split of Highway Trust Fund revenues between the Highway Account and the Mass Transit Account. We welcome the increased investment you have placed in our nation's rural transit systems, and urge you to continue to invest in the grwoth of our nation's urban and most heavily used transit systems. Continued growth to support the critical, existing fixed-guideway modernization program (Rail-Mod) and the bus and bus facilities programs, as well as support for the rural, elderly and disabled transit programs are vital to providing essential mobility for individuals in communities large and small across the nation.

Maintain the firewalls and funding guarantees for highways and public transit. We appreciate the Committee's strong commitment to preserving the firewalls and General Fund guarantees for highways and public transit, and we urge the House to continue this commitment. Over the years, these mechanisms have proven successful in providing the funding predictability that all states need to meet their transportation needs. It is essential that both the firewalls and the General Fund guarantees for transit be maintained.

We stand ready to work with you to advance a surface transportation program that addresses these important programs and allows all the states to work together to address the critical transportation needs of the nation.

Sincerely,

MITT ROMNEY,
GONEG Chairman, Governor of Massachusetts.

JOHN BALDACCI,
CONEG Vice-Chairman, Governor of Maine.

Mr. ISAKSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. MARIO DIAZ-BALART), a real leader on this amendment.

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, under today's law, every State, every single State, is guaranteed 90.5 percent of 93 percent of the transportation budget. And the distinguished chairman of the Committee on Transportation and Infrastructure who, by the way, has been wonderful to work with, has said that he would like to work to improve that number, that he believes that the donor States should be a little bit improved. But the problem is that the bill that is in front of us today does not improve it. It makes it worse. It is no longer like current law that every State will get 93 percent of the transportation budget. No. Every State goes down to 90 percent of 84 percent of the entire budget.

I am not the smartest guy in the world, but nobody can tell me that 90 percent of 93 is worse than 90 percent of 84. Not even in Washington can we make those numbers make sense. So this is a reality. If we believe that the donor States are paying too much, we should not hurt them worse.

Let us be very clear about what the amendment does. The amendment does not do what all of us want it to do, make it better for the donor States. All the amendment does is keep it to current law so that every single State has exactly the same formula that we are living under today. Is that good enough? I do not think so. But, please, what makes no sense is to hurt every single donor State to provide projects that we keep hearing about of national significance that are not in the bill. It is a theory. It is not real. Those projects are not in the bill. So we do not know what we are buying, but every single donor State knows what it is losing. That is not fair.

Mr. LIPINSKI. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, the last speaker was talking about the current law. Just a little history for the body. Up until the Senate managed to overrule the House 6 years ago and took the Members' high-priority projects and placed them inside the formula funding, the House of Representatives, and the Senate up until last time, has always kept the Members' projects outside of the bill.

It was easy enough to accept that the last time around, because underneath the gentleman from Pennsylvania (Mr. SHUSTER) we raised the amount of money going into the Highway Trust Fund, the amount of money available for highways and transit, very significantly so those Members' projects could be included within the formula. Unfortunately, we are not in that kind of position today.

Secondly, the gentleman mentioned the projects of national significance. I know it is very true that it is not a delineation of what is going to be in there, but there has been $6.6 billion set aside for these projects.

We on the committee have talked to a number of people who have very significant projects they would like to put in there, but we decided not to make that decision until we get to conference so that in the event the Senate would like to add some additional money to the projects of national significance or if we can get the administration, along with the Senate, to increase the amount of money going into this bill, we will be able to address more needs of this Chamber.

I have been in this body for 22 years. So often discussions such as this on the floor are simply discussions of people wanting to get more into the bill because they are unhappy with the bill. But in most cases the committee position has been sustained, and I certainly hope and I believe it will be sustained today because this bill is the best bill for the country.

Mr. ISAKSON. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing forth this crucial amendment.

We learned overnight that more than $1 billion was added in earmarks to this project. This bill is out of control, and unless we have the Isakson amendment, there is simply no semblance of equity to this bill.

If this amendment fails, we have only one recourse and that is to ask the President, Mr. President, please veto this bill. Please veto this bill. This Congress is out of control, and it is in desperate needs of some adult supervision.

With that, I ask for support for the Isakson amendment.

□ 1015

Mr. ISAKSON. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I thank the distinguished gentleman from Georgia for yielding me time and for his leadership on this amendment.

Mr. Chairman, this amendment is an important step toward restoring equity to this process. The growth in America, the demands on our infrastructure and the demands on our roads have moved to the South and Southwest, and this formula does not reflect that.

There is $50 billion in new money in this bill for highways over the last one, and yet the growth States move backwards in funding. That is simple math that is indisputable and cannot be explained but can be corrected with the Isakson amendment.

If the projects were so nationally significant, why will you not tell us where they are? If they are so nationally significant, why are they not in the bill?

Mr. LIPINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 30 seconds to the distinguished gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I commend the chairman of the committee for his hard work on this bill. It is very difficult to allocate these funds. He has tried to allocate them as fairly as possible. The difficulty is the donor States such as my State want a guarantee that they will get a certain amount of money back, and that is precisely what this amendment does.

The State of Michigan over the years has contributed $1.71 billion more to the Federal highway funds than it has received back. They are 48th in the list of 50 States as to how much we get back from the Federal Government compared to the amount of money we send there. This is a very sore point in Michigan.

Mr. Chairman, this amendment will guarantee a rate of return for my State, and that is extremely important for my State, to receive that guarantee.

Mr. ISAKSON. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I rise in support of the Isakson amendment, which would seek to simply elevate the scope of the minimum guarantee from 84 percent in TEA LU up to 93 percent, the level in TEA 21. Basically, for the State of Georgia this means instead of

getting 76 cents back on every dollar, the citizens of Georgia would get 84 cents back on every dollar. That is our money, and it is only fair.

I strongly support the Isakson amendment.

Mr. LIPINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. ISAKSON. Mr. Chairman, it is a privilege to yield 2 minutes to the gentleman from Florida (Mr. MICA), a distinguished member of the committee and a good friend on this issue.

Mr. MICA. Mr. Chairman, I am privileged to serve with some great people on the Committee on Transportation and Infrastructure, led by the gentleman from Alaska (Mr. YOUNG). I want to take this opportunity to thank him, the gentleman from Minnesota (Mr. OBERSTAR) and others who have worked on this bill.

Mr. Chairman, this is a very difficult issue, because this decides how we divide our transportation dollars that come to Washington.

There are certain facts in this debate, and you just heard one of them. There is a substantial increase in the amount of highway money, in fact, some 25 percent increase in this bill. We have been asked to really leave the final decision of division of the funds up to the conference.

I have great faith in the chairman, I have great faith in the ranking member, the Speaker, the majority leader and others who have expressed their commitment to resolve this fairness issue, and that is what it is, in conference. But this amendment goes to the core of the problem, and that is the distribution. Rather than to leave it to chance, this Isakson amendment does in fact guarantee a substantial and fair increase to every State.

Now I know that we need projects of national significance, but I will tell you, I come from a State that has many projects of State and community significance, and they will be left out if we do not address this from a fairness standpoint and address it in the bill now, so every State, every State, benefits.

Look at the calculations. I know figures have been floating out there, but every State will benefit by the Isakson amendment. When we go to conference, we will be in a better position to address this fairness issue.

Mr. Chairman, I know the leadership has done their best to resolve this, I know they have committed to solve it in conference, but, again, the fact is in dollars and cents to each and every State, and particularly those States that have suffered, we need to resolve this and adopt this amendment. That will do the job.

Mr. Chairman, I ask for the consideration of Members.

Mr. LIPINSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I reluctantly urge a no vote on the gentleman's amendment.

Every State in the Union gets an increase in Federal dollars in this bill. The distribution of all these Federal dollars depends on highway traffic on Federal highways. When one State says they gave $12 billion through the Federal gasoline tax and excise tax, that is true, but all that money did not come from that particular State. That money comes from people that transit all over the Nation.

The gentleman from Connecticut talked about several interstate highways intersecting in the small State of Connecticut, so their proportion needs to be dependent on the Federal highway traffic on Federal highways.

Mr. Chairman, I urge a no vote.

Mr. ISAKSON. Mr. Chairman, it is a pleasure to yield 30 seconds to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I just wish to address the two concerns that have been raised by those who are critical of this amendment. Those issues are time and money.

They raise the suggestion that all we need now is more time and more money. I simply remind them of the fact that this committee has had, quite honestly, literally months, over a year, to work on it. I would ask for a show of hands. Who would ever expect we would get a better bill out of committee on this? I do not think time will solve the issue.

The other portion is money. Those on the other side also object, all we need is more money. I would remind them of the fact, if we could get more money, where will that money come from? All those people who are donor States please raise your hand, because it will be coming from us, the donor States.

Time and money is not the solution.

Mr. ISAKSON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The gentleman is recognized for 2½ minutes.

Mr. ISAKSON. Mr. Chairman, the gentleman from Alaska (Chairman YOUNG) is a good man with a difficult job, the gentleman from Minnesota (Mr. OBERSTAR) is a good man with a difficult job, and there are 433 other Members of this House who are good men and women with a difficult job. But fair is fair, and facts are facts.

The money that flows in that we are talking about spending today is a user fee based on the use of roads in each of the States. It is only right that States get back at least a semi-equitable portion of the use of their roads that generated the revenue that this Congress has dedicated.

There are no losers in the base bill or in this bill in aggregate dollars, because there is more money being spent, but there are big losers in terms of States in this country who already are donor States and are being reduced to a lower percentage.

I do not have the luxury of promising designated projects, and I do not know where ultimately they will or will not go, and I am not complaining about that. I am not a chairman, and I am not senior. But I will tell you one thing: The people of Georgia elected me, and they sent me here to represent them, and they should understand and expect a basic minimum guarantee that is at least the same as they have been used to.

Fair is fair, and facts are facts. There are a lot of loose numbers floating around, because, very frankly, we do not know where all the numbers are. But there is one irrefutable fact: 90.5 percent of 93 percent beats 90.5 percent of 84 percent, no matter whether you use new math, old math or trigonometry.

This is about equity, this is about fairness, this is about representing the people who sent us to this Congress.

I am grateful for the opportunities that have been afforded all these Members, from Indiana, Florida, Georgia, New Jersey, Arizona, all over the country. This is not a provincial issue. This is a people's issue. This is about doing what is right.

We have great leadership on our committee. They have done a good job. But this bill needs improvement. The legacy for users in America should not be an inequitable distribution of the money they sent to Washington because of the use of their roads.

Fair is fair, and facts are facts. I urge a yes vote on the Isakson amendment.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. LIPINSKI) has 4¼ minutes remaining.

Mr. LIPINSKI. Mr. Chairman, I yield 4¼ minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me time and for his management on our side. It is splendid work.

Again, I express my great appreciation and admiration for our chairman of the full committee, the gentleman from Alaska (Mr. YOUNG).

Mr. Chairman, we had a very thoughtful debate here, and it is maybe one of the better hours of this body. There has been no haranguing and no questioning of motives or of spirit, and that is good.

But last night I received this Dear Colleague from the gentleman from Georgia, which does make rather a amazing claim, that the Isakson amendment would keep the TEA LU highway program at $207 billion and adjust the formulas, with a claim that if the adjustments are made, every State would get more money.

Well, the gentleman from Alaska has produced a chart that shows that every State loses under that formulation.

I will say it again: The claim is TEA LU has $207 billion for the highway program. The Isakson amendment has $207 billion of grants and claims that every State gets more money.

Well, that is pretty slick math. I just heard a reference to trigonometry. I do not know if you go into algebraic formulations, but it does not work. Trying to make it work has resulted in an apples-to-oranges claim.

I have been at this highway transit issue for about 40 years, since I started up here as a staff person. My predecessor was one of the five coauthors of the Interstate Highway Program and the Highway Trust Fund.

Not every State gets everything back that it puts into the Highway Trust Fund. The idea is that we are a mobile society. People travel from one coast to the other, from the North to the South, as the gentleman from Maryland just referenced a little bit ago, and the idea is we all help each other.

The problem with the Dear Colleague and with the claim of benefiting everybody is that it does not credit the States with any portion of the $6.6 billion mega-project program, and that is not right. Mega-project funding will go to the States. We are not specifying which States, who will get it, how it goes out. That will be done under a distribution that will be made by a fair and equitable process to determine net regional and net national benefits from projects that unlock congestion knots in this country. So when you add the $6 billion, every State gets more.

Now, who gets what? Under the highway funding of TEA LU, Florida gets $751,632,870 more. Georgia gets $450,800,700 more. Texas gets $1,728,467,545 more. Every State gets more under TEA LU. Every State would get vastly more if we had this bill at the $375 billion level which we introduced.

□ 1030

The issue is not percentages; do not tinker around with that. Look at the net national benefits.

Mr. Chairman, I just want to say, our national motto, e pluribus unum, ''out of many, one,'' it is not e pluribus pluribus, ''out of many, many.'' We are a Nation, an inclusive Nation. Those dollars that Georgia and Florida claim make them donor States come from States all along the eastern seaboard and from the Midwest. That is what we are about, one Nation, benefiting everybody. Vote for TEA LU, vote down Isakson.

Mr. BILIRAKIS. Mr. Chairman, I rise today to express my support for the Isakson amendment because it attempts to maintain the status quo for all the donor States by including earmarks and Projects of National and Regional Significance in the SCOPE of programs covered in the Minimum Guarantee program.

In TEA–21, 93 percent of the programs were included in the Minimum Guarantee, including the High Priority Projects. In TEA–LU, as written, the SCOPE is reduced to 84 percent of the programs. For Florida, that means $860 million in lost guaranteed funds over 6 years. This would be a huge step backwards.

Mr. Chairman, it's simple math. H.R. 3550 keeps the equity guarantee at 90.5 percent, but reduces the coverage of the guarantee to a smaller piece of the total pie. This will cause Florida and other States to lose hundreds of millions of dollars.

The Isakson amendment requires no additional funding. This amendment simply asks that we keep things the way they were in TEA–21. I urge my donor States colleagues to support this amendment, for the sake of their State.

Mr. NORWOOD. Mr. Chairman, I rise today in strong support of the amendments offered by my good friend Mr. ISAKSON to address the backwards slide in minimum guarantee that this transportation reauthorization bill would impose on a number of States—including my home State of Georgia.

Simply put, previous transportation bills have asked the hard-working folks in Northeast Georgia's 9th District to send more money to Washington . . . and see less money find its way back.

But this bill (H.R. 3550, TEA–LU), asks those same hard-working folks to send even more money to Washington . . . and see even fewer of their tax dollars make their way back to Northeast Georgia to improve the roads and conduct essential transportation improvements . . . and that's just as wrong as the day is long.

Consider the numbers. Under current law, every State is guaranteed a 90.5 percent return on each dollar of gas taxes it submits to the Federal government. And when the 1998 TEA–21 language became the law of the land, 93 percent of programs were included in the minimum guarantee, including high priority projects and projects of national and regional significance that are important to Georgians and others from States who pay so much more than ever comes back.

But under this bill, under TEA–LU, States' core funding programs would be decreased from a 90.5 percent share to only 84 percent of the programs. Don't forget, this includes ''High Priority Projects and Projects of Regional Significance.''

For the average State, this reduction in scope will result in the loss of $300 million over the lifespan of the six-year legislation. In fact, the State of Georgia could stand to lose between $500 and $600 million.

Mr. Chairman, I have stood on this floor time and time again to preach the need for this Congress, and this Federal government, to exercise fiscal responsibility and live within our means—much like Georgians and all Americans do every single day. I also clearly recognize the need to meet this Nation's critical transportation infrastructure funding needs. Taking money from Peter to pay Paul, accomplishes neither objective . . . and in fact, only seriously jeopardizes the future infrastructure needs for millions of Americans.

Mr. Chairman, it is absolutely imperative to include high priority projects as well as projects of regional and national significance in the Scope formula for H.R. 3550. Make no mistake, we can do better . . . but by at least returning to a 90.5 percent minimum guarantee on 93 percent of the programs addressed in the Transportation Reauthorization Act, this Congress rights a major wrong contained in TEA–LU.

I urge my colleagues to do just that by supporting the Isakson amendment.

The CHAIRMAN pro tempore (Mr. NETHERCUTT). All time has expired.

The question is on the amendment offered by the gentleman from Georgia (Mr. ISAKSON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ISAKSON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. NETHERCUTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER BEFORE CONCLUSION OF AMENDMENTS PERIOD OF FURTHER GENERAL DEBATE IN COMMITTEE OF THE WHOLE DURING FURTHER CONSIDERATION OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 3550 in the Committee of the Whole, a period of further general debate contemplated in a previous order of the House of March 30, 2004, may be in order before the conclusion of the consideration of the bill for amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. OBERSTAR. Mr. Speaker, reserving the right to object, is that the full extent of the agreement, just general debate on each side?

Mr. YOUNG of Alaska. Mr. Speaker, if the gentleman will yield, yes, that is correct.

Mr. OBERSTAR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore (Mr. SHAW). Pursuant to House Resolution 593 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3550.

□ 1033

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the

further consideration of the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with Mr. NETHERCUTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 23 by the gentleman from Georgia. (Mr. ISAKSON) had been postponed.

Pursuant to the order of the House of today, it is now in order for a period of final debate on the bill. The gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 5 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

I hope everybody that is standing around will listen for a few moments as a matter of courtesy, because I have to refer back to one of the former speakers from New Jersey who said we had plenty of time on this bill, and we should have done better. I can tell my colleagues, we have done everything we could possibly do, because we had to really write three different bills, which is very difficult to do, because the numbers kept changing and kept floating. But every time we had to change, the staffs on both sides, on this side and that side, majority and minority, had to go back and rewrite most of the legislation each time.

So at this time I would like to acknowledge not just the work of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and the gentleman from Wisconsin (Mr. PETRI), but those who really did the work: Levon Boyagian, Graham Hill, Jim Tyman, Joyce Rose, Mike Lamm, Sharon Barkeloo, Melissa Theriault, and Ryan Young. He is not my son, either; he is no relation.

Also, Debbie Gephardt, not the daughter of the gentleman from Missouri (Mr. GEPHARDT), either; Patrick Mullane on the gentleman from Wisconsin's (Mr. PETRI) staff. They were the real behind-the-organization workers.

Also my chief of staff, Lloyd Jones; Liz Megginson; Charlie Ziegler; Mark Zachares; and Fraser Verrusio, Debbie Callis and John Bressler.

I would also like to thank the minority staff. I can tell my colleagues with sincerity that the minority staff, because the majority staff would come to me and say, the minority staff is not working with us; and the minority would say the majority staff is not working with us but, in the long run, we all got together and solved, I think, a lot of very serious, contentious problems and philosophies and where this bill was headed.

I also want to thank David Heymsfeld, Ward McCarrager, Clyde Woodall, Ken House, Katherine Donnelly, and Art Chan. On the staff of the gentleman from Illinois (Mr. LIPINSKI), Jason Tai.

There are many others, and would I like to thank all of the members of this committee that worked with me and have stood by me; and those that object to provisions in this bill, they have my assurance that I am going to try to make sure that we solve those problems in conference. I have been one that does not weaken very easily when it comes to working with the other body. And if we stand shoulder to shoulder, I think we can solve those problems that have been brought to the floor. We hope to do so. I am confident we can.

Again, I am extremely grateful for those who put all the time in, 4 o'clock in the morning, 5 o'clock in the morning, and back here, like today, at 9 o'clock in the morning. This is a large legislative package, and we could not have done it without the hard work and dedication of professional people, I want to stress that, professional people; and for that, I extend my sincerest thanks.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 1 minute to join with the chairman in complimenting the staff on both sides and expressing deep gratitude. As a former staff member myself, I am well sensitive to the long hours that staff put in.

On our side, Davis Heymsfeld, Ward McCarrager, Kathie Donnelly, Clyde Woodle, Ken House, Art Chan, John Upchurch, Eric Van Scandle, and Jason Tai, all have worked those long hours the chairman talked about. While we were recharging our batteries, they were running theirs sometimes on practically empty. But we also must express our appreciation to the legislative counsels from the House Legislative Counsel's Office who have provided such skilled draftsmanship for both sides, to David Mendelsohn, Curt Haensel, and Rosemary Gallagher.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee, who has done an outstanding job traveling across this country explaining our bill.

Mr. PETRI. Mr. Chairman, I would just like to concur in the commendation that our chairman extended to the working staff on both sides of the aisle, and to say to my colleagues that this is a work in progress.

This is an important milestone, but this is not the end of the process by any means. We will be working on this and voting on it over the coming months, and then we will be back under the terms of this bill in about 18 months to readdress the needs of our Nation in the transportation area.

So this is not a one-time snapshot that is set. This is a work in progress; and I hope that, as we continue with this work in progress, we will work together to meet the transportation needs of our country, which are enormous.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, while we are decompressing for a moment and in a congratulatory mode, I would add my congratulations as well, but I would have just one little footnote.

Before we are through today, there will be an opportunity for Members of this Chamber to make a vote towards the level that was crafted by our distinguished chairman and ranking member. We are not going to get the $375 billion yet; some day we will, but we will have a motion by the gentleman from Tennessee (Mr. DAVIS) that will permit us to at least vote on the $318 billion that was approved by the other body. It has no new user fees or taxes on gas; it is fully paid for, and it includes money that Americans are already paying for transportation.

I sincerely hope that we will be able to have an ''aye'' vote for this motion to recommit to keep faith with the broadest coalition that we have seen supporting American transportation, allow not just an empty gesture, but a House standing up for the future of America's communities.

Mr. YOUNG of Alaska. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. LIPINSKI), the ranking member of the Subcommittee on Surface Transportation.

Mr. LIPINSKI. Mr. Chairman, I want to take this opportunity to thank the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Alaska (Mr. YOUNG) for involving me in this process very thoroughly, very completely. This truly has been a bipartisan effort. I have been astonished by the willingness of the gentleman from Alaska (Chairman YOUNG) to involve this side of the aisle in the deliberations, the planning, the execution of what we have in this bill.

This is a bill that was approved unanimously by the very large Committee on Transportation and Infrastructure. Not one single negative vote was cast against this bill in committee. And that is a testament to the leadership of the gentleman from Alaska (Mr. YOUNG) of involving everyone. But it was not only the big four that was involved in this bill; every single member of this committee, every single Member of this House had the opportunity to participate in this bill. That is a tribute to the gentleman from Alaska (Chairman YOUNG), and I thank him for it.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Again, we are about to close this very long 2 days. We will have a series

of three votes: the Bradley amendment vote, the Kennedy amendment vote, the Isakson amendment vote, and motion to recommit, and then final passage. Again, I can suggest to most of the Members of this House that this has been a long, trying time, but one which I take great pride in.

Regardless of what my colleagues read in the two rag sheets in this body, and they are constantly reporting and trying to divide this House, to try to pit one against the other in different fashions, we have overcome that and I think have come out with a very good piece of bipartisan legislation.

Yes, there are some that do not agree with it, and I understand that. But overall, if we believe in the national transportation system, and I want to stress, the national transportation system, H.R. 3550, the $275 billion does not completely do the job, but it is the nearest thing we can do at this time.

I will say right up front, a motion to recommit is very attractive, but it should not be done because it does break the budget against the budget resolution that passed the House; and it does, in fact, send a message to the Senate, but it does not accomplish the goals that I am trying to achieve, and that is to pass legislation so we can make a step forward, a step forward to the progress that is necessary to get our country moving, to keep this country moving, to make sure our people and our products move.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we will soon be voting on one amendment held over from last night. I want to remind Members that that is a heavy-trucks amendment. The position of our committee is no on heavy trucks. Vote ''no'' on the Bradley amendment. Vote ''no'' on this misguided Kennedy amendment dealing with tolls on existing highways, expanding that authority, and vote ''no'' on the Isakson amendment.

Let me restate, under TEA LU, every State gains. Look at your revenues, not at some arcane formula, a percentage of this and a percentage of that, and some percentage that is missing, like missing matter from the universe. There is no missing money; it is all there. It all goes to the States, and all States grow in their revenues under this bill.

Let me just point out, however, that under the introduced bill of last year, which the gentleman from Alaska and I and all, virtually all of the other, all but one other member of the committee supported, we have vastly increased funding. That is the direction we need to go. That is where we ought to be making the investment. That bill will put 475,000 jobs on the work sites of America by Labor Day. We would have $80 billion of additional economic activity in the workplace by Labor Day. We would have an economy rising instead of one that is stagnating. But we are not there.

□ 1045

We have done a fair job with this legislation, taking every State from the level of 90.5 percent return of their contribution of the trust fund to 95 percent over the 6 years of this bill. That was the goal. That is where we started. Everybody wanted to do that. We checked with Members on both sides of the aisle. That is what we do with this bill.

Let us not get bogged down into ''I get a little more percentage of this and my State gets a little more percentage of that.'' Remember, we are one Nation, one highway system, one sense of mobility. Let us move America together ahead with TEA LU, not backwards with these destructive amendments.

Mr. MICHAUD. Mr. Chairman, it is vitally important that we continue our efforts to fund the Nation's highway and transit systems, and that we find new ways to invest in these systems. I think we are seeing a consensus within the transportation committee, and an impressive unity in our committee's fine leaders, on the need to increase the level of highway and transit investments.

These are extremely worthwhile investments. According to the Federal Highway Administration, each $1 billion of Federal funds invested in infrastructure creates approximately 47,500 jobs and $6.1 billion in economic activity.

Today, America finds itself in a struggling economy. Maine is suffering as badly as anyone, with unemployment in my hometown soaring. People are looking for answers. Well—here is an answer, loud and clear. We need new investment, we need new jobs, and we need the highway and transit program to reach new levels of funding.

Many transportation committee members, including myself, had supported a bill with even more robust funding, and we will be voting during today for a version of the bill with an additional $100 billion in funding over 6 years. The fact that this is not the version that will be on the floor is disappointing.

Despite wide-ranging support from construction, engineering, trade, and labor groups for its job-creating impact, this $375 billion version of the bill has been blocked by a veto threat from the administration. This leads me to ask—what is it about jobs and economic growth that they object to?

Still, while today's bill is less than we would want, it does represent the best we could do given the constraints, and it is a testament to bipartisan cooperation and commitment to moving our economy forward. Many would have preferred a bill with greater investment in transportation, because this country needs jobs, and transportation investment is the best way to do it. But given the choice of stalling the process or supporting a bill with lower investment levels, I suspect the most members will vote in favor of the bill today, because of all the good things it does achieve. It increases overall funding, creates vital new programs to improve walking and biking routes, fund projects of regional and national security, and increase border safety. It is good for the country, and it is great for Maine.

I am particularly pleased with some of the project funding that will be included in this bill for Maine. Among the most important is the ''Wood Composite Materials Demonstration Project'' that is aimed at the University of Maine and its Advanced Wood Composites Laboratory. This vital funding to demonstrate the durability and effectiveness of wood composite materials in multimodal transportation facilities promises to increase the efficiency and value of our transportation infrastructure and find valuable new uses for our natural resources.

I believe that we will all work together in the coming months to make the good start we are getting today into an even better final bill.

Mr. SMITH of Michigan. Mr. Chairman, this bill has several problems. The people of Michigan get even less money for their dollar than they did before. Currently, Michigan taxpayers get 88 cents back for every gas tax dollar that we pay to Washington for highway funding. Under this new bill, that falls to 79 cents. That's unacceptable. Today, people in Michigan pay 18.4 cents in federal gas taxes and 20 cents in state gas taxes. All of the state gas taxes stay in Michigan, but only 79 percent of the federal gas taxes will be returned to Michigan.

President Bush's budget requested $256 billion over 6 years for a transportation bill. H.R. 3550 has been estimated to cost $284 billion. That's a 30 percent increase above the previous transportation bill of $218 billion. And the reopener provision is going to force us to increase spending in the future.

Much of this money is not even spent on transportation projects. There is $3 million for a park in Alabama and $1.5 million for ''streetscape improvements'' in Long Beach, California. There are $1.2 billion for bike paths and more set asides for hiking trails, nature centers, obesity programs for children and battlefield preservation. There are 2,800 earmarks in this bill, 1,000 more than in the last transportation bill. And the Manager's amendment added $1 billion in projects to encourage people to support the bill.

Mr. ISTOOK. Mr. Chairman, I oppose the TEA–LU highway authorization bill today, which will significantly reduce Oklahoma and many other states' share of highway funds over the next 6 years.

For years, I've been fighting to reverse Oklahoma's donor state status. Instead of helping, this bill will cause Oklahoma to slide backwards, becoming more of a donor state than we already are.

Under the formula adopted by TEA–LU, Oklahoma will receive $2.8 billion over the next 6 years—which is about $250 million less than it would have under the formula provided in the TEA–21 6-year authorization that it replaces. People should not be confused by talk that this bill ''preserves'' any state at a 90.5 percent funding guarantee. It applies that guarantee against a significantly-lowered base number, which has now been set at 90.5 percent of 84 percent, rather than 90.5 percent of 93 percent of highway funding provided in TEA–21.

The House of Representatives had a chance today to ensure fairness for all states in this bill when my good friend JOHNNY ISAKSON of Georgia introduced his amendment that would restore the base number to the 93 percent level. I strongly supported that amendment and encouraged others, especially in the Oklahoma delegation, to do so as well. Unfortunately, it was not the will of the House to support Mr. ISAKSON's amendment and provide the funding fairness that mine, and other states, deserve.

Consequently, I cannot support a bill that takes one step forward and two steps back. I worked to make sure the bill funds important projects for my district, like $34 million for the Oklahoma City Crosstown Expressway. But I also worked toward fair treatment for all of Oklahoma. In the long run this bill hurts Oklahoma more than it helps us by changing the formula and costing Oklahoma hundreds of millions over the next 6 years.

Mr. YOUNG of Alaska. Mr. Chairman, I want to assure my colleagues from Hawaii that pertaining to section 1812, I continue to be willing to work with them to find an alternative resolution of the issues addressed in that section.

We worked on legislative language last fall that would have transferred the dry-dock back to the Federal Government and compensated TDX for its costs and that would have ended all lawsuits. I am still interested in this framework for a legislative solution to these debilitating lawsuits.

Once again, I remain committed to working out a mutually acceptable solution to this problem with my friends from Hawaii and others, in conference or elsewhere.

Mr. LEVIN. Mr. Chairman, it is unfortunate that the House does not have a better transportation bill before it today. As it is currently written, the bill has a number of genuine shortcomings which are inequitable to my home state of Michigan and a large number of other donor states. Let me make it clear that these shortcomings will have to be addressed.

I also want to underscore that this transportation reauthorization is seriously behind schedule. Renewal of the highway bill was supposed to be completed last year. The states need Congress to complete our work and pass a long-term transportation bill in order to plan and implement their road and transit projects. The inability of the House to effectively deal with this legislation is negatively affecting the economy and jobs.

The House is in this unenviable position because the Republican Leadership and the White House cannot agree on the size and shape of the highway bill. The White House has indicated the President may well veto the bill that the Majority has brought to the Floor today. The President's ''my way or the highway'' approach to this bill is the single largest obstacle to providing equity to donor states in this legislation.

But we simply cannot keep putting this off and passing short-term extensions. We have got to break the impasse. Our country's roads and transit are too important to maintain the status quo. It is time to approve a multi-year reauthorization, move it to conference with the Senate, and have all parties sit down and work through the difficult issues that need to be addressed.

Primary among those issues is the need to address donor state equity. By maintaining the current 90.5 percent minimum guaranteed return on Federal highway dollars, this bill does nothing to improve the status of donor states like Michigan. I worked with other concerned Members in each of the past few highway funding reauthorization bills to increase Michigan's rate of return. Along with so many of my colleagues, I have cosponsored legislation in this session of Congress to increase this return once more by requiring a minimum return of 95 percent. The House Leadership has agreed to address this concern when this bill goes to conference.

The bill before the House today simply does not provide an adequate level of funding to meet the needs of our states' transportation infrastructure. The Senate has approved legislation providing $318 billion over 6 years, while we are considering a $275 billion measure. I very much support the Senate-passed funding level, which would provide $1.65 billion more for Michigan. I hope that we can move closer to the Senate-passed funding level in conference.

I will vote for this legislation today to get the bill to conference so that these shortcomings can be negotiated and addressed. Let me be clear: My vote on the final version of this legislation will depend on how these matters are addressed by the conferees.

Mr. STUPAK. Mr. Chairman, I have decided to vote in support for H.R. 3550 or the TEA–LU highway/transit reauthorization bill, but with reservations and with the hope that it will be addressed during the House-Senate conference.

I am pleased that this highway and transit reauthorization contains my requests on the may critically needed transportation projects for the First District.

However, this $275 billion bill still shortchanges Michigan in overall funding. It fails to include enough funding to ensure my state receives its fair share of highway funding.

Under the current highway authorization law, TEA–21, Michigan is a ''donor'' state. That means for every dollar Michigan taxpayers pay into the federal highway/transit fund—the state gets back only 90.5 cents in federal highway funding. The new reauthorization bill, TEA–LU, does not narrow this gap. Instead, it actually makes it worse by making the pot of money where this formula applies even smaller.

The $318 billion Senate bill, however, would gradually increase Michigan's rate of return on the dollar up to 95 cents by the end of FY 2009. That would be a vast improvement from the House version and I urge the joint House-Senate conference committee to accept the Senate version.

Congress needs to address this inequity to ensure Michigan receives a more equitable share of funding so it can better address and upgrade its highway and transit system as well as create much needed jobs in Michigan. For every $1 billion in highway and transit funding, that creates 47,500 new jobs and $6.2 billion in economic activity, according to the House Budget Committee Minority Office.

Mr. CARSON of Oklahoma. Mr. Chairman, as a member of the Transportation and Infrastructure Committee, I would like to thank the Chairman and the Ranking Member for their leadership and tireless efforts to bring this important bill to the House floor today.

This bill makes significant improvements over the previous legislation and I strongly support it. Though there is much work behind us, there is still more that can be done to continue to improve our nation's transportation systems. As a representative of the state that leads the nation in the highest percentage of bridges considered structurally deficient, we must recognize the importance of investing in our nation's infrastructure both for our economic well being, as well as public safety.

This bill makes valuable improvements in programs of importance to many Oklahomans. The Indian Reservation Roads program has a significant impact in Oklahoma and allows tribal governments to partner with local communities to improve roads for all Oklahomans. Bridge improvement money will hopefully take Oklahoma out of the top position in this perilous category by providing funds for the state to improve our many deficient bridges. These improvements and repairs will then allow commerce, such as our state's wheat harvest, to again use the most direct routes to get their products to market. There are transit programs, which take rural Oklahomans to jobs and healthcare, that they would otherwise have no access to without this legislation. This bill is truly good government at work.

This legislation will put Americans to work like no other legislation brought to the floor during my time in Congress. For every $1 billion invested in federal highway and transit programs, 47,500 jobs are created here in the United States. These are jobs in small businesses, in rural communities and cities alike. Investing in our Nation's infrastructure is one of the best investments we can make, both for the economic benefits as well as our transportation safety on roads and transit systems all Americans use everyday.

Again I thank the Chairman and Ranking Member, as well as Mr. PETRI and Mr. LIPINSKI for their dedication to this legislation. I urge my colleagues to support this important bill.

Mr. BACA. Mr. Chairman. I rise in opposition to the Graves amendment to H.R. 3550. Don't be fooled by this amendment. This amendment is bad for my district and bad for California.

My State is a destination State. Tourists come to visit and see the sights and cities of Southern California. Sometimes these tourists rent cars. And sometimes they get into accidents. California passed a vicarious liability law that protects innocent bystanders from rental car companies that rent to uninsured drivers. When people get hurt by these uninsured drivers, there is no place to turn for compensation. This law allows those that get hurt to ask for compensation from the rental car companies. The State saw a need for such a law, so they passed one.

The Graves amendment attempts to tell California what type of law it needs. It will cancel California's law and hurt their citizens. What makes Washington Congressmen think they know what's best for my district and for California? California, 14 other States and the District of Columbia know that vicarious liability laws are good for their citizens. They know that when push comes to shove this will help keep their citizens safe. That is why I oppose the Graves amendment and support California's right to determine what best serves the interests of its citizens.

Mr. RUSH. Mr. Chairman, I am pleased that we are voting on H.R. 3550, ''The Transportation Equity Act: A Legacy For Users'' (TEA–LU), a much needed legislation that will fund our Nation's critical transportation infrastructure. H.R. 3550 would not only repair our roads and alleviate traffic congestion but it would also create and sustain 1.7 million new jobs throughout all 50 states over the next 6 years. This bill addresses many problems that plague our Nation's transportation infrastructure. For example, TEA–LU creates a congestion relief program which requires states to focus on the congestion resources that affect their roadways. TEA–LU provides 28 percent increase in funding for NHTSA highway safety formula grants that supports state safety programs. This is extremely important because it

is well known that 42,000 Americans are killed and 3.3 million die from our Nation's highways due to substandard road conditions and roadside hazards. More importantly, H.R. 3550 recognizes that transportation in the 21st century cannot exist without adequate resources for public transportation. I am also pleased that TEA–LU provides $51 billion for public transportation infrastructure programs. However, I am disappointed that the funding level for this bill is well below the Senate highway bill. Originally, this bill was to be funded at $318 billion but because of pressures from the White House it was scaled back to $275 billion. This is quite unfortunate. H.R. 3550 may be the only job creating measure considered by Congress this year, as every $1 billion invested in federal highway and transit creates 47,500 jobs. These well paying jobs would go a long way in my district.

Mr. RODRIGUEZ. Mr. Chairman, I rise in support of H.R. 3550, the Transportation Equity Act: A Legacy for Users. Today, we have a historic opportunity to reinvest in our Nation's infrastructure and promote sound economic development policy.

Highways make traveling the distances of our great State of Texas feasible and affordable. These roads traverse our lands, connect people together, and allow them to travel quickly and efficiently. They facilitate the transfer of commerce and enable the delivery of goods across state lines, and the construction and maintenance of these roads are an important source of employment for Texas residents.

While highways perform valuable services, they are merely an afterthought for the average person. However without timely maintenance and construction, highways may become unsafe and overly congested. Current economic problems have delayed critical maintenance and expansion projects causing increased congestion, air pollution, and accidents. The U.S. Department of Transportation reports that $375 billion is needed for highway and transit improvements.

NAFTA has brought numerous new economic and trade benefits to South Texas and the Nation; however, this increased trade is straining our current transportation infrastructure and causing an increase in air pollution and chemical runoff. Funds for transportation projects are urgently needed to offset and improve the many longstanding transportation and infrastructure needs of San Antonio and South Texas. I firmly believe that South Texas should not have to bear the burden of increased international trade traffic alone. If we do not invest in the region now, the flow of international trade will be negatively impacted in the future.

Last April, I had the opportunity to speak before the House Transportation and Infrastructure Committee and testified on the pressing transportation needs in South Texas. I would like to take a moment to thank the Chairman and Ranking Member and their staff for their leadership and understanding of the complexity of our Nation's transportation problems. As I mentioned a moment ago, South Texas has many outstanding needs that will impact the Nation if not addressed in the very near future.

I am pleased that the Committee included six projects for which I had submitted requests. The legislation authorizes $4 million for Mission Trails Packages 4 and 5, which would complete a project that is vital to the revitalization of the South Side of San Antonio. The Mission Trails project is a transportation enhancement project that upon completion will be approximately 12 miles of picturesque, tree lined hike and bike trails, improved well-lit roadways, and rest areas for people to enjoy.

An additional $4 million authorization level was included for the Anzalduas Bridge Connector Road in Hidalgo County and $3 million for the Hidalgo County Loop. These projects are integral towards improving our Nation's gateway to trade and alleviating congestion in the Lower Rio Grande Valley. I would like to thank Congressman LLOYD DOGGETT for his steadfast support and work on these projects.

A $6 million authorization level was also included for construction of KellyUSA's 36th Street Extension Road. I would like to thank Congressman CHARLIE GONZALEZ for his role in supporting this project. The 36th Street Extension Road is a critical component of the KellyUSA base conversion plan which includes new gateways and an expanded road access system. As a former military base, Kelly was originally built as a closed access facility. The 36th Street Extension Road will provide a new southern access point and expand community and commercial truck access to the facility.

I am pleased that the bill contained a $4 million authorization level for planning, design and engineering along the I–35 corridor in central Texas. These funds will support an ongoing multi-modal transportation project to improve the Austin-San Antonio corridor.

Lastly, I would like to thank the Committee for including language to authorize $4.5 million for the Arkansas Avenue railroad grade separation project in Laredo to improve public safety and overall mobility by connecting north and south Laredo. The project will also alleviate congestion along major trade corridors and allow traffic to flow in the event of an emergency or evacuation.

I also strongly support critical funding for the VIA Metropolitan Transit Authority that was championed by Congressman GONZALEZ. A $7 million authorization level was included for VIA to purchase new buses to replace the aging bus fleet and paratransit vans as well as upgrade their bus maintenance facility. VIA provides critical services to the greater San Antonio area and I thank them for all that they do.

As you know, funding for the Transportation Equity Act for the 21st Century (TEA–21) expired in 2003. I fully supported the House Transportation Committee's original reauthorization bill, which authorized a $375 billion level, and I'm disappointed that the President's veto threat of this jobs bill ultimately reduced the amount to $275 billion. I hope that Americans understand that this means fewer jobs in an already stagnant job market. For every $1 billion invested in federal highway and transit spending, 47,500 jobs—over half of which are in the construction industry—are created or sustained. This is a jobs bill—it is about investment in our communities and our economy.

Mr. Chairman, while I believe we should continue to push for additional funds, we must also face the harsh economic reality that recent tax cuts and a skyrocketing deficit have left us with less money to invest in our infrastructure. This bill that we have before us today is a start, and I urge my colleagues to vote in favor of H.R. 3550. Let's start reinvesting in our Nation.

Mr. KIND. Mr. Chairman, I rise in support of H.R. 3550, the Transportation Equity Act. I want to acknowledge the work of the Transportation Committee on this complex bill and especially thank my friend and colleague from Wisconsin, Mr. PETRI, for his leadership on the legislation; the Wisconsin delegation is lucky to have such a strong advocate for our citizens.

We all know that transportation bills are job bills, and now is certainly the time that we need more jobs throughout the country. Over 8 million Americans are looking for jobs, and last month only 21,000 new jobs were created, none of which was a private-sector job. I consistently hear from constituents who are searching for work; who have sent out dozens of resumes and updated their skills but remain unemployed. Each billion dollars spent on highway funding creates not only safer and better roads: It also creates an estimated 47,500 new jobs. An investment in highway funding is an investment for steady work for those in Wisconsin and around the Nation.

Furthermore, I am pleased that the bill recognizes the importance of funding crucial highways, transit centers, and bridges in Wisconsin's Third Congressional District. Specifically, the inclusion of funding for the Stillwater Bridge, which connects Houlton, Wisconsin and Stillwater, Minnesota is great news for those of us who have been working on this project for years. The bridge is only one example of an important project that will provide the Nation with safer roads, shorter commutes, and better jobs. I urge my colleagues to support the bill.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment number 20 by Mr. BRADLEY of New Hampshire, amendment number 22 by Mr. KENNEDY of Minnesota, amendment number 23 by Mr. ISAKSON of Georgia.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 20 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. BRADLEY of New Hampshire:

Add at the end the following new section:

SECTION . VEHICLE WEIGHT LIMITATIONS.

(a) The next to the last sentence of section 127(a) of title 23, United States Code, is amended by striking ''Interstate Route 95'' and inserting ''Interstate Routes 89, 93, and 95''.

(b)(1) IN GENERAL.—In consultation with the Secretary of Transportation, the State of

New Hampshire shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by subsection (a), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $250,000 for fiscal year 2004 to carry out the study.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 90, noes 334, not voting 10, as follows:

[Roll No. 110]

AYES—90

Aderholt
Akin
Allen
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bradley (NH)
Burns
Burr
Buyer
Calvert
Cannon
Cantor
Castle
Chocola
Cox
Deal (GA)
DeLay
Diaz-Balart, M.
Dreier
Everett
Feeney
Flake
Fossella
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gingrey
Goode
Granger
Greenwood
Hall
Harris
Hastert
Hayes
Hayworth
Hensarling
Herger
Hostettler
Houghton
Hunter
Johnson (CT)
Keller
Kennedy (MN)
King (IA)
Kline
Latham
Lewis (KY)
Manzullo
McIntyre
Michaud
Miller (FL)
Musgrave
Myrick
Nethercutt
Neugebauer
Norwood
Nunes
Paul
Pearce
Pence
Pitts
Pryce (OH)
Rehberg
Rogers (AL)
Ryun (KS)
Sessions
Shadegg
Sherwood
Shimkus
Simmons
Simpson
Smith (MI)
Souder
Stenholm
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Walsh
Whitfield
Wilson (SC)

NOES—334

Abercrombie
Ackerman
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barton (TX)
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Hart
Hastings (FL)
Hastings (WA)
Hefley
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Renzi
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shuster
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman
Weldon (FL)

□ 1109

Ms. CARSON of Indiana, and Messrs. GERLACH, LUCAS of Kentucky, MCHUGH, DICKS, HILL, VITTER, LEVIN and MATSUI changed their vote from ''aye'' to ''no.''

Mr. PENCE and Mrs. MYRICK changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. NETHERCUTT). Pursuant to clause 6 of rule XVIII, the remaining votes in this series will be conducted as 5-minute votes.

AMENDMENT NO. 22 OFFERED BY MR. KENNEDY OF MINNESOTA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 231, noes 193, not voting 10, as follows:

[Roll No. 111]

AYES—231

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bereuter
Berkley
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Manzullo
McCotter
McHugh
McInnis
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts

Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Barton (TX)
Becerra
Bell
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Bonilla
Boswell
Boucher
Brady (PA)
Brown, Corrine
Burgess
Capps
Capuano
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Goodlatte
Gordon
Goss
Granger
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (CA)
Lipinski
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman
Weldon (FL)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1118

Ms. BERKLEY changed her vote from ''no'' to ''aye.''

Mr. MEEKS of New York and Mr. FORD changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 23 OFFERED BY MR. ISAKSON

The CHAIRMAN pro tempore (Mr. NETHERCUTT). The pending business is the demand for a recorded vote on amendment No. 23 offered by the gentleman from Georgia (Mr. ISAKSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 254, not voting 9, as follows:

[Roll No. 112]

AYES—170

Akin
Bachus
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bell
Bilirakis
Bishop (GA)
Blackburn
Blunt
Boehner
Bonilla
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cantor
Carson (IN)
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Conyers
Crenshaw
Cunningham
Davis (AL)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Duncan
Edwards
Ehlers
Emerson
Etheridge
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Green (TX)
Gutknecht
Hall
Harris
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hoekstra
Hunter
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kildee
Kilpatrick
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Lampson
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Majette
Marshall
McCotter
McInnis
McIntyre
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nussle
Otter
Paul
Pence
Portman
Price (NC)
Putnam
Ramstad
Renzi
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Sandlin
Schrock
Scott (GA)
Scott (VA)
Sessions
Shadegg
Shaw
Simpson
Smith (MI)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner (TX)
Udall (CO)
Upton
Visclosky
Wamp
Watt
Weldon (FL)
Wexler
Whitfield
Wilson (SC)
Wolf
Young (FL)

NOES—254

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Bass
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (NY)
Bishop (UT)
Blumenauer
Boehlert
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Calvert
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Case
Castle
Clay
Clyburn
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Emanuel
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gordon
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Harman
Hart
Hastings (WA)
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
John
Johnson (CT)
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kind
King (NY)
Kirk
Kleczka
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Lewis (CA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reynolds
Rogers (AL)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Sensenbrenner
Serrano
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Stark
Sweeney
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Toomey
Towns
Turner (OH)
Udall (NM)
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Waters
Watson
Weiner
Weldon (PA)
Weller
Wicker
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—9

Culberson
DeMint
Gephardt
Hulshof
Miller, George
Reyes
Tanner
Tauzin
Waxman

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1126

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. NETHERCUTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, pursuant to House Resolution 593, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The committee amendment in the nature of a substitute, modified by the amendments printed in part A of House Report 108–456, is adopted.

Is a separate vote demanded on any further amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DAVIS OF TENNESSEE

Mr. DAVIS of Tennessee. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DAVIS of Tennessee. Yes, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DAVIS of Tennessee moves to recommit the bill H.R. 3550 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with the following amendments:

In section 1101(a)(1) of the bill, strike ''$4,323,076,000'' and all that follows through ''$4,891,164,000'' and insert ''$5,076,187,293 for fiscal year 2004, $4,953,445,477 for fiscal year 2005, $5,171,212,959 for fiscal year 2006, $5,263,571,478 for fiscal year 2007, $5,556,536,840 for fiscal year 2008, and $6,654,739,293''.

In section 1101(a)(2) of the bill, strike ''$5,187,691,000'' and all that follows through ''$5,869,396,000'' and insert ''$6,091,424,517 for fiscal year 2004, $5,944,133,902 for fiscal year 2005, $6,205,455,095 for fiscal year 2006, $6,316,285,773 for fiscal year 2007, $6,667,843,743 for fiscal year 2008, and $7,985,686,064''.

In section 1101(a)(3) of the bill, strike ''$3,709,440,000'' and all that follows through ''$4,196,891,000'' and insert ''$4,355,651,438 for fiscal year 2004, $4,250,332,027 for fiscal year 2005, $4,437,189,163 for fiscal year 2006, $4,516,437,339 for fiscal year 2007, $4,767,818,482 for fiscal year 2008, and $5,710,136,779''.

In section 1101(a)(5) of the bill, strike ''$6,052,306,000'' and all that follows through ''$6,847,629,000'' and insert ''$7,106,661,741 for fiscal year 2004, $6,934,823,445 for fiscal year 2005, $7,239,697,231 for fiscal year 2006, $7,369,000,069 for fiscal year 2007, $7,779,151,809 for fiscal year 2008, and $9,316,634,194''.

In section 1101(a)(6) of the bill, strike ''$1,469,846,000'' and all that follows through ''$1,662,996,000'' and insert ''$1,725,903,868 for fiscal year 2004, $1,684,171,440 for fiscal year 2005, $1,758,212,543 for fiscal year 2006, $1,789,614,076 for fiscal year 2007, $1,889,222,762 for fiscal year 2008, and $2,262,611,686''.

In section 1102(a) of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $37,900,000,000 for fiscal year 2005;
(3) $39,100,000,000 for fiscal year 2006;
(4) $39,100,000,000 for fiscal year 2007;
(5) $39,400,000,000 for fiscal year 2008; and
(6) $44,400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 5338(a)(2)(A) of title 49, United States Code, by section 3034 of the bill, strike clauses (i) through (vi) and insert the following:

''(i) $5,081,125,000 for fiscal year 2005;
''(ii) $5,283,418,000 for fiscal year 2006;
''(iii) $5,550,420,000 for fiscal year 2007;
''(iv) $6,176,172,500 for fiscal year 2008; and
''(v) $6,834,667,500 for fiscal year 2009.

In section 3043 of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

Add at the end the following new title:

TITLE IX—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 9000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Highway reauthorization and excise tax simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.

Subtitle A—Trust Fund Reauthorization

SEC. 9001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''May 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (F),

(C) by striking the period at the end of subparagraph (G) and inserting '', or'',

(D) by inserting after subparagraph (G), the following new subparagraph:

''(H) authorized to be paid out of the Highway Trust Fund under the Highway reauthorization and excise tax simplification Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway reauthorization and excise tax simplification Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''May 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting '', or'',

(D) by inserting after subparagraph (E), the following new subparagraph:

''(F) the Highway reauthorization and excise tax simplification Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway reauthorization and excise tax simplification Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''May 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2004'' each place it appears and inserting ''Highway reauthorization and excise tax simplification Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''May 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway reauthorization and excise tax simplification Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''May 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

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

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

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

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

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

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

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

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

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

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

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

''(7) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

''(A) for each fiscal year after 2003 to the Internal Revenue Service—

''(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

''(ii) $10,000,000 for Xstars, and

''(iii) $10,000,000 for xfirs, and

''(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.''.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 9001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 9001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 years''' in the heading for paragraph (3) and inserting ''4 years''.

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

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

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

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 9101. SHORT TITLE.

This subtitle may be cited as the ''Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004''.

SEC. 9102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

''(B) any person—

''(i) separates the alcohol or biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

''(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 9211 and 9242 of this Act, is amended by inserting ''and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4081''.

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking ''subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)'' and inserting ''section 4041(b)(2), section 6426, or section 6427(e)''.

(2) Paragraph (4) of section 40(d) is amended to read as follows:

''(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).''.

(3) Section 40(e)(1) is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(4) Section 40(h) is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(5) Section 4041(b)(2)(B) is amended by striking ''a substance other than petroleum or natural gas'' and inserting ''coal (including peat)''.

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

''(2) GASOLINE.—The term 'gasoline'—

''(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

''(B) includes, to the extent prescribed in regulations—

''(i) any gasoline blend stock, and

''(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.''.

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

''(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

''(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

''(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

''(A) is used by any person as a fuel in a trade or business, or

''(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

''(4) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

''(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.''.

(10) Section 6427(i)(3) is amended—

(A) by striking ''subsection (f)'' both places it appears in subparagraph (A) and inserting ''subsection (e)(1)'',

(B) by striking ''gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ''a mixture described in section 6426'',

(C) by adding at the end of subparagraph (A) the following new flush sentence: ''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'',

(D) by striking ''subsection (f)(1)'' in subparagraph (B) and inserting ''subsection (e)(1)'',

(E) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(F) by striking ''alcohol mixture'' in the heading and inserting ''alcohol fuel and biodiesel mixture''.

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: ''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(12) Section 9503(b)(4), as amended by section 9101 of this Act, is amended—

(A) by adding ''or'' at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking ''10/1/2007'' each place it appears and inserting ''1/1/2011''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 9103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be

allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 9200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 9211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''and kerosene'' after ''diesel fuel''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(L)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(P) The last sentence of section 9502(b) is amended to read as follows: ''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''SUBPART A. MOTOR AND AVIATION FUELS
''SUBPART B. SPECIAL PROVISIONS APPLICABLE TO FUELS TAX''.

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 9221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY.—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 9223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

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

SEC. 9224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 9211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 9231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 9211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

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

SEC. 9232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9221 of this Act, is amended by adding at the end the following new section:

''SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 9211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 9221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 9241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9232 of this Act, is amended by adding at the end the following new section:

''SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter

68, as amended by section 9232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 9242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

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

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9241 of this Act, is amended by adding at the end the following new section:

''SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) IN GENERAL.—Section 4101(a), as amended by section 9242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9242 of this Act, is amended by adding at the end the following new section:

''SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 9245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 9273 of this Act, is amended by adding at the end the following new sentence: ''Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 9251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 9245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 9245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed

under such section or post a bond in accordance with the provisions of section 4105 of such Code.

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

SEC. 9252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

''(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 9261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 9103 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

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

SEC. 9262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''farmers and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 9252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

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

SEC. 9265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 9001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 9266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''and Penalties'' after ''Taxes''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''In general'' and inserting ''Certain taxes''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 9267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 9271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 9211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(J) Section 343 of the Trade Act of 2002, as amended by section 9252 of this Act, is amended by inserting ''and reportable liquids (as defined in section 4083(c)(1) of such Code)'' after ''Internal Revenue Code of 1986)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 9272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''SUBPART E—EXCISE TAX REPORTING''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 9273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence: ''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Miscellaneous Provisions

SEC. 9401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

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

SEC. 9402. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

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

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

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

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

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

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

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

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

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

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

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

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

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

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

(f) OBTAINING DATA.—The Commission may secure directly from any department or

agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 9403. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 9404. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 9405. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 9406. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Provisions Designed to Curtail Tax Shelters

SEC. 9501. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a

transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9502. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 9503. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence: ''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''for Underpayments'' after ''Exception''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 9504. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''

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

SEC. 9505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 9507. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS. ''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 9508. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 9509. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 9510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS. ''

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 9511. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''Unrealistic'' in the heading and inserting ''Improper''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 9512. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 9513. FRIVOLOUS TAX SUBMISSIONS.

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

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

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

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

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

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

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

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

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

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

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

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

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

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

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

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

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

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 9514. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence: ''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''

SEC. 9515. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 9516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 9517. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle G—Other Provisions

SEC. 9601. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

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

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''

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

''(A) IN GENERAL.—If—

''(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the

property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

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

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 9602. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—For regulations to carry out this subsection, see section 743(d)(2).''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 9603. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 9604. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

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

(5) Paragraph (5) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the

earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 9605. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

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

SEC. 9606. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''

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

SEC. 9607. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence: ''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

''(A) any rights lacking substantial economic effect, and

''(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder's economic share of the earnings and profits of the corporation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 9608. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 9609. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ''In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.''

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation section 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 9610. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 1, 2005'' and inserting ''March 31, 2010''.

Subtitle H—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 9701. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

Mr. DAVIS of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. NUSSLE. Mr. Speaker, I reserve a point of order against the gentleman's motion to recommit.

The SPEAKER pro tempore. The gentleman reserves a point of order. The gentleman from Tennessee (Mr. DAVIS) will be recognized for 5 minutes on his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, do we have opposition on the point of order? On the point of order, may I continue with my motion to recommit?

The SPEAKER pro tempore. The Chair will entertain a point of order after the gentleman's debate on his motion to recommit. At this point, the point of order is reserved.

Mr. DAVIS of Tennessee. Mr. Speaker, I would ask the gentleman to reconsider his point of order on my offering of this amendment. My amendment increases the funds in the bill to the Senate-passed level of $318 billion, and I believe that the House should be allowed to vote on this amendment.

The SPEAKER pro tempore. If the gentleman will suspend. The gentleman is recognized for 5 minutes to debate his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, today I rise with the gentleman from New Jersey (Mr. MENENDEZ), the gentleman from Oregon (Mr. BLUMENAUER), and the gentleman from Washington (Mr. BAIRD) to offer this motion to recommit.

The amendment increases highway and transit investment by $37.8 billion, a level of funding equal to the Senate/House-passed TEA 21 reauthorization bill, includes the Senate-passed Highway Trust Fund financing mechanisms, which includes no tax increases, and fully offsets these investments by cracking down on abusive corporate tax shelters, such as those enjoyed by Enron, and prevents American corporations from avoiding paying U.S. taxes by moving to a foreign country, and by extending customs user fees.

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The amendment is paid for by drawing down from the highway trust fund and eliminating subsidies such as ethanol. We should continue to promote the use of ethanol, but we should keep the highway trust fund for truly highway-related activities.

A recent national survey found that transportation construction contractors hire employees within 3 weeks of obtaining a contract. Employees begin receiving paychecks within 2 weeks of hiring. In addition, this infrastructure investment will increase business productivity by reducing the costs of producing goods in virtually every industrial sector of our economy, which results in increased demand for labor, capital and raw materials and generally leads to lower product prices and increased sales.

Mr. Speaker, this investment will help create jobs for almost 3 million Americans who have lost their jobs in the last 3 years and will specifically help the more than 1 million unemployed construction workers. The number of unemployed private sector construction workers in 2003 averaged 810,000. The unemployment rate for these workers averaged 9.3 percent. We can invest in a future that our children and grandchildren will benefit from rather than continue to create debt for the future for our children.

Mr. Speaker, I yield back the balance of my time.

POINT OF ORDER

The SPEAKER pro tempore (Mr. THORNBERRY). Does the gentleman from Iowa wish to make his point of order?

Mr. NUSSLE. I do, Mr. Speaker.

I make a point of order against the motion to recommit because it is in violation of section 302(f) of the Congressional Budget Act of 1974. A motion that would cause any increase in new budget authority will breach the allocation made under section 302(a) to the applicable committee and is not permitted under 302(f) of the act. This motion causes such an increase in new budget authority and, therefore, is not in order.

I insist on my point of order.

The SPEAKER pro tempore. Does the gentleman from Tennessee wish to be heard on the point of order?

Mr. DAVIS of Tennessee. No.

The SPEAKER pro tempore. Does the gentleman concede the point of order?

Mr. DAVIS of Tennessee. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The point of order is therefore sustained.

MOTION TO RECOMMIT OFFERED BY MR. DAVIS OF TENNESSEE

Mr. DAVIS of Tennessee. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DAVIS of Tennessee moves to recommit the bill H.R. 3550 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House promptly with the following amendments:

In section 1101(a)(1) of the bill, strike ''$4,323,076,000'' and all that follows through ''$4,891,164,000'' and insert ''$5,076,187,293 for fiscal year 2004, $4,953,445,477 for fiscal year 2005, $5,171,212,959 for fiscal year 2006, $5,263,571,478 for fiscal year 2007, $5,556,536,840 for fiscal year 2008, and $6,654,739,293''.

In section 1101(a)(2) of the bill, strike ''$5,187,691,000'' and all that follows through ''$5,869,396,000'' and insert ''$6,091,424,517 for fiscal year 2004, $5,944,133,902 for fiscal year 2005, $6,205,455,095 for fiscal year 2006, $6,316,285,773 for fiscal year 2007, $6,667,843,743 for fiscal year 2008, and $7,985,686,064''.

In section 1101(a)(3) of the bill, strike ''$3,709,440,000'' and all that follows through ''$4,196,891,000'' and insert ''$4,355,651,438 for fiscal year 2004, $4,250,332,027 for fiscal year 2005, $4,437,189,163 for fiscal year 2006, $4,516,437,339 for fiscal year 2007, $4,767,818,482 for fiscal year 2008, and $5,710,136,779''.

In section 1101(a)(5) of the bill, strike ''$6,052,306,000'' and all that follows through ''$6,847,629,000'' and insert ''$7,106,661,741 for fiscal year 2004, $6,934,823,445 for fiscal year 2005, $7,239,697,231 for fiscal year 2006, $7,369,000,069 for fiscal year 2007, $7,779,151,809 for fiscal year 2008, and $9,316,634,194''.

In section 1101(a)(6) of the bill, strike ''$1,469,846,000'' and all that follows through ''$1,662,996,000'' and insert ''$1,725,903,868 for fiscal year 2004, $1,684,171,440 for fiscal year 2005, $1,758,212,543 for fiscal year 2006, $1,789,614,076 for fiscal year 2007, $1,889,222,762 for fiscal year 2008, and $2,262,611,686''.

In section 1102(a) of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $37,900,000,000 for fiscal year 2005;
(3) $39,100,000,000 for fiscal year 2006;
(4) $39,100,000,000 for fiscal year 2007;
(5) $39,400,000,000 for fiscal year 2008; and
(6) $44,400,000,000 for fiscal year 2009.

In the matter proposed to be inserted as section 5338(a)(2)(A) of title 49, United States Code, by section 3034 of the bill, strike clauses (i) through (vi) and insert the following:

''(i) $5,081,125,000 for fiscal year 2005;
''(ii) $5,283,418,000 for fiscal year 2006;
''(iii) $5,550,420,000 for fiscal year 2007;
''(iv) $6,176,172,500 for fiscal year 2008; and
''(v) $6,834,667,500 for fiscal year 2009.

In section 3043 of the bill, strike paragraphs (2) through (6) and insert the following:

(2) $8,650,000,000 for fiscal year 2005;
(3) $9,085,123,000 for fiscal year 2006;
(4) $9,600,000,000 for fiscal year 2007;
(5) $10,490,000,000 for fiscal year 2008; and
(6) $11,430,000,000 for fiscal year 2009.

Strike the revenue title (other than the small business benefits) and insert the following:

TITLE IX—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SECTION 9000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.

Subtitle A—Trust Fund Reauthorization

SEC. 9001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking ''May 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (F),

(C) by striking the period at the end of subparagraph (G) and inserting '', or'',

(D) by inserting after subparagraph (G), the following new subparagraph:

''(H) authorized to be paid out of the Highway Trust Fund under the Highway Reauthorization and Excise Tax Simplification Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking ''May 1, 2004'' and inserting ''October 1, 2009'',

(B) by striking ''or'' at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting '', or'',

(D) by inserting after subparagraph (E), the following new subparagraph:

''(F) the Highway Reauthorization and Excise Tax Simplification Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking ''May 1, 2004'' and inserting ''October 1, 2009''.

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking ''Surface Transportation Extension Act of 2004'' each place it appears and inserting ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking ''May 1, 2004'' and inserting ''October 1, 2009'', and

(B) by striking ''Surface Transportation Extension Act of 2004'' and inserting ''Highway Reauthorization and Excise Tax Simplification Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking ''May 1, 2004'' and inserting ''October 1, 2009''.

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2009'':

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

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

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

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

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

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

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2009'':

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

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking ''2005'' each place it appears and inserting ''2009'', and

(B) by striking ''2006'' each place it appears and inserting ''2010''.

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

(A) by striking ''2003'' and inserting ''2007'', and

(B) by striking ''2004'' each place it appears and inserting ''2008''.

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking ''2007'' in subparagraph (C)(ii) and inserting ''2010'', and

(2) by striking ''October 1, 2007'' in subparagraph (D) and inserting ''January 1, 2011''.

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.''.

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

''(7) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

''(A) for each fiscal year after 2003 to the Internal Revenue Service—

''(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

''(ii) $10,000,000 for Xstars, and

''(iii) $10,000,000 for xfirs, and

''(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.''.

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 9002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 9001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking ''paragraph (4)(D) or (5)(B)'' and inserting ''paragraph (3)(D) or (4)(B)''.

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: ''The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.''.

(3) Section 9504(a)(2) is amended by striking ''section 9503(c)(4), section 9503(c)(5)'' and inserting ''section 9503(c)(3), section 9503(c)(4)''.

(4) Paragraph (2) of section 9504(b), as amended by section 9001 of this Act, is amended by striking ''section 9503(c)(5)'' and inserting ''section 9503(c)(4)''.

(5) Section 9504(e) is amended by striking ''section 9503(c)(4)'' and inserting ''section 9503(c)(3)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking ''24-month'' in paragraph (1)(B) and inserting ''48-month'', and

(2) by striking ''2 years'' in the heading for paragraph (3) and inserting ''4 years''.

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

''(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

''(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

''(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.''.

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

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 9101. SHORT TITLE.

This subtitle may be cited as the ''Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004''.

SEC. 9102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

''(B) any person—

''(i) separates the alcohol or biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

''(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 9211 and 9242 of this Act, is amended by inserting ''and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4081''.

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking ''subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)'' and inserting ''section 4041(b)(2), section 6426, or section 6427(e)''.

(2) Paragraph (4) of section 40(d) is amended to read as follows:

''(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).''.

(3) Section 40(e)(1) is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(4) Section 40(h) is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(5) Section 4041(b)(2)(B) is amended by striking ''a substance other than petroleum or natural gas'' and inserting ''coal (including peat)''.

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

''(2) GASOLINE.—The term 'gasoline'—

''(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

''(B) includes, to the extent prescribed in regulations—

''(i) any gasoline blend stock, and

''(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.''.

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

''(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

''(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

''(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

''(A) is used by any person as a fuel in a trade or business, or

''(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

''(4) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

''(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.''.

(10) Section 6427(i)(3) is amended—

(A) by striking ''subsection (f)'' both places it appears in subparagraph (A) and inserting ''subsection (e)(1)'',

(B) by striking ''gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ''a mixture described in section 6426'',

(C) by adding at the end of subparagraph (A) the following new flush sentence: ''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'',

(D) by striking ''subsection (f)(1)'' in subparagraph (B) and inserting ''subsection (e)(1)'',

(E) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(F) by striking ''alcohol mixture'' in the heading and inserting ''alcohol fuel and biodiesel mixture''.

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence: ''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(12) Section 9503(b)(4), as amended by section 9101 of this Act, is amended—

(A) by adding ''or'' at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 9103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 9200. SHORT TITLE.

This subtitle may be cited as the ''Fuel Fraud Prevention Act of 2004''.

PART I—AVIATION JET FUEL

SEC. 9211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: ''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the

end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''and kerosene'' after ''diesel fuel''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking ''subsection (l)(5)'' and inserting ''paragraph (4)(B) or (5) of subsection (l)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

''(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

''(A) after September 30, 1997, and before September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

''(ii) in any other case, 11.3 cents per gallon, and

''(B) after September 30, 2009—

''(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

''(ii) in any other case, 4.3 cents per gallon.''.

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(G) Section 6416(b)(2) is amended by striking ''4091 or''.

(H) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(I) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(L)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(P) The last sentence of section 9502(b) is amended to read as follows: ''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''SUBPART A. MOTOR AND AVIATION FUELS

''SUBPART B. SPECIAL PROVISIONS APPLICABLE TO FUELS TAX''.

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A—Motor and Aviation Fuels''.

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart B—Special Provisions Applicable to Fuels Tax''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 9212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) IN GENERAL.—Section 9502(d) is amended by adding at the end the following new paragraph:

''(7) TRANSFERS FROM THE TRUST FUND TO THE HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

''(B) AMOUNTS TRANSFERRED TO MASS TRANSIT ACCOUNT.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking ''appropriated or credited'' and inserting ''paid, appropriated, or credited'', and

(B) by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(2) Subsection (e)(1) of section 9503 is amended by striking ''or section 9602(b)'' and inserting '', section 9502(d)(7), or section 9602(b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 9221. DYE INJECTION EQUIPMENT.

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

''(a) IMPOSITION OF PENALTY.—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 9222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) IN GENERAL.—Section 6715 is amended by inserting at the end the following new subsection:

''(e) NO ADMINISTRATIVE APPEAL FOR THIRD AND SUBSEQUENT VIOLATIONS.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

''(1) fraud or mistake in the chemical analysis, or

''(2) mathematical calculation of the amount of the penalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 9223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) IN GENERAL.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking ''or'' in paragraph (2), by inserting ''or'' at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

''(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,''.

(b) CONFORMING AMENDMENT.—Section 6715(a)(3) is amended by striking ''alters, or attempts to alter,'' and inserting ''alters, chemically or otherwise, or attempts to so alter,''.

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

SEC. 9224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) IN GENERAL.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

''(3) any use described in section 4041(a)(1)(C)(iii)(II).''.

(b) ULTIMATE VENDOR REFUND.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

''(4) REFUNDS FOR USE OF DIESEL FUEL IN CERTAIN INTERCITY BUSES.—

''(A) IN GENERAL.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(B) CREDIT CARDS.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) PAYMENT OF REFUNDS.—Subparagraph (A) of section 6427(i)(4), as amended by section 9211 of this Act, is amended by inserting ''subsections (b)(4) and'' after ''filed under''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 9231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 9211 of this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

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

SEC. 9232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9221 of this Act, is amended by adding at the end the following new section:

''SEC. 6717. REFUSAL OF ENTRY.

''(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

''(b) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 9211 of this Act, is amended—

(A) by striking ''ENTRY.—The penalty'' and inserting: ''ENTRY.—

''(A) FORFEITURE.—The penalty'', and

(B) by adding at the end the following new subparagraph:

''(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.''.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 9221 of this Act, is amended by adding at the end the following new item:

''Sec. 6717. Refusal of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 9241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9232 of this Act, is amended by adding at the end the following new section:

''SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

''(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

''(A) $10,000, or

''(B) $1 per gallon.

''(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9232 of this Act, is amended by adding at the end the following new item:

''Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.''.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 9242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

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

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9241 of this Act, is amended by adding at the end the following new section:

''SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9241 of this Act, is amended by adding at the end the following new item:

''Sec. 6719. Failure to display registration of vessel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) IN GENERAL.—Section 4101(a), as amended by section 9242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.—The Secretary shall require registration by any person which—

''(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

''(B) holds an inventory position with respect to a taxable fuel in such a terminal.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 9242 of this Act, is amended by adding at the end the following new section:

''SEC. 6720. FAILURE TO REGISTER.

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 9242 of this Act, is amended by adding at the end the following new item:

''Sec. 6720. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 9245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

''(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

''(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

''(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 9273 of this Act, is amended by adding at the end the following new sentence: ''Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 9251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 9245 of this Act, is amended by adding at the end the following new section:

''SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

''(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

''(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

''(1) seize the fuel on which the tax is due, or

''(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

''(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 9245 of this Act, is amended by adding after the last item the following new item:

''Sec. 4105. Tax at entry where importer not registered.''.

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

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

PART VI—MISCELLANEOUS PROVISIONS

SEC. 9261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(2) by inserting at the end the following new subparagraph:

''(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 9103 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking ''4083(a)(3)'' and inserting ''4083(a)(3)(A)''.

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

SEC. 9262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''farmers and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 9263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 9252 of this Act, is amended by adding at the end the following new sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 9264. TWO-PARTY EXCHANGES.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding at the end the following new section:

''SEC. 4106. TWO-PARTY EXCHANGES.

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 9251 of this Act, is amended by adding after the last item the following new item:

''Sec. 4106. Two-party exchanges.''.

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

SEC. 9265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

''(c) PRORATION OF TAX WHERE VEHICLE SOLD, DESTROYED, OR STOLEN.—

''(1) IN GENERAL.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

''(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

''(2) DISPLAY OF TAX CERTIFICATE.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.''.

(c) ELECTRONIC FILING.—Section 4481, as amended by section 9001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 9266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''and Penalties'' after ''Taxes''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''In general'' and inserting ''Certain taxes''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 9267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 9271. TOTAL ACCOUNTABILITY.

(a) TAXATION OF REPORTABLE LIQUIDS.—

(1) IN GENERAL.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting ''or reportable liquid'' after ''taxable fuel'' each place it appears, and

(B) by inserting ''such liquid'' after ''such fuel'' in paragraph (1)(A)(iv).

(2) RATE OF TAX.—Subparagraph (A) of section 4081(a)(2), as amended by section 9211 of this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).''.

(3) EXEMPTION.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

''(C) EXEMPTION FOR REGISTERED TRANSFERS OF REPORTABLE LIQUIDS.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

''(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

''(ii) the sale is to the ultimate purchaser of such liquid.''.

(4) REPORTABLE LIQUIDS.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

''(c) REPORTABLE LIQUID.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

''(2) TAXATION.—

''(A) GASOLINE BLEND STOCKS AND ADDITIVES.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

''(B) OTHER REPORTABLE LIQUIDS.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).''.

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting ''or reportable liquid'' after ''taxable fuel''.

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting ''or reportable liquid'' after ''taxable fuel'', and

(II) by inserting ''or such liquid'' after ''such fuel'' each place it appears, and

(ii) in subparagraph (B), by inserting ''or any reportable liquid'' after ''any taxable fuel''.

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting ''or a reportable liquid'' after ''taxable fuel''.

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting ''or any reportable liquid'' before the period at the end.

(F) Section 4102 is amended by inserting ''or any reportable liquid'' before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting ''or any reportable liquid (as defined in section 4083(c)(1))'' after '' section 4083(a)(1))'', and

(II) in the heading, by inserting ''or reportable liquids'' after ''taxable fuel''.

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting ''or reportable liquids'' after ''taxable fuels''.

(H) Section 6427(h) is amended to read as follows:

''(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

''(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

''(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.''.

(I) Section 7232, as amended by this Act, is amended by inserting ''or reportable liquid (within the meaning of section 4083(c)(1))'' after ''section 4083)''.

(b) DYED DIESEL.—Section 4082(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''and'', and by inserting after paragraph (3) the following new paragraph:

''(4) which is removed, entered, or sold by a person registered under section 4101.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 9272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

''Subpart E—Excise Tax Reporting

''SEC. 6025. RETURNS RELATING TO FUEL TAXES.

''(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32

to file a return of such tax on a monthly basis.

''(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.''.

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

''SUBPART E—EXCISE TAX REPORTING''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 9273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence: ''The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 9301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

''(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.''.

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

''(48) OFF-HIGHWAY VEHICLES.—

''(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

''(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

''(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

''(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

''(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Miscellaneous Provisions

SEC. 9401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 9101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 4064 (relating to gas guzzler tax),''.

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

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

SEC. 9402. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the ''Commission'').

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

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

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

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

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

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

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration,

the Department of Defense, and the Department of Justice.

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

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

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

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

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

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

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

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

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 9403. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 9404. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 9405. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$100'' and inserting ''$120''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking ''2002'' and inserting ''2005'', and

(2) by striking ''2001'' and inserting ''2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 9406. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Provisions Designed to Curtail Tax Shelters

SEC. 9501. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) SUBSTANTIAL NONTAX PURPOSE.—In applying subclause (II) of paragraph (1)(B)(i), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(D) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(E) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 13, 2003.

SEC. 9502. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 9503. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence: ''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

''(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''for Underpayments'' after ''Exception''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 9504. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed tax benefit or the transaction was not respected under section 7701(m)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e)."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc."

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

SEC. 9505. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9506. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 9507. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS. ''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 9508. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 9509. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 9510. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS. ''

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 9511. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''Unrealistic'' in the heading and inserting ''Improper''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 9512. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 9513. FRIVOLOUS TAX SUBMISSIONS.

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

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

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

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

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

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

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

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

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

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

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

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

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

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

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

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

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

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 9514. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence: ''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''

SEC. 9515. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 9516. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

''(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 9517. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle G—Other Provisions

SEC. 9601. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

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

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this paragraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''

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

''(A) IN GENERAL.—If—

''(i) property is transferred in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of the property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

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

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 9602. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property (determined without regard to subparagraph (C)(ii)) over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—

''(1) IN GENERAL.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds by more than $250,000 the basis of such partner's interest in the partnership.

''(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of paragraph (1) and section 734(d), including regulations aggregating related partnerships and disregarding property acquired by the partnership in an attempt to avoid such purposes.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds $250,000.

''(2) REGULATIONS.—For regulations to carry out this subsection, see section 743(d)(2).''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to distributions after the date of the enactment of this Act.

SEC. 9603. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 9604. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking ‘‘, and any regular interest in a FASIT,’’.

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

(5) Paragraph (5) of section 860G(a) is amended by adding ‘‘and’’ at the end of subparagraph (B), by striking ‘‘, and’’ at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ‘‘REMIC, or FASIT’’ and inserting ‘‘or REMIC’’.

(7) Subparagraph (C) of section 7701(a)(19) is amended by adding ‘‘and’’ at the end of clause (ix), by striking ‘‘, and’’ at the end of clause (x) and inserting a period, and by striking clause (xi).

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary’s delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 9605. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking ‘‘or a related party’’ and inserting ‘‘or equity held by the issuer (or any related party) in any other person’’.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) is amended by striking ‘‘or a related party’’ in the material preceding subparagraph (A) and inserting ‘‘or any other person’’.

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

SEC. 9606. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

‘‘(a) IN GENERAL.—If—

‘‘(1)(A) any person acquires stock in a corporation, or

‘‘(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

‘‘(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.’’

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

SEC. 9607. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive investment company) is amended by adding at the end the following flush sentence: ‘‘Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.’’

(b) DETERMINATION OF PRO RATA SHARE OF SUBPART F INCOME.—Subsection (a) of section 951 (relating to amounts included in gross income of United States shareholders) is amended by adding at the end the following new paragraph:

‘‘(4) SPECIAL RULES FOR DETERMINING PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share under paragraph (2) shall be determined by disregarding—

‘‘(A) any rights lacking substantial economic effect, and

‘‘(B) stock owned by a shareholder who is a tax-indifferent party (as defined in section 7701(m)(3)) if the amount which would (but for this paragraph) be allocated to such shareholder does not reflect such shareholder’s economic share of the earnings and profits of the corporation.’’

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

SEC. 9608. BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.

(a) IN GENERAL.—Section 1059 (relating to corporate shareholder’s basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

‘‘(g) BASIS FOR DETERMINING LOSS ALWAYS REDUCED BY NONTAXED PORTION OF DIVIDENDS.—The basis of stock in a corporation (for purposes of determining loss) shall be reduced by the nontaxed portion of any dividend received with respect to such stock if this section does not otherwise apply to such dividend.’’

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after the date of the enactment of this Act.

SEC. 9609. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: ‘‘In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.’’

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation section 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 9610. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Subtitle A of the Internal Revenue Code of 1986 is amended by inserting after chapter 55 the following new chapter:

‘‘CHAPTER 56—FEES FOR CERTAIN CUSTOMS SERVICES

‘‘Sec. 5896. Imposition of fees.

‘‘SEC. 5896. IMPOSITION OF FEES.

‘‘(a) IN GENERAL.—The Secretary shall charge and collect fees under this title which are equivalent to the fees which would be imposed by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) were such section in effect after March 1, 2005.

‘‘(b) COLLECTION AND DISPOSITION OF FEES, ETC.—References in such section 13031 to fees thereunder shall be treated as including references to the fees charged under this section.’’

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle A of such Code is amended by adding at the end the following new item:

‘‘Chapter 56. Fees for certain customs services.’’

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2005.

Subtitle H—Prevention of Corporate Expatriation to Avoid United States Income Tax

SEC. 9701. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

‘‘(4) DOMESTIC.—

‘‘(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

‘‘(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

‘‘(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

‘‘(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

‘‘(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

‘‘(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

‘‘(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

‘‘(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

‘‘(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

‘‘(iv) PARTNERSHIP TRANSACTIONS.—The term ‘corporate expatriation transaction’ includes any transaction if—

‘‘(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

‘‘(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined

without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

Mr. DAVIS of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. NUSSLE. Mr. Speaker, reserving the right to object, my understanding is that the only difference between the motion to recommit that the gentleman just offered and we struck with a point of order and the one that he is now offering is the difference between the words ''forthwith'' and ''promptly.''

Is that the gentleman's understanding?

Mr. DAVIS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Tennessee.

Mr. DAVIS of Tennessee. No, there are other changes and they have been cleared by the Parliamentarian.

Mr. NUSSLE. Mr. Speaker, then, continuing to reserve the right to object, I would ask what the gentleman's changes are. Because my understanding is that the only difference is between ''forthwith'' and ''promptly.'' The first four pages are increases in spending to the level purported to be the level of the Senate, and then from page 4, 5, 6, 7, 8, 9, 10, 11 and on and on and on and on are increases in taxes, on and on from page 4 all the way, increasing taxes, not gas taxes, but all the way to page 174 are increases in taxes.

I would ask the gentleman, did he strike the tax increases from page 4 all the way to 174 in the motion to recommit?

Mr. DAVIS of Tennessee. One of the differences in this bill is that it changes the part where we would report back promptly changes in this bill.

Mr. NUSSLE. Mr. Speaker, I will not object to the dispensing of the reading, but at this point I would like certainly to hear from the gentleman why it is that there are four pages of spending and then 170 pages of tax increases in this motion to recommit.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The gentleman from Tennessee is recognized for 5 minutes in support of his motion to recommit.

Mr. DAVIS of Tennessee. Mr. Speaker, I include for the RECORD a State by State chart of the total highway/transit investment increases and new jobs that would be created under this new motion to recommit.

TOTAL HIGHWAY/TRANSIT INVESTMENT INCREASES AND NEW JOBS CREATED UNDER DAVIS MOTION TO RECOMMIT

[6-Year Comparison of Funding Levels H.R. 3550 vs. Davis Motion—April 2, 2004]

State	Highway	Transit	Total Increase	New Jobs Created
Alabama	641,930,651	32,286,503	674,217,154	32,025
Alaska	377,354,764	7,453,434	384,808,198	18,278
Arizona	546,862,745	66,315,929	613,178,674	29,126
Arkansas	418,494,826	19,120,008	437,614,834	20,787
California	2,983,161,532	790,817,798	3,773,979,330	179,264
Colorado	453,677,165	68,286,399	521,963,564	24,793
Connecticut	480,949,177	62,125,892	543,075,069	25,796
Delaware	140,110,573	9,373,749	149,484,322	7,101
Dist. of Col.	125,288,749	89,914,881	215,203,630	10,222
Florida	1,496,429,489	234,032,310	1,730,461,799	82,197
Georgia	1,111,763,461	103,762,256	1,215,525,717	57,737
Hawaii	163,958,507	36,371,827	200,330,334	9,516
Idaho	224,433,409	12,426,693	256,860,102	12,201
Illinois	1,243,912,775	300,674,181	1,544,586,956	73,368
Indiana	811,474,429	59,165,463	870,639,892	41,355
Iowa	390,912,140	25,359,777	416,271,917	19,773
Kansas	371,083,992	20,121,040	391,205,032	18,582
Kentucky	549,959,335	36,390,607	586,349,942	27,852
Louisiana	503,561,959	48,157,903	551,719,862	26,207
Maine	166,682,176	8,575,838	175,258,014	8,325
Maryland	508,890,726	95,994,478	604,885,204	28,732
Massachusetts	590,275,962	168,290,084	758,566,046	36,032
Michigan	1,033,958,948	105,045,881	1,139,004,829	54,103
Minnesota	627,515,527	66,401,515	693,917,042	32,961
Mississippi	385,937,487	16,939,799	402,877,286	19,137
Missouri	747,900,357	61,777,797	809,678,154	38,460
Montana	314,457,025	8,659,265	323,116,290	15,348
Nebraska	246,016,937	16,462,238	262,479,175	12,468
Nevada	229,548,244	34,397,627	263,945,871	12,537
New Hampshire	163,515,119	9,350,337	172,865,456	8,211
New Jersey	834,127,766	285,310,078	1,119,437,844	53,173
New Mexico	313,031,850	18,897,469	331,929,319	15,767
New York	1,635,087,852	730,759,129	2,365,846,981	112,378
North Carolina	909,717,121	69,621,070	979,338,191	46,519
North Dakota	207,537,203	7,340,286	214,877,489	10,207
Ohio	1,251,348,467	134,180,702	1,385,529,169	65,813
Oklahoma	488,328,418	28,477,592	516,806,010	24,548
Oregon	385,842,475	54,595,630	440,438,195	20,921
Pennsylvania	1,579,949,401	217,311,252	1,797,260,653	85,370
Rhode Island	188,693,217	12,832,952	201,526,169	9,572
South Carolina	515,224,483	28,955,485	544,179,968	25,849
South Dakota	226,412,858	7,484,682	233,897,540	11,110
Tennessee	717,211,581	50,666,878	767,878,459	36,474
Texas	2,507,570,916	287,128,089	2,794,699,005	132,748
Utah	248,012,183	41,168,296	289,180,479	13,736
Vermont	144,829,487	3,704,577	148,534,064	7,055
Virginia	817,694,519	81,898,909	899,593,428	42,731
Washington	569,305,588	131,298,248	700,603,836	33,279
West Virginia	358,479,108	12,771,895	371,251,003	17,634
Wisconsin	630,750,942	63,268,811	694,019,753	32,966
Wyoming	220,142,087	4,665,881	224,807,968	10,678

TOTAL HIGHWAY/TRANSIT INVESTMENT INCREASES AND NEW JOBS CREATED UNDER DAVIS MOTION TO RECOMMIT—Continued

[6-Year Comparison of Funding Levels H.R. 3550 vs. Davis Motion—April 2, 2004]

State	Highway	Transit	Total Increase	New Jobs Created
All States	32,177,385,058	4,854,102,917	37,031,487,975	1,758,996

Total funding lvels calculated by the Federal Highway Administration and the Federal Transit Administration, U.S. Department of Transportation.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, the Davis motion to recommit increases the funding in this bill to the Senate level of $318 billion, and it does something about donor-donee issues which we have heard a lot about here. Unlike the previous objection that was originally heard, the Senate bill, which is in essence the way in which the gentleman from Tennessee has constructed this, is a fiscally responsible bill. There is no new gas tax in it, so let us not be deceived.

That increase to rise to the 318 is fully offset by what? By cracking down on abusive tax shelters and by preventing American companies from avoiding paying U.S. taxes by moving to a foreign country. It is not only fiscally responsible; it is responsible national economic development policy. It is going to create 1.8 million more additional jobs, and God knows we need those jobs in this country. And it is about national security policy.

The bill is supposed to be about a legacy. Do we want it to be a legacy of congestion and deteriorating infrastructure? Or do we want it to be about increased productivity and more good-paying jobs? About a Nation that has the redundancy and multiplicity of transportation infrastructure to respond to national emergencies on the scale of what happened on September 11 where after so many different modes of transportation were shut down, there is still one available to get people out of downtown Manhattan over to New Jersey into hospitals?

If you want more money to go to your State, if you do not want just to stop the decay of the Nation's infrastructure, but dramatically improve it; if you want to help create good-paying jobs, 1.8 million more jobs for the people of this country; if you want to have multiple avenues to evacuate people and for first responders to reach the site, God forbid, of the next national emergency, then you will vote for the Davis motion to recommit. It is fiscally responsible. It is about creating jobs. It is about the national security of the United States.

Mr. DAVIS of Tennessee. Mr. Speaker, as a graduate from my hometown school, I traveled on an interstate called Interstate 40. It was about one-third finished. My grandchildren travel that today. With this bill, with this increase with this motion to recommit and the suggestion of increasing it to $318 billion, all of our children and grandchildren to come will have an infrastructure that will be the seed that is needed for economic growth and investment for the future.

Mr. Speaker, I yield the balance of my time to the gentleman from Oregon (Mr. BLUMENAUER).

The SPEAKER pro tempore. The gentleman from Oregon is recognized for 1½ minutes.

Mr. BLUMENAUER. Mr. Speaker, we have extolled the leadership of our committee chair and ranking member and the subcommittee chair and ranking member. I think that is appropriate because they have taken a difficult task and have given us a good bill. But it falls far short of the needs that have been identified by our own Department of Transportation.

One of the reasons we have had the trauma about the donor-donee over the course of the last 2 weeks is simply because we are not right-sizing this bill. Every day we are losing the battle to congestion, pollution, and bridges that are crumbling faster than we can fix them. This motion will get us one-third of the way that was envisioned by our committee leadership. It is, in fact, paid for and it will provide extra money for States large like California, Texas and New York, small States; and more important than the money in this time of economic concern are the jobs.

We have seen the good work by the committee leadership and we have not really acknowledged the leadership of Speaker HASTERT and Leader PELOSI who understand that the President is wrong to draw the line here for the first time in his administration to exercise fiscal responsibility, so to speak, at the needs of our infrastructure.

Now it is time for the leadership here. We on this floor have the opportunity to do our part as Members of Congress. We can vote for this motion to recommit. We can vote to make sure that the Federal Government is a better partner with our communities to make them more livable, to make our families safe, healthy and more economically secure.

I strongly urge support for the Davis motion.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. YOUNG of Alaska. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, we have spent 2 good days of very legitimate debate. I was hoping we could avoid some of the things being said now. Although it may sound clear and true, I can say we face reality. This bill came out of our committee unanimously with the gentleman from Minnesota (Mr. OBERSTAR) supporting it. We want to go forth. The 318 figure coming from the Senate side, very frankly, I do not think is true. What we have to do is try to find the real dollars, and we are going to attempt to do that in conference.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. I thank the gentleman for yielding me this time.

Mr. Speaker, we really do have to decide whether we want to try to make law or score political points. The first motion that was offered was obviously a ruse because it would have killed the bill. You then say changing ''forthwith'' to ''promptly'' makes this a serious offer. You need to know that the reason they dropped ''forthwith'' to ''promptly'' and dropped various portions of the bill was to make it germane under the rules. In dropping those portions to make it germane, we have no idea what the revenue consequences of this bill are. There is no score available.

I will tell you this, that the old provision was $38 billion in revenue. If anyone knows how the Senate works, it is very simple. The way you get the votes to pass anything is to ask whoever would possibly vote for something, what do they want. It is an additive process. What we have here is the sum and substance of a bill that passed the Senate, which means there is no rationale to anything in the revenue portion.

Let me give you one brief example. Turn to page 108 and to raise the revenue that is in this bill, which is not directly applicable to the highway bill in about two-thirds of it, the effective date of the provisions ending on page 108 shall apply to transactions entered into after February 13, 2003.

□ 1145

What was good law on February 13 last year, retroactively, will not be good law if you vote for this measure. And if you think there is nothing worse than the government's saying one can do something and then, after they did it when it was legal, saying, no, now it is not, then understand that is the way the Senate legislates. If you want to make law, let us stick with the dollar amounts we have.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would first remind all Members that it is inappropriate to characterize actions in the

other body, and all Members should remember that admonishment in making their comments on the floor.

Mr. THOMAS. Mr. Speaker, I accept that admonition. The other body has no problem changing the law after the fact. We should not.

POINT OF ORDER

Mr. FRANK of Massachusetts. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Massachusetts will state his point of order.

Mr. FRANK of Massachusetts. Mr. Speaker, simply not using the word ''Senate'' does not alter the impact of the rule. The gentleman is in violation of the rule.

The SPEAKER pro tempore. The Chair will repeat that it is inappropriate to characterize actions in the other body, regardless of what one calls them.

The gentleman from Alaska (Mr. YOUNG) has 2 minutes remaining.

Mr. YOUNG of Alaska. Mr. Speaker, I yield the other body 1 minute.

Mr. THOMAS. Mr. Speaker, in referring to those that I cannot refer to, in examining the legislation offered as a motion to recommit, simply look at page 108. What was legal will not be legal. Someone who took actions by virtue of something that if it were criminal would be unconstitutional is in this legislation.

Let us make law. Let us not make political points. Vote down this motion to recommit, and together let us move solid legislation that we can turn into law, much-needed law, as soon as possible.

I thank the gentleman for yielding me this time.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his remarks.

Let us move forward. Let us try to legislate. Let us do our job.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DAVIS of Tennessee. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by a 5-minute vote, if ordered, on passage and, without objection, by a 5-minute vote, if ordered, on a nondebatable concurrent resolution to adjourn.

There was no objection.

The vote was taken by electronic device, and there were—ayes 198, noes 225, not voting 10, as follows:

[Roll No. 113]

AYES—198

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—225

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Culberson
DeMint
Hulshof
Issa
Miller, George
Reyes
Serrano
Tanner
Tauzin
Waxman

□ 1207

Mr. GUTIERREZ changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote, to be followed by a 5-minute vote on H. Con. Res. 404, if ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 65, not voting 11, as follows:

[Roll No. 114]

YEAS—357

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Bonilla

Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—65

Akin
Barrett (SC)
Barton (TX)
Bilirakis
Blunt
Boehner
Boyd
Brady (TX)
Brown-Waite, Ginny
Burns
Cantor
Castle
Cole
Crenshaw
Davis (FL)
Deal (GA)
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Feeney
Flake
Foley
Franks (AZ)
Gingrey
Goss
Green (WI)
Gutknecht
Harris
Hastings (FL)
Hensarling
Hill
Isakson
Istook
Johnson, Sam
Jones (NC)
Keller
Kingston
Kline
Kolbe
Linder
Lucas (OK)
Miller (FL)
Myrick
Norwood
Otter
Paul
Pence
Putnam
Rogers (MI)
Ros-Lehtinen
Ryan (WI)
Sensenbrenner
Shadegg
Shaw
Simpson
Smith (MI)
Souder
Stearns
Sullivan
Tancredo
Thornberry
Toomey
Weldon (FL)
Wexler
Young (FL)

NOT VOTING—11

Culberson
DeMint
Hulshof
Hunter
Miller, George
Reyes
Saxton
Stark
Tanner
Tauzin
Waxman

□ 1215

Mr. DAVIS of Florida changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. STARK. Mr. Speaker, earlier today during the vote on final passage of H.R. 3550, I was called off the floor to receive a phone call from my office. In my distraction, I thought I had voted in favor of H.R. 3550 when in actual fact I had not cast my vote. Had I not been distracted, I would have voted 'Aye' on final passage of H.R. 3550.

PERSONAL EXPLANATION

Mr. HUNTER (during the Special Order of Mr. KING of Iowa). Mr. Speaker, I want to place in the RECORD at the end of the debate on the Transportation bill that the gentleman from New Jersey (Mr. SAXTON) was going to vote on that bill, and I pulled him into a meeting that I thought was pretty important since he is the chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities on the Committee on Armed Services.

I was in charge of watching the clock, and I did not do that; and the gentleman from New Jersey (Mr. SAXTON) missed that vote, and I just want to apologize for that, and if it is any consolation, I missed it, too.

So I apologize to the gentleman from New Jersey (Mr. SAXTON) for that occurring.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3550, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3550, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DELAY. Mr Speaker, I offer a privileged concurrent resolution (H. Con. Res. 404) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 404

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, April 2, 2004, it stand adjourned until 2 p.m. on Tuesday, April 20, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Wednesday, April 7, 2004, Thursday, April 8, 2004, or Friday, April 9, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 19, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The concurrent resolution is not debatable.

□ 1215

PARLIAMENTARY INQUIRY

Mr. CARDIN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman will state it.

Mr. CARDIN. Mr. Speaker, we had a hard time hearing the resolution, but am I correct that this is the resolution that will allow the House to go into recess for 2 weeks at the completion of our business today? Is that what is being voted on?

The SPEAKER pro tempore. The gentleman is correct.

Mr. CARDIN. Mr. Speaker, part of my parliamentary inquiry is, am I correct in understanding that if this resolution passes, we will not be able to consider the extension of unemployment benefits, and another 160,000 people will exhaust their benefits during this recess?

If I am correct, Mr. Speaker, I would urge my colleagues to vote against the resolution.

The SPEAKER pro tempore. The gentleman has not stated a proper parliamentary inquiry.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARDIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 211, noes 201, not voting 21, as follows:

[Roll No. 115]

AYES—211

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Ballenger
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—21

Culberson
Cummings
DeMint
Foley
Goss
Granger
Gutierrez
Hulshof
LaHood
Majette
Miller (FL)
Miller, George
Osborne
Paul
Pryce (OH)
Reyes
Ros-Lehtinen
Sullivan
Tanner
Tauzin
Waxman

□ 1227

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3108, PENSION FUNDING EQUITY ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to the order of the House of April 1, 2004, I call up the conference report on the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, April 1, 2004, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 1, 2004 at page H 1997.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3108.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that 15 minutes of this time be controlled by the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time, and I yield myself such time as I may consume.

I want to thank everyone for bringing to fruition a modest bill which has a limited life, but which is extremely critical in today's economic environment. Twice the House has passed a short-term substitute for a financial structure that assists in pensions. Thirty-year Treasury bonds had been the standard. When the Treasury decided not to issue 30-year bonds anymore, we did not have a surrogate.

This surrogate is absolutely essential in the short term while we work out a long-term replacement for the 30-year Treasuries. As I said, twice the House passed this legislation, once in October of 2003 and then again in November of 2003. Neither time in passing this legislation did the House include multi-employer provisions.

Multi-employers tend to basically be the representatives for the unions.

Multi-employers determine their pension liabilities differently than other companies. It is important to make sure that there are provisions available for multi-employers, and what the conference did was work out a solution which we believe addresses those multi-employers in need and can be signed into law.

We are going to hear a lot of comments about what we did or did not do. It seems to me that when we look at those people who are willing to write letters in support and we get one letter from the United Auto Workers and the other from Ford, Daimler Chrysler, and General Motors, both management and labor in support of what we did in the short-term solution, we begin to think maybe we have it about right.

So as we look at this, this is not permanent legislation; it is legislation that needs to go to the President to be enacted, hopefully no later than next week; and we will then sit down and look at long-term, formal changes to the pensions in this country in a number of different ways, in the Tax Code and in the jurisdiction of the gentleman from Ohio's Committee on Education and the Workforce.

I want to compliment the gentleman from Ohio (Chairman BOEHNER) on the way in which he has conducted himself while working on this legislation in the House and especially his leadership in conference. It is a pleasure to work with my colleagues where, notwithstanding the jurisdictional differences in committee, we are able to work together to solve problems, because it is the problem that needs to be addressed and not the particular concerns or interests of any committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS) for purposes of a colloquy.

Mr. SIMMONS. Mr. Speaker, the chairman is aware that some stock life insurance companies are facing taxes on their policyholder surplus accounts due to corporate reorganizations.

Is the chairman examining ways to prevent this tax from hitting companies in the process of reorganizing to be more competitive?

Mr. THOMAS. Mr. Speaker, if the gentleman will yield, I will tell the gentleman we have, and we are. I know the gentleman's interest in this issue based upon his State and one of the things his State is famous for.

We are working with a number of individuals on Joint Tax, in industry, to gather the information needed to craft an equitable proposal. Once the committee receives this information, I will tell the gentleman, we intend to seriously pursue relief options because of the current unfair relationships, as the gentleman described.

Mr. SIMMONS. Mr. Speaker, I thank the chairman for his insightful and reassuring response.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. PORTMAN) control the remainder of the time of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1230

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New Jersey (Mr. ANDREWS) is recognized for 30 minutes.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to begin by thanking the gentleman from Ohio (Mr. BOEHNER) who very ably and fairly chaired this conference and for all the participants and staff who worked very hard in the conference and did yeomen's work on both sides of the Capitol and both sides of the aisle.

As the chair of the Committee on Ways and Means said a minute ago, this bill solves a problem. I think he is correct, that there is a problem. I think he is correct that it solves the problem for some people who suffer that problem, but I would respectfully say he is most decidedly incorrect when he says it solves the entire problem.

The problem here is that people running pension plans, defined benefit plans, have suffered an unusual series of economic circumstances, declining stock prices, very low interest rates, which have given them great fiscal distress in their plans.

Under the existing law, it is necessary for the employers who pay into those plans to make huge increases in their contributions in the very near future. This translates, in my view, into lost jobs, slower growth, and significant economic problems for many industries. Commendably, this conference tried to address that problem and has, in fact, done so for many of our employers, but the conference report fails miserably to help a number of employers who need this help, and those are the employers in what is called the multi-employer plans.

Now multi-employer plan is a very antiseptic term. Who are we talking about? We are talking about air conditioning contracting companies. We are talking about people who build houses. We are talking about people that do plumbing repairs and heating repairs, that do sheet metal contracting. We are talking about 60,000 small businesses across this country affected by this change.

Now, the experts in the field have told us that about one in five of those small businesses is going to experience a significant problem in their pension plan within the next 5 years. Twenty percent of these air conditioning repair companies and plumbing companies and home builders are going to experience a problem in the next 5 years. So about 20 percent of these small businesses and their employees need help right now.

This bill helps about 3 or 4 percent of these small businesses in the country. Think about this. The experts tell us that 20 percent of these small businesses and their employees need help. This bill steps forward and helps 3 or 4 percent.

Now one might be inclined, Mr. Speaker, to think that this is a technical oversight or it is a problem that cannot be fixed because of some fiscal or budgetary reason. Nothing could be further from the truth. This bill represents a deliberate choice to exclude thousands of small businesses and their employees from the relief that they need to continue creating jobs, and I believe that deliberate choice is made because these plans are all affiliated with organized labor. That is what this is about.

There are a bunch of people that fell off the boat and they are drowning and need a life preserver and we are standing on the deck of the rescue ship throwing out life preservers so people can survive. And that is commendable. But we will not throw the life preservers for union plans and union workers. That is wrong. There is no substantive basis for that judgment. There is no fair basis for that judgment. And it is wrong.

We will have an opportunity to fix this injustice in the motion to recommit to conference that I will be offering. Under the rules of the House, there will be no debate on that motion, so I want to bring it up now.

What the motion will permit us to do is to reconvene the conference with the instructions that the small businesses adversely affected by this bill will have the chance to be included. We will go back to the bargaining table and say, as the experts have told us, that the 20 percent of small businesses who are drowning out there in the sea will also get thrown a life preserver.

To make a judgment based on dollars is reasonable. To make a judgment based upon technical disagreement is reasonable. But to make a judgment based upon ideological opposition to a certain segment of the American business community, those who employ unionized workers and against a segment of American workers, those who happen to exercise their right to collectively bargain, is wrong.

That is why the motion that I will submit is supported by, and final passage is opposed by, the Teamsters, the IBEW, the building and construction trades of the AFL/CIO, the bricklayers, the boilermakers, the roofers, the asbestos workers, the carpenters, the iron workers, the operating engineers, the laborers, the sheet metal workers, the plasterers, the plumbers and pipe fitters, the elevator trades and the painters.

The small businesses that employ these Americans should not be excluded from this bill, irrespective of

who they support in the election, irrespective of how they view things politically. It is wrong to throw a life preserver only to the favored few.

I would urge my colleagues to support the motion to recommit that will be offered and oppose final passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. ANDREWS) for his comments. I have enjoyed working with him over the years. He works closely with the gentleman from Ohio (Chairman BOEHNER) who we will hear from in a moment on pension issues.

I would say I cannot agree exactly with his analysis of this bill. This is a very strong bill that I strongly support. I commend those who played a role in putting it together, and the gentleman from New Jersey (Mr. ANDREWS) was there in the conference helping put it together.

The bill that came through the House, as my colleagues will recall, had no help from multi-employers because it was a 30-year bill. That was the issue that we started with, and that is the source of the legislation, also the reason for the legislation, and that legislation then got added to. But it is interesting that all but I think two Members of this House voted for the bill last go-around without any multi-employer relief and now somehow the bill is not good enough because it does not have enough multi-employer relief.

It does solve the 30-year problem, and that is extremely important to 34 million American workers. It is only a 2-year short term bill, as the gentleman knows; and in those 2 years the idea is that we will reform all of the pension rules and regulations, including the funding rules, the accounting rules, the disclosure rules, something that is long overdue, and including within that, of course, the multi-employer rules, which I believe do need to be altered. But this was never meant to be the bill to do that.

My colleague talked about problems that might come up in the next 5 or 10 years for these plans. We will have time to deal with that in the next 2 years. That is the whole idea. The critical thing here is, before April 15 when these quarterly payments are going to be made or not made, that we make a decision to save millions of employees from having their benefits frozen, from perhaps losing their benefits altogether, new entrants into the workforce. We know we had 300,000 new jobs last month. Let us be sure those people have an opportunity to get into a pension.

What is happening out there, as we know, is we not only have seen a precipitous drop in the number of plans that are insured by PBGC, meaning these traditional guaranteed, defined benefit plans, we have gone from roughly 114,000 plans to 32,000 plans just in the last 18 years.

More disturbing to me is that recently we have seen a lot of these plans freeze benefits for existing participants and not allow new participants in. The best study we have got shows that we have about 27 percent of plans that are not offering benefits to new hires as they do to existing hires. We have about 21 percent of plans, that is more than one in five, who are scaling back benefits through a freeze or other similar mechanisms.

We have got a crisis, and we need to deal with it. We have spent 2 years talking about it. I am delighted this bill is before us to finally correct the major reason that plans are freezing and cutting benefits and that is the fact that the interest rate they have to use, called the 30-year rate, is not accurate.

My colleague, the gentleman from Maryland (Mr. CARDIN), who I see is on the floor, and I introduced legislation to correct this problem. It is bipartisan legislation, strongly supported in this House. It provides for a long-term, conservative corporate bond rate to be used instead of this 30-year Treasury, as the gentleman from California (Chairman THOMAS) said earlier, which is now defunct and no longer a good interest rate. It provides a slightly higher interest rate, which allows companies to make the adequate and accurate contribution but not overcontribute. And this will help, again, 34 million American workers.

I am pleased to see the conference report we have before us incorporates that model. It only does it for 2 years. I wish we could have gotten 3 or 4. I would have loved it to be permanent. It would give the plans the predictability they need. We were not able to do that. But to have the 2-year change in the 30-year is extremely important to those 34 million workers, including, by the way, 12 million union workers.

To my friend, the gentleman from New Jersey (Mr. ANDREWS), he talked earlier about the fact that this somehow does not take care of union workers but it takes care of non-union workers. I would just remind him there are 9 million union workers in multi-employer plans, but there are 12 million union workers who get a very direct benefit from the 30-year Treasury fix in this bill.

I would also say that, for those folks who are concerned about who this covers and does not cover in terms of the multi-employer plans, we really do not know. It may be three 3 or 4 percent. It may be more than that. That is not what we intended to do, was to choose a percentage. We tried to put in place some screens to be sure that the benefits that were added to, again, the 30-year Treasury bill that went through this House with all but two votes, to be sure that those plans that were added to that were those plans most in need. That was the only criteria.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. HOUGHTON), my colleague on the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, there are a lot of good things in this bill, a lot of things you can argue about. The two things that I think are important, one is the section 809, which we all know about. It is a conference report and permanently extends the suspension of section 809 on an antiquated tax on mutual life insurance companies. That is very important. But the most important thing for me is the temporary replacement of the 30-year Treasury bond.

Now, people have talked about that. A lot of people are going to discuss this. But, having been in business, this is very, very important. They are out now. They are gone. There is nothing to base a pension plan formula on. Something has to take its place, and what we want to do is to try to have something which is timely and can be voted on by April 15 when many of these companies have to make their decision.

So to protect the money that goes into the pension plans for employees, you must have a guideline. It is very important. It is very critical timewise. This is not an intellectual issue. This is not something we can have bandied about forever. People's very retirement depends on this. It is not so much the money, but it is the guideline. I hope very much we will support this.

Mr. ANDREWS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), who is really one of our leading voices on pension reform in this country.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from New Jersey (Mr. ANDREWS) for his leadership on pension issues and protecting working people. I agree completely with what he has said with regards to multi-employer. I am very happy that my friend, the gentleman from Ohio (Mr. PORTMAN), is on the floor. I want to thank the gentleman from Ohio (Chairman BOEHNER) for all of his help on dealing with particularly the ERISA provisions as it affects pension rules.

It is interesting, in regards to the multi-employers, it was included in legislation that the gentleman from Ohio (Mr. PORTMAN) and I authored to try to deal with the current problems of funding a pension plan. I regret it is not included in this legislation.

Mr. Speaker, let me point out that when this bill passed this body I urged my colleagues to support the bill, but I pointed out that it is not going to correct the problem. It is a temporary Band-Aid, that we should have done more. We should have had a longer than 2-year replacement of the 30-year Treasury.

□ 1245

We should have had a permanent correction. We know what we should be doing. Using the formula that is in this

bill, we should have had it for more than just 2 years.

I also pointed out that there are many other provisions in funding of pension plans, defined benefit plans that need to be addressed. I know there is an attempt here to deal with the mortality schedules, but we should deal with it broader. There are a lot of blue collar workers that today their pension plans are overfunded in regards to the mortality schedules.

We had the issue of smoothing contributions to allow employers to make more predictable contributions to the defined benefit plans. All that needs to be dealt with.

So, Mr. Speaker, I hope that my colleagues will support this bill because it is important that we get this relief in effect before April 15, but I hope that we will do a lot more in protecting the defined benefits because, if we do not, if we do not take this issue up, next year when we talk about it or 2 years from now, we are going to find there are less defined benefit plans that are out there.

The well-funded plans are going to freeze or convert, but they are not going to do the current roles that are out there. We need to reform and make sure that plans are accurately funded, fully funded so that employees are protected, but we also have to make sure that there are incentives for companies to continue their defined benefit plans.

So I urge my colleagues to support this legislation, support my colleague's, the gentleman from New Jersey (Mr. ANDREWS), motion to recommit so we can then deal with the multi-employer issue, but let us get this bill to the President's desk as quickly as possible.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

First of all, I want to thank my colleague from Maryland for all of his hard work and his support today and make that commitment with him and the gentleman from Ohio (Chairman BOEHNER), the gentleman from California (Chairman THOMAS), and the gentleman from New Jersey (Mr. ANDREWS) and others. We will work together on this issue for the next couple of years. We do need to reform our entire defined benefit pension system.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), my distinguished colleague on the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman; and I want to congratulate my colleagues, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN), who have long been leaders on complicated pension issues, and to the whole conference committee for bringing a bill back that we can get to the President's desk to sign because there is literally nothing more important to working Americans than retirement security.

They have the right to know. We have the obligation to assure them that, when they retire, their retirement plans will come to reality and they will receive the benefits that they have long counted on.

When the rate on the 30-year Treasury bond plummeted after the bonds were discontinued, companies found themselves forced to make artificially high contributions to defined benefit pension plans. That is all this does. This just eliminates that requirement for companies with defined benefit pension plans, which we all know are extremely valuable to working people. It protects those companies from having to make artificially high contributions.

With the economy just coming back, this is about as important a jobs bill as we could pass right now because if we do not give these companies relief, they will be forced to divert funds from paying for current employees or hiring new employees because they will have to make sizeable, significant, new, higher contributions to their pension funds.

So this will free up $80 billion over the next 2 years to help grow this economy, and that is about jobs now. It is about retirement security later. So this is a must-pass bill. Is it everything? No, it is not everything. We need a permanent fix to this problem, and we have a permanent fix that needs to go to everyone; but this is a must-must-pass bill, and I urge the body to vote ''yes.''

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume, and I would just point out that the argument from the other side, we keep hearing the bill is not everything, that we cannot do everything all at once.

It seems like the things that we never quite get around to are the ones that most benefit the working people of the country. We never quite get around to extending unemployment benefits. We never quite get around to consideration of raising the minimum wage. We never quite get around to including pension relief for employees of small businesses, 60,000 small businesses across the country. We never quite get around to debating legislation that would help the 45 million people without health insurance in the country. We never quite get around to that.

We always do get around to helping very powerful players in our economy and our political system who, in fact, deserve help in this circumstance. I do not dispute that; but I hope one of these days, Mr. Speaker, we get around to helping the rest.

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Speaker, I too want to thank the gentleman from New Jersey (Mr. ANDREWS) and also the gentleman from Ohio (Chairman BOEHNER) and the gentleman from Ohio (Mr. PORTMAN) for their work on this bill.

Mr. Speaker, I rise today to express my concerns about the conference report for H.R. 3108, the Pension Funding Equity Act. Mr. Speaker, I am extremely disappointed that this conference report fails to address the real dangers facing multi-employer pension plans.

When we considered this bill last October, I supported the temporary extension of using a composite of corporate bond index to replace the 30-year Treasury. I think that is a good move. It is good to, I think, adjust in the current climate the funding obligation calculations that we include in this bill. Few of us doubt that this country's retirement system is in desperate need of reform. However, today we are missing an opportunity to meaningfully address the funding struggles that are crippling many of the multi-employer plans in this country.

When the Senate considered H.R. 3108, they recognized this growing crisis, and they included protections for multi-employer plans by an overwhelming vote. Sadly, this good work was undone yesterday by Republican conferees who gutted multi-employer pension relief with a so-called compromise that was strictly conducted on a party-line vote.

Mr. Speaker, the real losers today are our Nation's workers. Multi-employer pension plans cover 9.5 million workers and retirees who have put their faith in the retirement security system. Hardworking families should not be forced to pay the price of partisan politics. They deserve this body to comprehensively address this problem facing multi-employer plans. Congress should be taking a fair look at this issue and making a good faith effort to provide meaningful pension reform. The Senate tried to do just that; but sadly, the conference report failed in its similar attempt.

There is a pattern here, Mr. Speaker, of conduct that the gentleman from New Jersey (Mr. ANDREWS) has addressed in part; and I, too, find it troubling that unemployment benefits are blocked by the Republican leadership; that overtime pay for our workers is blocked by the Republican leadership; that minimum wage increases are blocked by the Republican leadership. And now, Mr. Speaker, again, because of the obstructions created by the Republican leadership, we are missing an opportunity here to provide real multi-employer pension relief.

I urge my colleagues to support the gentleman from New Jersey's (Mr. ANDREWS) motion to recommit and oppose this conference report.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Just briefly, I say to my colleague who just spoke, I appreciate his support. Last time through he said he did support the legislation without any multi-employer provisions. He should know that no one who has spoken on the floor today mentioned the multi-employer issue when it came to the floor last time. In fact, when we look

through the debate, not one Member of Congress on either side of the aisle mentioned the multi-employer issue or suggested that it be added.

I would also say with regard to all these small businesses, 23 million small businesses in America, let us assume all the multi-employer employers are small businesses which, of course, they are not. Let us assume they were, that would be .2 percent of our small businesses in America. So let us be careful about saying we are talking about 20 percent of the small businesses here.

We are talking about at the most .2 percent and of course, not all multi-employer employers are defined as small businesses.

Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan (Mr. CAMP), a distinguished member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, I rise in support of this conference report, and I want to thank the gentleman from California (Chairman THOMAS) and the gentleman from Ohio (Mr. BOEHNER) for all their hard work on this important legislation.

This does make important, commonsense changes to help keep workers' pensions intact, and replacing the 30-year Treasury bond rate is one step in addressing the crisis companies with pensions face, especially the airline and steel industries. These companies are facing massive mandatory payments because of the simultaneous collapse of the stock market and record low interest rates.

Many defined pension plans have gone from an overfunded surplus to an underfunded deficit in just 3 years. Since these plans are now less than 90 percent funded, companies will be required to pay hefty surcharges, known as deficit reduction contributions. These payments are no less than a government-mandated surcharge requiring companies to make enormous additional payments in an unreasonable period.

This bill would provide relief to those affected employers without sticking taxpayers with the bill. More importantly, this legislation protects employee pensions and the ability of companies to keep the doors open for business. It is both pro-worker and pro-employer.

Under the bill, companies would continue to make their normal pension payments, but be allowed partial 2-year deferral for contribution payments.

In no way does this plan relieve any company from their pension liabilities. They must continue to make their normal pension contributions. This bipartisan plan is supported by both unions and management. This legislation is essential to maintaining healthy and viable employers and to protecting the pensions of thousands of workers, including the 305,000 new jobs and new pensions that were created last month.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I consume, and I know that there are elements of the union movement who support this bill. I understand that, but I want to reiterate, the Teamsters, the IBEW, the building trades, the bricklayers, the boilermakers, the roofers, the asbestos workers, the carpenters, the iron workers, the operating engineers, the laborers, the sheet metal workers, the plasterers and cement masons, the plumbers and the pipefitters, the elevator trades and the painters all oppose this bill.

Mr. Speaker, I yield 3 minutes to my friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank, in particular, the gentleman from New Jersey (Mr. ANDREWS) for his leadership, courage, in fact, on a bill that looked like it was already ready to make the last mile and cross the finish line.

Many might wonder why we would come to the floor and allegedly interfere with a bipartisan legislative initiative that has the support of employers and unions. Well, I tell my colleagues why he has come to the floor, because he is absolutely right; and not only is he absolutely right, it is shameful that we would allow ideology to interfere with the rightness of making whole all of the pension funds.

Mr. Speaker, I come from Houston, Texas. I saw 4,500 employees laid off from Enron. I heard the stories of individuals who had lost their entire life's savings and ability to provide for their family. I am still being confronted by those families who lost homes and are not able to provide for the college education of their children.

Today, we have an opportunity to make better and to make whole prospectively thousands upon thousands of workers who are having a funding deficiency, but the actual insult of this motion to recommit, the actual insult and the actual, I think, outrage that caused the gentleman from New Jersey (Mr. ANDREWS) to come to the floor is that this was in the legislation, working on funding a deficiency, helping the neediest of needy who really did not suffer this loss through any fault of their own.

In fact, this is not an indictment of the companies or the unions. This is an indictment of the marketplace, the investments that were made that show that this underfunding came about, this funding deficiency, and this is clearly pointed to the marketplace, and why we had such a condition.

Why would we not today support helping 9 million workers and their families? Why would we yield to the White House that asked this language to be taken out?

Mr. Speaker, let me equate to a situation in our community right now in Houston. We are abandoning municipal employees, fire fighters and police employees by refusing to cast a positive vote to protect their public funds, not through any fault of the unions or the pension boards, because their moneys were also deficient because of investment; but because of their plight, they are now looking to suffer the loss by having the question raised as to opt-out of the State law that protects them from having their pension interfered with or changed, and so they are being attacked on an earned benefit right.

This motion to instruct is a motion that will provide an opportunity to protect the 9 million of those who are losing moneys now and to help their families and to make this bill, Mr. Speaker, whole and to help those who are needed to be whole. I ask for full support on the motion to recommit.

□ 1300

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pension security measure that we have before us is of great urgency for American workers and their employers, and that is because the 30-year Treasury bond that is used to calculate the contributions and obligations for employers for single-employer defined benefit systems are so low that it is causing companies to have to take money that they would invest in their business, that they would invest in more jobs, and put it into their pension plans when, in reality, they do not need to put that money there.

Mr. Speaker, this issue of what we do with defined benefit pension plans is a very difficult path that we must follow. On one hand, we want to protect the obligations and the rights of employees who have been offered these plans and to maintain the retirement security that they have been promised and that they are expecting. At the same time, we need to find a way to make these plans work more smoothly so that employers do not continue to leave these plans in droves, as they have over the last 15 years.

That is why the bill we have before us today was intended to fix this discount rate for single-employer defined benefit plans, and we go from a 30-year Treasury bond to a blend of corporate bond indexes that we believe more appropriately reflects the marketplace in terms of what the discount rate should be as they calculate these obligations.

Yesterday, the House and Senate reached an agreement on a short-term bill that is good for the economy, it is good for American workers and the overall health of the Nation's pension system. I should say temporary. This is a 2-year bill. As the gentleman from New Jersey pointed out, the people who are opposed to this bill do not have funding obligation problems for 5, 6, 7 years; and for those multi-employer plans who do have problems here in the short term, over the next 3 years they will in fact, by and large, get the relief that they need.

The measure that was adopted by the conferees yesterday, I think, is a fair and responsible proposal that meets all of the goals that the conferees started with when we had the conference. The most critical urgent measure is the 30-

year Treasury bond fix. It also includes limited relief from deficit reduction contributions for airlines and integrated steel companies, and it targets funding relief for multi-employer pension plans that we believe are most in need. It is also a bill that the President of the United States has agreed he will sign into law.

It is important to note that the interest rate provision really is the sole reason that we are here. Last fall, when we passed this measure on a 397 to 2 vote, everyone voted for this bill except two Members from the other side of the aisle. There was never any discussion about multi-employer relief, and we worked with our Senate and Republican colleagues on both sides of the aisle, both sides of the Capitol.

Mr. Speaker, I want to thank the gentleman from California (Mr. THOMAS), Chairman of the Committee on Ways and Means, for his willingness to work closely with us, and the gentleman from Ohio (Mr. PORTMAN) on our side, along with the gentleman from Ohio (Mr. TIBERI), the gentleman from Texas (Mr. SAM JOHNSON), and the gentleman from California (Mr. MCKEON), and I guess that would be it on our side; along with the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). We worked together very closely in an open and bipartisan process that I think speaks well of how we should legislate here in the House.

I think we have come an awful long way, and we need to get this bill finished, and we need to get it finished today. These funding obligations for employers are due on April 15, and if this conference report is not passed by the House and Senate and signed into law before then, companies will be making contributions that they really are not required, we believe, to make.

Beyond thanking all of the Members who have worked on this, I want to take a moment to thank all of our staff. As we all know, Members are only as good as the staff we have around us, and we have staff on both sides of the aisle who have done really an awful lot of hard work to get us here today.

From my own staff, I want to thank Paula Nowakowski, Ed Gilroy, Stacey Dion, Jo-Marie St. Martin, David Connolly, Jeff Dobrozsi, Kevin Smith, Greg Maurer, Dave Schnittger, Linda Stevens, Kevin Frank, and Deborah Samantar.

I would also like to thank Shahira Knight and Lisa Schultz from the staff of the gentleman from California (Mr. THOMAS); Kathleen Black from the staff of the gentleman from Texas (Mr. SAM JOHNSON); Kurt Courtney from the staff of the gentleman from California (Mr. MCKEON); Angela Klemack from the staff of the gentleman from Ohio (Mr. TIBERI); and Barbara Pate from the staff of the gentleman from Ohio (Mr. PORTMAN) for all her work on this as well.

I would also like to thank John Lawrence, Michelle Varnhagen and Mark Zuckerman from the staff of the gentleman from California (Mr. GEORGE MILLER), and Jody Calemine from the staff of the gentleman from New Jersey (Mr. ANDREWS), and Mildeen Worrell from the staff of the gentleman from New York (Mr. RANGEL) for an awful lot of really long, long nights in getting us here.

I also want to thank Wade Ballou and Larry Johnston of the House Office of Legislative Counsel. They were under a great deal of pressure yesterday to get this bill drafted so we could get it filed.

Now there are some groups out there opposing the bill we have before us today, but there are also a lot of people supporting the bill we have before us today: the Airline Pilots Association, the International Association of Machinists and Aerospace Workers, the United Auto Workers, the U.S. Chamber of Commerce, the Motor Freight Carriers Association, Delta Airlines, the Business Round Table, New York Life, United Parcel Service, Northwest Airlines, Ford Motor Company, Daimler Chrysler, General Motors, and the Financial Services Roundtable.

If you want to see a broad bipartisan nonideological coalition of people supporting the bill, I think the list I have just read does in fact do that.

I would urge all of my colleagues today to reject the motion to commit and to vote ''yes'' on final passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY), who is a leading voice on pension issues.

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend him and the gentleman from Ohio (Mr. BOEHNER), Chairman of the Committee on Education and the Workforce, for their very hard work in trying to move this through conference committee. I also see my friend, the gentleman from Ohio (Mr. PORTMAN), in the Chamber. He has been a tireless advocate of moving in place this much-needed pension fix. I admire very much his leadership and work in this effort.

The bill before us must pass. It is estimated by Watson Wyatt, the consulting firm, that 20 percent of defined benefit pension plans, one in five, have been frozen or canceled within the last 3 years alone.

We are seeing a wholesale rout in the marketplace of defined benefit plans, and what is so sad about this is this is the old traditional pension. This is the thing that provides that guaranteed monthly payment upon retirement based upon a calculation of earnings and years served that really does provide secure retirement income in retirement.

We have some work ahead of us, Mr. Speaker, in trying to fix the underlying funding requirements of pension plans in this country. Because when times are good, we prohibit additional funding flowing into the plans. When times are bad, and we are asking these businesses to do everything they can to grow and hire more workers, we also require, under the formula, disproportionate funding of the pension program. At a time when they can least afford it, we make them fund it the most.

There are many industries hard hit with this, but the airline industry has been particularly hard hit. They have encountered the perfect storm of unfortunate circumstances. No need to go into them here. We are all aware of them. But we literally are going to be pushing airlines into bankruptcy if this legislation does not move. Now we need to again look longer term at addressing their pension funding issues and doing so in a way that comports with reason.

So I support the bill. Everything in it is good, but something is missing: support for the multi-employer pension plans.

I specifically asked the Secretary of Labor when she was before the Ways and Means if the administration opposed helping multi-employer plans. She refused to answer. She said she would get back to us. I am still waiting. But we know what is clear is the role they played in the conference committee in terms of trying to stop the conference from providing assistance to the multi-employer plans as well.

Our motion to recommit will fix that, which is why I will be voting for the motion to recommit and then for the underlying bill.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

I also want to echo the comments of the chairman regarding the staff on both sides, here in the House and the other body. Staff put in innumerable hours, did very high-quality work on both sides, and we are very grateful to each of these ladies and gentlemen.

I have listened to the arguments from the other side, and I certainly respect their intent, but I want to clarify the record.

We have heard that the bill that is in front of us really does help the multi-employer plans, the small business plans who need help, and that it only excludes those who do not. I again state that The Segal Company, which is widely recognized as an objective and authoritative source in this field, has concluded that over the course of the next 5 years 20 percent of the multi-employer plans will experience grave trouble. As I understand their analysis of this bill, this bill will help fewer than 4 percent of those plans. So a lot of plans in distress are going to have further distress.

Another argument we hear is that not that many people are really left out. My friend from Ohio talked about the relatively tiny percentage of small businesses affected by this. But it is important that we understand that these businesses employ nine and a half

million people. Now, not all those nine and a half million people are in plans that are in distress, but a significant portion of them are. So it is nine and a half million workers who are affected and, I believe, left out of this important consideration.

We hear that this is only a temporary fix and we will come back and fix it later in 2 years. I hope that is true, and I have no doubt that is the intention of the majority. But we sometimes do not move very quickly in these areas. If someone is in trouble, and again I think the record shows about a fifth of these plans are in trouble, telling them they have to tread water for another 2 years until the life preserver comes is a rather unhelpful answer.

We have heard that no one in the House brought up multi-employer relief the first time this came through. That is true. The bill was brought up under a unanimous consent agreement in which no amendments were permitted, by agreement of both sides. Frankly, our side entered that agreement because we wanted the bill to move quickly and because I think we made a rather reasonable forecast, based upon our experience, that Democratic amendments that alter decisions by the majority are very often not considered under the rules passed by this House.

So the idea we could have come to the floor and offered an amendment that would have included the multi plans is rather at variance with the record.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, when H.R. 3108 was brought to the floor, it was brought to the floor and developed in total agreement between myself, the chairman of the Committee on Ways and Means, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). We came to an agreement on what the bill would be, and that is why it was brought up the way it was.

Mr. ANDREWS. Reclaiming my time, Mr. Speaker, I certainly appreciate that. I also appreciate the fact that the record of this House is that Democratic amendments to bills very often do not get fairly considered.

Finally, we are told the President will not go any further than what is in this bill. Well, I certainly respect the Office of the Presidency and the man who holds it now, but we are a coequal branch of government. Our job here is not to limit our expression of what we think the right answer is to what the people at the other end of Pennsylvania Avenue think. We have both the right and the responsibility to stand up and be counted for what we think.

Mr. Speaker, I reserve the balance of my time.

□ 1315

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I just wanted to say again that I have enjoyed working with the gentleman from New Jersey. I look forward to working with him on multi-employer relief over the next 2 years. This is a short-term bill.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS).

Mr. BOEHNER. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. THOMAS).

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from California is recognized for 1½ minutes.

Mr. THOMAS. I thank the gentlemen for yielding me this time.

Mr. Speaker, the record really needs to be absolutely crystal clear. We are not talking about the minority offering amendments and amendments being rejected. We are talking about in consultation with the chairmen and the ranking members of the committees of jurisdiction, what is it that we want to do in terms of legislation. It was completely agreed upon, evidenced by the fact that in October we passed nothing but a short-term 2-year extension with two ''no'' votes. In November when we expanded it to cover airlines, an absolute opportunity to include multi-employers, it was never mentioned, it was never offered, never considered, never presented by the minority; and that measure passed on a voice vote.

So when we analyze what goes on around here, the record really needs to reflect that the House in a bipartisan fashion acted, the Senate in a bipartisan fashion acted, and the conference came together and melded two significantly different bills. It is incontrovertible, the House twice sent out bills with no multi-employer provisions in it. We have before us in the conference report a conference report that includes multi-employer. That is the way this place is supposed to work.

If you vote on the motion to recommit, understand that recommitting conference reports kills the conference report. Do not look at what they want to do. Understand what the action does. It kills the conference report.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

I again would like to express my appreciation to the majority for the fair and evenhanded way in which the conference was handled. I dispute its result and disagree with its result. I do look forward to our cooperation over the next number of years in addressing the long-term problems.

I would urge my colleagues to vote in favor of the motion to recommit because I do not believe, as the distinguished chairman just said, it kills the chance for relief. I think it improves relief. I think this is a legislative body that is capable of producing a better product. I think that indisputably we have a situation here in which a number of small businesses who contribute to multi-employer pension plans are going to not receive the relief that they need in order to continue to generate and create jobs.

One of the ritualistic things that we say around here is that everyone loves small business, that they create three-quarters of the jobs created in the private sector in America, and we regularly have contests between each other to see who can be most in love with small business. The issue in front of us is 60,000 small businesses who pay into multi-employer pension plans. The record reflects that the best judgment of objective analysts concludes that 20 percent of the plans are at risk of being in financial jeopardy in the next 5 years. The bill in front of us helps only a tiny fraction of that group that is going to be in such trouble. It subjects thousands of those employers to difficult situations where they are going to have to steeply increase their contributions to their pension plans and thereby jeopardize their ability to keep handing out paychecks, which is so very, very important.

I would urge my colleagues to join the very broad and strong coalition of working men and women in supporting the motion to recommit and opposing final passage of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

As we said before, this is a short-term, 2-year temporary effort to help with the Nation's ailing pension system. There is not an issue that is in the bill that any of the conferees disagreed with. There are more things that people would like to add to the bill; but the bill that is before us, everybody agrees to, other than some people have been disappointed because they want more. We all want more, but the gentleman himself said that the multi-employer relief that is not included in the bill is for firms and plans that have a problem 5 or 6 years from now. Trust me, we will be back here within the next 2 years with a broad overhaul of our Nation's pension laws, which is greatly needed. This is a broad bipartisan bill. I think it will be supported in a broad bipartisan way here today. The motion to recommit is nothing more than a way to kill the bill. We do not want that to happen. It would be bad for American workers and their employers.

I urge my colleagues to vote against the motion to recommit and to vote for final passage.

Mr. FLAKE. Mr. Speaker, in voting against the conference report on H.R. 3108, the Pension Funding Equity Act of 2003, I want to be clear that I voted for the original House version of the bill. When we considered this bill in the House of Representatives, it simply contained a replacement rate for the defunct 30-year Treasury rate used for calculating pension liabilities. Using a rate based on a blend of high-quality corporate bonds, companies with pension plans are expected to realize about $80 billion in appropriate funding relief.

When the other Chamber produced its version of the bill, however, the merits of the

House bill were more than offset by special interest favors for a few airline and steel companies. This version would give automatic waivers to airlines by law, but the relief would only benefit a few companies in these industries. The companies that would not benefit would then be at a competitive disadvantage. Such legislation puts Congress in the position of picking winners and losers.

I was joined by some of my colleagues in communicating to the House leadership and the conferees our concern over the direction the pension legislation was headed. We urged that, at the very least, companies that would benefit by the special provisions should be subject to an application and review process before being approved for relief. We also suggested that if any relief was granted, then it should be reduced in order to leave taxpayers less exposed.

What came out of conference, however, was even worse. The few companies who will benefit from the special provisions included in the legislation will be allowed to forego more of the payments to their pension plans than had been proposed prior to the conference.

These narrow waivers are expected to amount to about $1.6 billion in relief for these few companies. If this measure is necessary to keep these companies going, they must be dangerously close to failure as it is. Forgiving their deficit reduction contributions may only grow the size of their liabilities and delay inevitable failure. I am concerned that there we may be setting taxpayers up for a bailout like that of the savings and loan industry in the 1980s.

I am aware of the need for a replacement for the 30-year Treasury rate, and I support such a replacement. I understand that the broader business community supports this legislation. But I cannot support this conference report because of the special interest provisions included in it. While providing short-term relief for a few companies, this legislation may result in a taxpayer bailout that will hurt all taxpayers and result in much more long-term damage.

Mr. NORWOOD. Mr. Speaker, I rise today in order to voice my strong and unwavering support for the conference report on H.R. 3018, the Pension Funding Equity Act, and also to express my sincere appreciation for the hard work and dedication of Chairman BOEHNER in bringing this important legislation to the floor this afternoon.

Mr. Speaker, protecting and strengthening the retirement security of American workers is a top priority for my Republican colleagues and I. Indeed, since coming to Congress in 1995 I have sought a solution to the pension-funding shortfall that will soon face countless American workers.

The Pension Funding Equity Act Conference Report before the floor today is critical to protecting the pension benefits of millions of workers and their families. I strongly believe it will provide an effective and temporary replacement to the current 30-year Treasury interest rate, while at the same time allowing Congress the opportunity to craft a long-term solution to this issue in the weeks and months to come.

I was pleased to support the Pension Funding Equity Act of 2003 upon its original introduction and passage in the House of Representatives last year, and look forward to working alongside my colleagues on both sides of the aisle to develop permanent solutions to this issue that effects millions of American workers.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 3108. This bill passed both the House and the other body in a bipartisan manner, and I had hoped that we could conclude this process in a bipartisan manner. However, I must say that I am disappointed that the conference report is actually quite partisan.

The conference report would jeopardize the retirement security of millions of hard-working middle-class families who work for small businesses. Though it provides needed reform for some pensions, it ignores the need to provide relief to the more than 60,000 mainly small businesses that join together to pool resources and reduce risk for their employees' pensions. Without relief, these small businesses face excise taxes and mandatory additional contributions, putting the companies and the family-supporting jobs they produce at risk. The conferees have chosen to forget the retirement security of approximately 9½ million workers who rely on these jobs.

Mr. Speaker, I am pleased with the conference report's changes to pension plans that are sponsored by large, individual companies. The people who work for these companies deserve to have their pensions strengthened and improved. For example, replacing the current 30-year Treasury bond interest rate that employers use to determine their defined benefit pension contribution with an index based on corporate bonds will add stability to long-term pension growth. It is critical, however, that we provide the same pension security to people who work for small businesses. Congress should not pick and choose which pension plans can get relief—we should provide relief for all defined benefit plans regardless of the size of the company offering them. I ask my colleagues to oppose this bill so that we can come back with new legislation that would provide proper pension security for all employees.

Mr. KUCINICH. Mr. Speaker, I rise today in opposition to the conference report on H.R. 3108, the ''Pension Funding Equity Act'' and in strong support of the motion to recommit.

While the conference agreement contains needed assistance for single-employer pension plans, it is crafted to provide no assistance to multiemployer pension plans, which cover over 9½ million workers and retirees and some 600,000 small businesses.

Rather than enacting a reasonable and equitable package to offset the severe investment losses experienced by nearly all pension plans in the last few years, the effect of this conference report is to cynically distinguish between classes of business. It grants an estimated $80 billion in relief to large corporate sponsors of single employer plans, while rejecting real relief for multiemployer plans, which are jointly administered by small employers and unions. Even though multiemployer plans have a long history of sound funding and stability since their fortunes are not tied to the fate of a single corporation, only 4 percent of these plans are eligible for help under this bill. This is unacceptable.

Perhaps even worse, however, this conference report sets a dangerous precedent that could severely injure the integrity of the collective bargaining process for years to come. Employers that seek either Deficit Reduction Contribution or multiemployer relief would be precluded from increasing worker benefits during the relief period. Thus, under this agreement, employers could seek minimal relief not to further secure workers' retirement security, but as a way to prevent unionized employees from bargaining over benefit increases.

I urge my colleagues to vote for the Andrews motion to recommit, which would provide fair relief to multiemployer plans, and against final passage of this stilted and discriminatory conference report.

Mr. GEORGE MILLER of California. Mr. Speaker, I wish to begin by thanking the chairman, Mr. BOEHNER from Ohio, for trying to conduct a fair conference committee on this bill, H.R. 3108, the Pension Funding Stability Act.

Regrettably, however, I must oppose the conference report before the House today. However, I strongly urge support for the Andrews motion to recommit because it provides urgently needed relief for multi-employer plans.

The conference agreement was significantly weakened after intense lobbying by the Bush administration to strike provisions that would have protected the long-term stability of multi-employer pension plans.

While this conference report provides significant relief to many single-employer pension plans, it is outrageous that it does not provide relief to the many multiemployer plans across the country that need relief, plans that include many small businesses and others that need short-term relief. As a result of this deficiency, I oppose this bill.

Last week, House and Senate Democrats and Republicans on the conference committee had an agreement that the final bill would include pension funding relief for the 20 percent of multiemployer pension plans hardest hit by the recent economic and financial market downturn.

But then, 2 days later, the White House started to make clear to the Republicans that it did not want any help for multiemployer pension plans included in the agreement.

Not for any substantive reason—just political reasons, plain and simple.

The White House's opposition stemmed from the fact that multiemployer plans are administered jointly by employers and unions. And the Bush political appointees did not want any agreement that would help those unions.

Even if it meant they would hurt the tens of thousands of small and large employers that are unionized and contribute to these plans.

Even if it meant they would hurt the hundreds of thousands of working men and women and their families whose retirement security depends on the financial viability of these plans.

This is pure and simple hardball politics of punishing unions and undermining workers who earn decent wages and benefits. The Bush administration is doing everything it can to destroy middle-class America.

This is the same administration that is about to promulgate regulations that would take away overtime pay from millions of workers.

Let us remember that this administration has done nothing to protect workers' pensions.

I wrote the administration in July 2002 to take action when pension deficits skyrocketed from $26 billion to over $100 billion. It failed to act.

Now, over a year and a half later, the problem is substantially worse. The Pension Benefit Guarantee Corporation says that pension

plans are $400 billion in the red nationally, the largest liability in history, and the PBGC itself is reporting an $11.2 billion deficit as of December 31.

The General Accounting Office is so concerned that it has placed PBGC on its list of Federal programs that are at high risk of failure.

The Bush administration and Congress' failure to take decisive action on pensions, their failed economic policies and neglect of our manufacturing industries and the failure of some companies to honestly estimate their pension liabilities have together precipitated one of the largest underfunding of private pensions in history.

The conference agreement before us today is a short-term fix. Everyone recognizes that. And I agreed at the outset of this process that given the absence of any viable alternative at the moment, a short-term fix was better than nothing. But this conference report does nothing to reform defined benefit plans to ensure their future soundness. And as I have said, the final report fails to provide relief to the broader universe of plans that need it.

The conference agreement provides $80 billion in short-term funding relief for the largest corporations by letting them use higher interest rate assumption to value their pension plan liabilities. And it permits a handful of struggling airlines and steel firms to delay for 2 years their underfunded pension plan contributions.

But the conference agreement does almost nothing to help multiemployer pension plans that do not benefit from the other two provisions. The conference agreement only provides temporary funding relief to multiemployer pension plans that can meet five conditions. According to the respected Segal consulting company, almost no multiemployer plan could meet all of these five conditions.

The Republicans will claim that the conference agreement does provide some limited relief to multiemployer plans. But, they cannot cite a single plan or company that will be covered.

Once again, the Republican majority is exercising its political muscle at the expense of hard working Americans.

Mr. Speaker, the administration must get serious about pension reform. The retirement security of millions of Americans depends upon timely actions by this Government. What we do here today is important to provide this relief. Companies need to shore up their pension obligations. But the American people's anxiety about the future of the retirement security is highly justified in light of this administration's and this Congress' failure to seriously address the problems in our pension system.

Once again, I appreciate the hard work of Chairman BOEHNER to try to accommodate the many interests in this bill and to try to conduct a fair conference meeting. But the final product does not fairly address the many pension plans left without any relief here today and for that reason I regrettably oppose the conference agreement.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. ANDREWS. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ANDREWS of New Jersey moves to recommit the conference report on the bill (H.R. 3108) to the committee of conference with instructions to the managers on the part of the House to disagree to section 104 (relating to election for deferral of charge for portion of net experience loss) in the conference substitute and amend, within the scope of conference, the conference substitute with a provision that provides an amortization hiatus for the 20 percent of multiemployer pension plans with the largest net investment losses.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ANDREWS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 195, nays 217, not voting 22, as follows:

[Roll No. 116]

YEAS—195

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi

Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Bishop (UT)
Brady (TX)
Culberson
Deal (GA)
DeMint
Diaz-Balart, L.
Fossella
Gephardt
Gutierrez
Hulshof
LaHood
McGovern
Miller, George
Moran (VA)
Norwood
Paul
Reyes
Ros-Lehtinen
Sanchez, Loretta
Tanner
Tauzin
Waxman

□ 1345

Messrs. SIMPSON, BOYD, BACHUS, and SMITH of Michigan changed their vote from ''yea'' to ''nay.''

Mr. KUCINICH and Mr. OWENS changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. McGOVERN. I was unavoidably detained and did not vote on rollcall vote No. 116. Were I present, I would have voted "yea" on rollcall vote No. 116.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 336, noes 69, not voting 28, as follows:

[Roll No. 117]

AYES—336

Ackerman
Aderholt
Akin
Alexander
Allen
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Foley
Forbes
Ford
Franks (AZ)
Frelinghuysen
Frost
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
Matsui
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Oxley
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Walden (OR)
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—69

Abercrombie
Andrews
Baca
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Brown, Corrine
Capuano
Clyburn
Costello
Engel
Eshoo
Fattah
Filner
Flake
Frank (MA)
Gephardt
Green (TX)
Grijalva
Hastings (FL)
Holt
Kaptur
Kennedy (RI)
Kucinich
Langevin
Lee
Lewis (GA)
LoBiondo
Lofgren
Lynch
Majette
Markey
McCarthy (MO)
McCarthy (NY)
McNulty
Meehan
Menendez
Miller (NC)
Myrick
Napolitano
Olver
Ose
Owens
Pallone
Pascrell
Payne
Rothman
Roybal-Allard
Ryan (OH)
Sánchez, Linda T.
Sanders
Saxton
Solis
Stark
Strickland
Sweeney
Taylor (MS)
Thompson (MS)
Tierney
Udall (NM)
Visclosky
Walsh
Waters
Watson
Watt
Wexler
Woolsey

NOT VOTING—28

Bilirakis
Bishop (UT)
Burr
Culberson
Deal (GA)
DeMint
Diaz-Balart, L.
Fossella
Gallegly
Gutierrez
Houghton
Hulshof
LaHood
Miller, George
Norwood
Otter
Paul
Portman
Rehberg
Reyes
Ros-Lehtinen
Sanchez, Loretta
Tanner
Tauzin
Velázquez
Vitter
Waxman
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1352

Mr. SWEENEY changed his vote from ''aye'' to ''no.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PORTMAN. Mr. Speaker, because of a previous commitment I missed the recorded vote today on rollcall No. 117, final passage of the conference report on H.R. 3108, the Pension Funding Equity Act. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Friday, April 2, 2004, I was unavoidably detained due to a prior obligation. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: Rollcall No. 116: "yea" (On Motion to Recommit Conference Report with Instructions for H.R. 3108); Rollcall No. 117: "aye" (On Final Passage of H.R. 3108).

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

CONDITIONAL ADJOURNMENT OF THE HOUSE TO TUESDAY, APRIL 6, 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 21, 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 21, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE A REPORT ON H.R. 3866, ANABOLIC STEROID CONTROL ACT OF 2004

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight tonight to file a report on the bill H.R. 3866.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT OF HON. FRANK R. WOLF OR HON. TOM DAVIS OF VIRGINIA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 20, 2004

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 2, 2004.

I hereby appoint the Honorable FRANK R. WOLF or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 20, 2004.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is accepted.

There was no objection.

JOB PICTURE IMPROVING THANKS TO TAX CUTS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, we are going on an Easter break and spending time back in our districts, and before I head back to the Seventh District of Tennessee I wanted to take just a couple of moments and talk just a little bit about the headlines that are out there today.

''U.S. job growth soars.'' That is from CNN Money. ''308,000 jobs: Far better than Wall Street's forecast.'' I have got other copies of articles here, Bloomberg, My Way, talking about jobs growth.

There are reasons for this, Mr. Speaker, and it is the Bush tax cuts that this body passed last year, the third largest tax cut in history. This check, $1,133, this is what the average family, 91 million American taxpayers, saw last year. Over 25 million small businesses are seeing about $2,800 in tax cuts. That is why the economy is growing.

The tax cuts are working, 308,000 new jobs.

THANKING MEL GIBSON AND WISHING A HAPPY EASTER BREAK

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I want to address a ''thank you'' to Mel Gibson and his movie ''The Passion of the Christ.''

I think it is appropriate during this Easter break that we understand that no greater love is this, than one lays down their life for someone else.

As we go back to our districts and work and try to address the concerns and problems of our constituents and the Nation, I think it is just appropriate to remember that we are all one family and we need to work together to solve our problems.

Mr. Speaker, I wish all my colleagues a happy Easter break.

MANUFACTURING JOBS NEEDED TO PUT AMERICANS BACK TO WORK

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very dramatic to come to the floor of the House to show the possibility of 300,000 jobs being created and provide a sense of relief. But, Mr. Speaker, we have lost 3 million jobs, and I can assure you that if you go to States like Texas, Ohio, Michigan, Indiana and States in the deep South, you still have individuals in some of our congressional districts that are more disadvantaged than others.

We have family members who are supporting their families by putting together hamburgers. I do not disrespect good, hard work for a good day's pay, but when the administration cites putting hamburgers together as ''manufacturing,'' you know we still have a problem.

Mr. Speaker, we still have a problem when you give a tax cut to the 1 percent richest of Americans who do not invest in job creation. You still have a problem when corporations are outsourcing and taking jobs overseas.

We have not answered the real question of job creation in America. Until we get back the manufacturing jobs that have been lost, 3 million of them, this celebration over 300,000 begs the question.

We need jobs in America, and it is time to put Americans back to work.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IGNORING CONSEQUENCES OF INCREASING BUDGET DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, we have had a great day today. It is really historic. The average American family could teach Congress a lot about budgets, and it appears that at least four Members of the other body may be listening, despite the roar out of the White House.

Today, some Republicans still do not want to face the consequences of their actions. The budget deficit under the Republicans is growing so fast and so high you cannot even see a ''debt ceiling'' any more. We are facing trillions of dollars of debt that will be shouldered by Americans not yet born. That is how bad it is.

It does not have to be that way. Years ago, the Congress established the pay-as-you-go rule. That is a shorthand way of saying what every ordinary American already knows: You look at both sides of the ledger, how much money you have, what are your expenses, before you do anything.

Instead of pay-as-you-go, the Republicans and the President have said they are going to give America a new policy. It is called ''pray-as-you-go.'' Pray. If you say things are fine long enough, somebody might believe it. Pray that something, anything, good happens somewhere in America. Pray that Americans are so consumed with the economic crisis caused by this President and the Republican leadership that they will not have to time to vote in November.

We are not voting on a budget today because the Republicans are rolling in the street fighting amongst themselves. Why?

□ 1400

Some of them are beginning to figure out there are consequences.

We cannot slash taxes and give millionaires $112,925 without paying for them. We are paying for these massive tax cuts for the rich with massive deficits for America. The economy has produced 300,000 jobs this month, and none last month, not a single one. This month they say they have 300,000. I do not know, maybe they saved last month's to build up this month's; or whatever they did, 250,000 jobs are required every month to simply maintain. They have not added anything to the economy; they are maintaining.

The administration remains in denial, but some Republicans are beginning to see the truth, and I hope the light, about extending unemployment benefits. Unemployment is getting worse in State after State. My State ranks fourth in the Nation, yet the administration refuses to extend unemployment benefits.

To every American I say this: the money is there in a trust fund to provide for this lifeline program. Not a single dollar in new taxes is needed to extend a helping hand to people who cannot find a job because this administration cannot create one. Not one job, remember, last month.

Now, the other day, Myra, a lady from Washington State who is part of the ''Show Me the Jobs'' bus trip across America, came here. Fifty-one people representing every State and the District of Columbia went from town to town telling their personal stories of grief and hardship as a result of economic policies of the administration. They ended their trip here the other day because they came to the place where you can actually do something. We tried in December, Scrooge said no from the White House. We tried after the first of the year, the President said no. We tried in February, and the President said no.

The money is there, set aside for this very purpose, paid for by the very people who are out of work, and the President continues to say no.

We have tried over and over again. Just the other day the Democrats tried to get the President and the Republican leadership to extend those benefits on a bill that was before us. Once again, the President, with his warm, compassionate conservative heart said, no.

Now, Myra, you do not have to feel bad. You can hold up your head. You have nothing to be ashamed of, but we do. Because this administration knows the truth of what is happening across America, but will not act.

You have to believe, folks. They want you to pray that there will be a job. People young and old are losing jobs and losing hope. People are graduating from college, they studied hard, they worked hard, they did everything they were supposed to do to get the American dream. Under this President and this Republican leadership, the American dream is turning into a nightmare for millions of Americans. Instead of pay-as-you-go and work-and-you-get, you get from these people, pray-as-you-go. Let us hope our prayers are answered on November 2.

In the meantime, the Congress on this day should pass extended benefits. The money is there, Mr. Speaker. Please tell the President the money is there. I told Myra the money is there. I hope some Republicans finally have the courage to do the right thing and extend benefits now.

OUR GROWING ECONOMY IS CREATING JOBS

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, as we have all seen by now, the Department of Labor released its payroll survey dated today showing that in the month of March the economy created 308,000 new jobs. Mr. Speaker, 308,000 new jobs created in the month of March. It also revised its new jobs data for January and February with sharp increases in both months.

Now, these strong numbers, Mr. Speaker, clearly demonstrate the vitality of our 21st-century economy. They are a reflection of what other indicators like the strength of the stock market, the level of homeownership, and the growth in gross domestic product have shown. They have been telling us for months that we have a growing economy that is creating jobs.

But the real significance of the job creation numbers is what it tells us about the best way to ensure job growth in this country. We would all like a job creation number like 308,000 every single month. It is a strong number that Americans would like to see more of; and everyone here would, of course, like to see that continue. The question is, How can we ensure that those kinds of job numbers continue?

There are always lots of ideas and proposals being touted as the best way to grow the number of American jobs, but they all boil down to essentially two fundamental approaches.

The first is to try, try very hard to keep any existing job that we have from being lost. We have seen this in proposals such as the one included in the presumptive Democratic Presidential candidate, JOHN KERRY's, economic plan. He proposes a tax increase for companies that invest in growing overseas markets in an attempt to prevent any American job from being lost.

Now, many of our colleagues have proposed different approaches like preventing globally engaged companies from bidding for Federal contracts or saddling them with further regulation. But the ultimate goal is always the same: to prevent any job from being lost.

These job-preservation proposals may be new here in the United States; but they are old news, they are old news in Western Europe. For years, countries like France and Germany have imposed strict regulations in an attempt to prevent any company from ever making an employment decision that would possibly eliminate a single job.

For example, both countries, France and Germany, require a significant notification period before a company can reduce its workforce. France guarantees all workers a hearing; and in Germany, a worker can go to court and get a preliminary injunction to stay on the job until the issue is resolved in the courts.

Now, at first glance, these ''job security'' measures may seem like a good idea. After all, they are clearly intended to save jobs and prevent hardship for workers. But have they worked? Are the French and German people better off than the American people are?

Well, let us look at the jobs data. It clearly shows that they are not. In France, the unemployment rate has been stuck around 10 percent, more than double the unemployment rate that we have here. In Germany, the job situation is almost as bleak, with a long-term average of over 8 percent unemployment.

Growth in GDP has been at a near standstill for many years in both of those countries as well. Neither country has seen an annual growth rate of over 2 percent in a long time. Remember, we had an 8.1 percent growth rate a couple of months ago, and we are going along now at an excess of 4 percent growth that is double what France and Germany have seen. New business start-ups, venture capital, research and development, by virtually every possible measure, the French and German economies and job markets are very, very weak in all of those areas.

Now, Mr. Speaker, these attempts at job preservation clearly failed the workers in France and in Germany. They will not help American workers, either. What will help Americans is encouraging greater job creation.

Fortunately, this is where Americans excel. While the French and Germans have cornered the market on stifling regulation, Americans have long been the global leader in innovation and entrepreneurship. We are the world leader in venture capital, new business start-ups, research and development, and new patents. Our emphasis on creativity, productivity, and free thinking has made our economy the most dynamic in the world. It has allowed Americans to constantly develop new ideas and create new jobs.

In fact, fully 25 percent of all Americans are working in fields that did not even exist in the Department of Labor's job codes 25 years ago; and today, a third of all job creation is in the entrepreneurship categories of self-employment and independent contracting.

If we continue to encourage the innovation that leads to new opportunities, we should be looking at the barriers to

productivity and job creation. We should be looking at ways to minimize the damaging effects of frivolous lawsuits, excessive regulation and taxation, and rising health care costs, just to name a few.

The critical part is that our job growth agenda has got to be a job-creation agenda. We need to recognize that we are on the right track and we can do even better.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

THE MONEY IS THERE FOR EXTENDING UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, we are going to be leaving Washington, D.C. this afternoon and going back to our home districts, and it saddens me that we are leaving Washington without extending the unemployment benefits that are so desperately needed by so many unemployed Americans.

Just in Ohio alone, since George W. Bush became President of our country, we have lost 236,000 jobs, and 170,000 of those jobs have been high-wage jobs with good benefits. Across the Nation, some 3 million jobs have been lost under the President's watch, making him the first President since Herbert Hoover to actually have a net loss of jobs during his tenure as President. That makes it all the more troubling to me that with so much job loss in our country and so many unemployed workers in my State of Ohio, that we would leave Washington, D.C. for this extended vacation without extending unemployment benefits to our unemployed constituents.

The fact is that in Ohio alone, already, 31,300 workers have exhausted their benefits; and between now and June, this will be 2,200 workers per week who will have exhausted their unemployment benefits.

In my region of eastern Ohio in the Steubenville area, 380 workers have already exhausted their benefits; and by the end of June, that number will swell to 700 workers.

Mr. Speaker, these statistics are not merely numbers; they represent workers. They represent the heads of households. They represent parents who need to provide for themselves and their children, to be able to contribute to their communities and their churches.

That is what we are facing in Ohio. It just is amazing to me that in light of these circumstances, the President's Treasury Secretary, Mr. John Snow, came to Ohio last week and he verbally defended the outsourcing, the sending of American jobs to other countries, indicating that it strengthens our economy to do so. How can Treasury Secretary Snow or President Bush come to Ohio and look unemployed people in the eye and tell them that they care about them when they deny them these needed resources?

The money is there, Mr. Speaker. What I am suggesting and calling for will not result in an increase in taxes. There are multiple billions of dollars in the unemployment fund, money that has been placed there by workers and employees for just such a time as this. Yet it seems to me that perhaps out of an insensitivity to what is really happening, and unawareness of the tragedy of unemployment, or maybe a hardness of heart, this House and this administration will not support the extension of these benefits. I assume it is because if we extended the benefits it would be an admission that we have not solved the problem of joblessness in this country. Maybe we do not want to add to the accounting that would increase the amount of the deficit. But I want to tell my colleagues, the leadership of this House and the President of the United States have no hesitancy in increasing the deficit if it is necessary in order to give tax breaks to the richest people in this country.

Think of this: here we are leaving Washington, D.C. today, going home and knowing that there are thousands and thousands of unemployed workers who are, on a weekly basis, exhausting their benefits, and who, through no fault of their own, they have lost their jobs.

□ 1415

But through the resources of this government we can help them. We could lessen the pain that they feel. We could make it possible for them to continue to provide the needed resources for their families. And, yet, we are turning our back on them in their hour of need.

I hope that when President Bush comes to Ohio for his next visit the constituents in Ohio will ask him, Mr. President, why were you unwilling to support an extension of unemployment benefits to those who are out of work?

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, it is always a pleasure to follow my fine colleague, the gentleman from Ohio (Mr. STRICKLAND), who I think touched on some very important points that we need to address in this Congress and we should not be leaving.

Many of us to go back to our districts, some of us to go on Easter vacation, before we address this issue of unemployment benefits; and I think this issue illustrates for the country exactly how removed the United States Congress actually is from the problems that we are dealing with in middle America.

It is easy for politicians to mouth words that somehow we are supposed to address the problems that we have in this country. But the American people are beginning to realize that the rhetoric that has been coming from the Nation's Capitol, the rhetoric that has been coming from this administration, has not been addressing the issues that face average working families in the State of Ohio. The unemployment rate actually crept up to 5.7 percent.

Do we want jobs to be created in this country? Absolutely. You will never hear me, or I think any other Member of this body, somehow downplay job growth as if it is a bad thing. Because we want the American people to go back to work.

But there is so much that needs to be done with this economy. Let us look for a second at the issue of the minimum wage. I want to talk about a couple of other issues, but for now we want to talk about the minimum wage.

During most of the 1960s and 1970s, working at the minimum wage kept a family of three out of poverty. Today, that same family is 24 percent below the poverty level.

The purchasing power of the current $5.15 per hour minimum wage is well below that of the 1960s and 1970s level. From its peak in 1968, the purchasing power of the minimum wage has declined over 36 percent.

If you are wealthy in the United States of America, you are doing pretty well, and you get all the benefits

and all the energy of this legislative body to help you in any way necessary. You need tax cuts? We are for tax cuts. You need subsidies? We are for subsidies. Whatever it is that corporate America, the top 1 and 2 percent of the people living in this country need, they get.

But people living in the United States of America who want unemployment benefits, they are not working, their unemployment benefits are going to run out, this legislative body has no time for you. If you are making the minimum wage and you are 36 percent below the purchasing power the same wage of 1968, we do not have time for you.

I think it is a shame that this Congress dictates its policies by who is contributing to the campaigns and who is making the biggest donations, and that is the problem. That is what the American people are going to have to decide in this next election that is coming up, is are the money people going to win out or the people who need help in this country?

Look at the kind of future we are leaving to our kids. Almost a $600 billion deficit. We give tax cuts now, we borrow money to pay for them, and we put the burden on our kids who are going to be left to foot the bill for this thing. It is wrong. It is a tax for our kids that they are eventually going to have to pay.

We talk about outsourcing jobs and competing on a global economy. We are underfunding No Child Left Behind by $1.5 billion a year in the State of Ohio, $1.5 billion a year. We say we want everyone to participate in the global economy, we say we want to move the last 25 percent of the kids in this country over the finish line, make them proficient, let them be happy, have the education they need to be able to compete in this country, but we are not willing to put the money up because we have to give tax cuts to the top 1 percent. That is the priority of this legislative body.

If we are going to outsource and if we are going to compete on a global level, which everyone has seemed to have agreed that we need to do, then we better put the resources in educating our kids. We better make sure we have an adequate, livable wage for people. Because there is going to be displacement. We better make sure everybody has health care in this country.

The American people are beginning to recognize that the rhetoric from this body and the rhetoric from this administration doesn't match the reality that needs to be addressed in middle America. It is time that we start addressing it.

OUR DEPENDENCE ON OPEC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, it is very interesting to listen to some of the remarks on the floor this evening. We had a gentleman, one of our Members from California, say how good the economy looks to him. And yet if you read the newspaper today, U.S.A. Today indicates Gateway is going to be closing all of its stores around our country, the struggling PC computer maker, and laying off 2,500 more workers.

In the same newspaper we see a headline, ''No Shortage of Oil, Saudi Arabia Says.'' Saudi Arabia sought to quiet critics of OPEC's decision this week to cut oil production, arguing there are ample supplies, despite decade-high gasoline prices. Their foreign affairs advisor to the Crown Prince said there is no shortage of crude oil.

I would like to draw my colleagues' attention to this chart, which shows that the United States since the mid-1980s and every succeeding year has amassed more job loss and greater trade deficit than ever before in the history of our Nation. This year, the trade deficit is going to go over $580 billion. This is an unbelievable number. That means more imports coming into our country than our exports going out. We are exporting jobs and we are importing products from every other place in the world.

Someone ought to really pay attention in the executive branch, and the Members of Congress who brag how great this is better pay attention to the fundamentals that are driving us in the wrong direction. One of those fundamentals involves rising gasoline prices and rising petroleum prices because we are not energy independent here at home. We need a President and we need a Congress that will make America energy independent again.

Here is another chart. This chart shows over a period of 25 years every single year the amount of petroleum that we consume and how much every year comes from abroad. The Middle East, OPEC, controls half of what flows into this economy. Every time a U.S. consumer goes to the gas pump, at least 7 or 8 cents of what you spend per dollar for every gallon you buy goes to Saudi Arabia, a very undemocratic place, one of the worst dictatorships in the world, no matter how much sweetener they try to put on it; 2 or 3 cents goes to Kuwait and Iraq, all places without democratic governments in place.

It has been happening for a long time. It just did not start. But it has been getting worse, and the job loss in our country has really been getting worse. Good jobs with benefits that people can depend upon, retirement programs that cannot be taken away, and a chance for children to go on to college without becoming debtors, the hole we have been digging has been getting deeper every year.

A gentleman writes a letter to the editor today to U.S.A. Today. He is from out in Michigan. He says that everybody wants free trade, but it seems strange to me that the most powerful Nation on this earth can do nothing to stop the collusion, he says, among the organization of petroleum-exporting countries and our own oil companies to drive up the price of oil.

Here in Washington last night I was watching the television, and Chevron-Texaco had this big ad about how great they were except for one thing, all that oil comes from someplace else and contributes to this rising share of imported petroleum and to the amassing trade deficit that is a damper, a huge damper on creating wealth inside this economy because we are siphoning it out of our own pockets and giving it to someone else.

Imagine if we put those dollars to work to create a new industry across rural America, the biofuels industry, where we ripen ethanol production, soy diesel production, at a level where our farmers could be earning money from the marketplace, not from the Federal Government subsidy that goes to them. Imagine if we really were serious about fuel cell production, imagine if we really tried to bring modern hydrogen production to this country and push our photovoltaic production from the sun, energy from the sun to the limit, to the limit.

NASA has done a great job of helping us move the technology to where it is today, but that is where America needs to move. We do not have to have more job loss. We do not have to have rising trade deficits. We need a government in this country that is going to make us energy independent again and begin creating jobs here at home for the future.

Mr. Speaker, I include for the RECORD additional extraneous material.

PRESSURE OPEC TO LOWER GAS PRICES

Everybody wants free trade. But it seems strange to me that the most powerful nation on this earth can do nothing to stop the collusion I see among the Organization of Petroleum Exporting Countries and our own oil companies to drive up the price of oil (''OPEC votes to cut oil output, starting today,'' News, Thursday).

Why can't the U.S. work with our non-OPEC industrialized allies and other nations that also need a steady supply of cheap petroleum and take retaliatory economic action by withholding essential goods and services, or even military action? We need to give the OPEC cartel a taste of its own medicine.

DONALD SEAGLE,
Ishpeming, Mich.

GATEWAY TO CLOSE ALL STORES, FIRE 2,500

(By Michelle Kessler)

Struggling PC maker Gateway said Thursday that it plans to close all 188 of its retail stores and lay off 2,500 workers.

The stores will close April 9, Gateway says. Its computers will still be sold on Gateway's Web site and via phone.

NO SHORTAGE OF OIL, SAUDI ARABIA SAYS

Saudi Arabia sought Thursday to quiet critics of OPEC's decision to cut oil production, arguing there are ample supplies despite decade-high prices. ''There is no shortage of crude oil,'' said Adel Al-Jubeir, foreign affairs adviser to the Crown Prince of

Saudi Arabia. ''High oil prices are not good for consumers, and low oil prices are not good for producers.'' The country also said it remains in contact with President Bush. The 11-member Organization of Petroleum Exporting Countries voted Wednesday to cut production 1 million barrels a day, angering U.S. lawmakers who partly blame OPEC for record gasoline prices in the USA.

[From the Times of Oman, Apr. 3, 2004]

HIGHER OIL PRICE TO TAKE ECONOMY TO NEW HIGHS

(By K. Mohammed)

The Sultanate's economy is poised for better performance this year if the spiralling oil prices are any indication. Omani crude price, the single most important factor which drives the Omani economy, is currently staying at $31.44 per barrel and the market expects crude prices to stay at the current level in the rest of the year. According to statistics, the Omani crude prices realised $29.91 per barrel in January 2004, which is significantly higher compared to prices realised last year. Last year, the government had budgeted oil price at a conservative $20 per barrel but the actual realisation was much higher at $27.84. This had resulted in a substantial rise in government revenue with all sectors of the economy witnessing significant growth in 2003.

The government has budgeted Omani crude price at $21 for the current fiscal (2004) but the actual realisation may be much higher than the prices realised last year, considering the present buoyancy in the international oil market. The most heartening fact about AGCC economies, and Oman in particular, is that international oil prices have been staying above the Opec basket price band of $22–$28 per barrel in the new year, significantly higher than the prices achieved last year, and Opec is expecting a steady market this year. International oil prices are currently staying at around $34 a barrel.

Considering that the oil production will be maintained at the present level the prospects at the oil price front remains brighter for the country.

Government's revenue receipts and public spending are other indicators of the economic growth. Last year, the corporate sector fared well on account of increased public spending. The government's actual public spending has increased from RO2,367.9 million in 2002 to 2,638.5 million as at the end of November 2003, an increase of 11.4 per cent. The budget for the year 2004 has estimated total spending at RO3,425 million. The actual public finance deficit for the year 2002 had come down drastically to RO124 million from the budgeted RO380 million. When government spending goes up the gross domestic product (GDP) will expand, triggering increased economic activity and generating more job opportunities and more revenue for the government. The increased spending coupled with the prevailing low interest rate scenario is expected to give the much-needed impetus to economic growth this year.

Figures on the revenue receipt side looks rosier. As of November-end 2003, the government's total revenue stood 8.7 per cent higher at RO2,942.5 million compared with RO2,705.9 million mainly on account of increased oil price realisation. As the average price for Oman crude stood $29.16 a barrel in December 2003, the government is expected to report a lower actual deficit for the year 2003 as against the projected RO470 million.

The country saw inflation remaining below 1 per cent last year. This year too, the inflation is expected to remain below 1 per cent level. However, the weakening of the dollar is a cause for concern as it may put downward pressure on the local currency triggering a mild flare up in the prices of euro-denominated goods and services. Like other AGCC countries, Oman too imports from European countries and euro-denominated goods are bound to become costlier with the weakening of the dollar.

The increased activities in the non-oil sector, especially a significant rise in LNG production will also contribute much to the strengthening of the economy.

Reflecting the pulse of the economy the local stock market has scaled new highs. The Muscat Securities Market General Price Index rose from 272.67 points as at the end of December 31, 2003 to 296.10 points on April 1, 2004, scoring 23.43 points. This shows a handsome gain of 8.59 per cent. The buoyancy is also reflected in the various sector indices.

On the economic reform front, a lot of action will be seen in the rest of the year. As part of its commitments to the WTO, the government is expected to divest a significant stake in Omantel. Last month, the much-publicized initial public offering of Al Maha Petroleum opened. The opening up of the telecom sector will see a second GSM licensee entering the market soon, paving the way for competition in the telecom market with consumers ultimately emerging as the winner with better and cheaper services.

[From Reuters News Service, Apr. 2, 2004]

BUSH IN TOUCH WITH SAUDIS, NON-OPEC ON OIL—W. HOUSE

HUNTINGTON, WV. (Reuters).—President Bush and the Saudi crown prince have been discussing oil prices for some time, and the administration is also talking with other OPEC and non-OPEC oil producers, a White House spokesman said Friday.

''We remain actively engaged with our friends in OPEC and other producers around the world to address these issues,'' White House spokesman Scott McClellan told reporters. ''Bush and the (Saudi) crown prince have been in touch on this subject for a while now.''

Earlier this week, OPEC agreed to a production cut of 1 million barrels per day despite Bush administration requests to delay it.

HONORING THE LIFE OF ARMY PRIVATE BRANDON LEE DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to a true American hero who made the ultimate sacrifice while serving his country with honor and courage. 20-year old Army Private Brandon Lee Davis of Cresaptown in Garret County, Maryland, was among five soldiers killed when a bomb exploded under their vehicle in the Al Anbar province of Iraq.

The soldiers were conducting security and stability operations in the region just north of Fallujah. They were from the 1st Infantry Division's 1st Brigade, based in Fort Riley, Kansas.

I offer my deepest condolences to the family of Private Davis during this difficult time. I, along with the other Members of the Maryland federal delegation, mourn their loss. Our prayers are with Private Davis' mother, Jackie Weatherholt; his father, Jeffrey Davis; and his two siblings. Words cannot express the sense of loss felt by the Maryland community when one of our own, a young man who offered such promise and hope for the future, is taken from us. This tragedy makes the war in Iraq more personal for all of us.

Private Davis joined the Army shortly after graduating from Fort Hill High School in Cumberland, Maryland. Like many young men and women who seek direction in life after high school, Private Davis hoped to learn a trade while serving his country. His dedication to service to others would not have rested with his duty in the Army.

Private Davis dreamed of using his life to protect men and women by becoming a police officer. Sadly, that dream will never come true. The deadly consequences of war are a reality that all of us must face. However, the knowledge of what may happen in war does little to diminish the pain and anguish when that reality reaches your front door.

Mrs. Weatherholt will never have the opportunity to feel the joy of a mother who watches her youngest son experience all of the milestones in life. Mr. Davis will never get to see his son teach the lessons he learned about how to be a man. All this Maryland family now has are memories. Mrs. Weatherholt must hold on to the memory of that last telephone conversation on March 20th, when she gave her son these words of caution, ''Watch your back, Brandon.''

These parents have the memories of their son making others laugh with his outgoing and upbeat personality. They have the memories of their son going out of his way to show kindness to strangers and make his friends and family feel happy. There were no limits to Brandon's loving generosity. He gave up the opportunity to come home to his family for a two-week break in February, and, instead, donated his leave time to an Army buddy who wanted to return to the United States to get married. I am sure Private Davis longed to be with his family during this time, but he gave his priority to his desire to help a friend.

The Army deployed Private Davis to Iraq nearly six months ago. He never discussed his fear or worry with his family, although he was stationed thousands of miles from home in a foreign land with death and destruction as his bedfellows.

This brave young American knew of the dangers of the high-risk areas into which he was being sent, but he was proud to be a soldier. He was proud that, by serving in the United States Army, he was not only making a better for himself, but he was trying to make a better, safer life for us all.

Mr. Speaker, I must say that I opposed President Bush's decision to go to war with Iraq before exhausting every diplomatic measure and without clearly demonstrating an imminent threat of attack on the United States. But I will do everything within my power to support our men and women in uniform. I stand behind our troops in Iraq and pray for their safe return home.

Although I did not know Private Brandon L. Davis personally, I consider it a privilege to honor his life and to pay tribute to the sacrifice that this young man made for all Americans. This country has lost a true leader. Private Davis gave his life to set the Iraqi people free. I pray to God that we succeed.

God Bless you, Private Davis.

ENERGY AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Iowa

(Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, first, I would like to thank my colleague on my left, the gentleman from New Mexico (Mr. PEARCE), who has pointed out quite accurately and correctly that if one side of the aisle is down here carrying a message to the American people relentlessly, if not logically, day by day by day, that is the only subject matter that Americans have to discuss.

As I sat in here for the last hour preparing, apparently, for this Special Order hour, and I have considered that I really did not have to do that, it was great preparation to sit and listen to the rhetoric that came from the string of Members, I think probably not coincidentally, from Ohio. So I am just going to start up working backwards through the list of things that were raised here while they are freshest in the minds of the people that are listening, the Members of the other body, and those in this Chamber and the people that are listening around the country.

The first is with regard to OPEC and the criticism of OPEC for the position that they have taken to limit the supply of hydrocarbons to the United States. Certainly that has been a factor in the 1970s. It was a factor in our Presidential elections after that, and we came out of that.

Our dependency has increased on foreign oil, and I regret that. But OPEC has taken a position that is going to be reflected by the Saudi Arabians who ruled more of the OPEC oil than anyone else.

I have with me a document that I will just read some quotes.

Prince Bandar has made some remarks speaking for the increase in supplies because he says the President and the Crown Prince have been in touch on this subject for a while now. Both leaders feel strongly that higher energy prices have a negative impact on world economy.

So I happen to know that there is a delegation on its way over to Saudi Arabia right now to thank the leadership in Saudi Arabia for their efforts to increase supplies as a way of holding down increases in costs of gasoline in the United States and thank them for the efforts that they have gone through to help us in the war on terror.

There have been significant improvements in that country over the last couple of months.

□ 1430

So these remarks that are made on the floor of Congress are not conducive to us solving the oil supply problem and I think are not conducive either for us solving this problem of worldwide terror.

Mr. PEARCE. Mr. Speaker, will the gentleman yield?

Mr. KING of Iowa. I yield to the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I heard the lady that preceded us on the floor say that we needed to do something about OPEC. I am sorry, what are we going to do? It is a free nation.

We did something about Iraq, and the accusation from their side of the aisle was that we went in to take the oil. When that was not proved correct, when it was absolutely proved false, now then they are here saying we should do something about OPEC. I am so sorry. What about the free nations? They can produce what oil they would like to.

I would continue to point out that the reason that the production in this country is decreasing is exactly the policies that our friends on the other side of the aisle insist on, that is, the lack of access to the public lands in this country. It is going to drive the cost of gasoline and electricity up throughout this country because of their restrictionist policies that they have put into place, and those policies live today from the Clinton administration on through this administration from the field level.

It is a question that I recently took to the BLM head, and have asked her what is she going to do to increase access to public lands so that we are not so dependent, she said, frankly, some of the extremists in our country will block every single attempt to drill more on American soil. Even the debates on this floor regarding ANWR say that we do not need that energy, that we do not need the oil; and the other side has persistently blocked every effort to try to drill in ANWR.

Mr. Speaker, also, the energy policy that currently resides in Washington, but unfulfilled, is not something that the administration is blocking. It is not Republicans who are blocking the energy bill in this town.

Mr. Speaker, the energy bill would not only create access to more domestic oil and gas, but it would begin to encourage the alternative sources of solar, wind, hydrogen, biomass, nuclear. If we will begin, Mr. Speaker, to deal with some of the pressures on the demand cycle for our energy with some of our alternative resources, then we can begin to see the prices of gasoline and electricity go down; but I will guarantee my colleagues, the headlines that I cut out from the Denver Post of last year telling the people in August of 2003 that they would be facing 70 percent increases in electrical costs because of the price of natural gas, those are things that we are going to continue to experience in this country until we pass an energy bill.

The energy bill by itself will create 100,000 jobs, and we have been treated by our friends across the aisle to continued talk about the lack of American jobs. We have seen the dramatic report from March where 300,000 new jobs were created. That is 600,000 now in the last 6 months since we passed the jobs and tax bill.

Mr. Speaker, the policies that the administration is submitting to us and that we are carrying out into actual votes and into bills are dramatically changing the environment for investment in this country.

EDUCATION IN AMERICA

Mr. PEARCE. Mr. Speaker, when we begin to look at the growth of jobs, we have to understand the importance of education in this country. No Child Left Behind is one of the dramatic things, dramatic policies that have been issued. It is a reform into the education system which literally says we are not going to leave any child behind. The President has dramatically increased funding, regardless of what our friends across the aisle say.

Under President Clinton, the spending on education through the Federal Education Department was about $27 billion. Under President Bush, the funding has increased to $60 billion, over a 100 percent increase, and yet somehow we get on the floor day after day that we are underfunding education.

Our friends especially like to talk about the way that we are not funding IDEA, our individuals with disabilities; and that has such a dramatic difference in previous funding levels under this President, that it is important to talk about funding levels.

The bill was passed in the 1970s, and historically throughout its tenure has had about $1 billion funding. It could never get up, and keep in mind, that was under 40 years of Democrats ruling in this House. It stayed at the $1 billion level. Finally, under President Clinton, it went up to $2 billion.

Now, what would my colleagues estimate that the actual spending on IDEA, the individuals with disabilities, is actually today under President Bush? If you were to listen to the rhetoric that is thrown out day after day, you would say, well, obviously it is much, much less. Actually, it is much, much greater.

The funding this year under IDEA will exceed $10 billion. That is a five-time, a 500 percent increase in the 3 years under President Bush; and yet we hear the shibboleth on the floor of the House that tries to put a truth out, put a falsehood out in the guise of truth.

The truth is that President Bush understands that if we are going to have careers for our young people, if our young people are to have expectations and hope into the future, they need more than jobs. They need educations. They need careers. They need a progression of learning throughout their lives.

No Child Left Behind is guaranteed to put those young people in a position to where they can continue the lifelong learning process.

We have moved from a time in our history when we could just learn one single task and do that our whole lives. For us to access the technology, the innovations, the creativity that is at move in the world today, our young people absolutely must be given every tool during their 12 years of public schools on into the junior college and

college years; but then throughout their entire life, we must continue to have on-the-job training. We must continue to have training when people are displaced.

Recently, this last week, I went into my district into Belen, New Mexico, and met with a group of employers there. We met at Cisneros Machine Shop. The Cisneros brothers really are one of the small businesses that characterize the desire on the part of our employers right now to be training their employees every day to a higher level, understanding that they cannot produce the same things yesterday that they produce tomorrow. Otherwise they will not continue to fight off the tremendous international competition that faces us.

I think the recognition of people like the Cisneros brothers will bring us all, in this Nation, if we will continue these training programs, no matter what stage of development our employees are in, if we will recognize that and continue to train, then we are going to be in good shape. But we have to ask the question, when jobs are moving offshore, when jobs are moving overseas, we have to ask ourselves why; and the education system is, at base, a root cause of the problem.

Under No Child Left Behind, one of the most important things we are striving to do is to put a competent teacher in every single classroom and especially those classrooms that teach math and reading. Those two basic skills are the foundations for the education process; and without them, our students simply do not have the tools to compete when they graduate.

We have seen dramatic changes even in my district in the education process. About 2 weeks ago, I recognized Roswell High School on this floor as being one of the 12 breakthrough schools in the Nation. That principal believes in No Child Left Behind. He has seen it work in his classrooms, turning around a population in his high school that is both high minority and then also lower-income status students, and he has turned that around into one of the 12 breakthrough schools in the Nation. It is the kind of example that No Child Left Behind is supposed to be creating in our schools.

I see the gentleman from Iowa standing.

Mr. KING of Iowa. Mr. Speaker, I would like to give a perspective of No Child Left Behind that is a little bit different perspective for some of the other States, those States that may not believe there is a significant advantage to them.

I have the privilege of being from the State of Iowa, and we rank in the top three every year in ACT tests; and we have for years put out Iowa basic skills and Iowa tests of educational development, that analysis that we do of students every year, comparing them against their growth from year to year, in a number of different subjects and a composite score that we do, something that goes back to the time that I was at least in grade school, and that is some years ago, and before that actually, and those tests have been given around the world, places as far away as China.

So the credibility that the Iowa public school system has worldwide is high, and our competitiveness in our graduates, particularly measured by ACT test scores and also the success of our young students as they go off and go on to higher education, is also high.

Arguably, the public school education in K–12 in the State of Iowa ranks in the top three, maybe as the best in the country; and so because of that long-standing tradition to education that we have, we have those kinds of results and standards, and yet we are faced with a No Child Left Behind policy that is a one-size-fits-all.

Those States that have high excellence in education may not see a significant marginal improvement, but we really do need to help those students in those States like Mississippi and Arkansas. We really need to lift them up and get them back into this educational stream.

I yield to my colleague from New Mexico.

THE SHOCKS TO OUR ECONOMY

Mr. PEARCE. Mr. Speaker, I thank the gentleman for yielding.

In addition to our energy bill, which would create jobs, we begin to defuse the increasing price of natural gas and fuel at the pump for our cars. In addition to those two important elements of the legislative agenda that we have passed in this House last year, this transportation bill that just was passed out of the House today is poised to create another 700,000 jobs.

Mr. Speaker, when I look at the continued bills that we are passing out of the House, I see responsibility. I see a patient attempt to cure the many problems that we are facing in this country; and keep in mind that we are facing the problems through no fault of our own, but 9/11 changed everything.

The first thing that happened in our economy that cost us jobs was the collapse of the dot-com industry. You all remember in the late 1990s that dot-com ramp-up where stocks were selling at an inflated price, sometimes $200 per share of a stock that really had no product, had no cash flow, had no sales, no revenue, no net profit; and yet enthusiasm was that these stocks are going to be great value. Well, that enthusiasm eventually will have to come home. A corporation either had to build a product or create a revenue of some sort; and when they did not and could not, the dot-com stock market price of those stocks collapsed down, and we found that it shocked our economy pretty drastically.

The second thing that shocked our economy, of course, was 9/11. The estimates are as high as a $2 trillion shock in one day, over 2,000 lives lost. I will tell you that businesses are still paying the cost for 9/11 today, and we cannot forget that the economy and the culture in this Nation changed so dramatically on that day when the unprovoked attack of terrorists, who would kill innocent lives in order to destabilize an economy, in order to destabilize a political system, after they made their attack, we in this country have got to deal with the results.

Now, the President has been very patient. He has worked very hard at going and taking away the root causes of terrorism. He has taken the Taliban out of Afghanistan. Al Qaeda is on the run. The training camp that used to crank out terrorists every month, who would spew hatred and anger toward the United States and try to sow destruction throughout our economy and throughout our Nation, that training camp has been closed down and the terrorists are on the run.

We continue to capture and to kill the terrorists who are here to kill us. This is not a police action. This is not something we can take into the courts and deal with there. This is an action where it is either their ideology or ours.

The insistence of terrorists to destabilize the entire world is one of the most looming threats that any of us face here.

□ 1445

It affects our ability to raise our children safely on the streets. It affects our ability to conduct just everyday commerce throughout our land. Terrorism seeks to destabilize. The paradigms of security and stability cannot exist coincidentally with terrorism and instability. The world is going to make a choice, and the United States is making a tremendous decision here to take on the fight.

It is like the Prime Minister of Britain said when he spoke on this House floor: You, as Americans, should ask, why us? Why would we be in this role? It is a fair question. His answer to us on the floor of this House, Mr. Speaker, I will remind you, was simply that destiny has placed the United States in a position where it can act and it must. That means that we have the resources, we have the will, we have the leadership, and if we do not respond, the world will suffer for it.

Mr. Speaker, I appreciate the leadership of our President as he pushes forward the concept of No Child Left Behind, as he pushes forward the idea of the tax cuts that are creating this economy which is growing at a tremendous pace, and the job growth is exactly what we were hoping for.

Mr. Speaker, as he has encouraged us to pass the energy bill, I would simply say to our friends, do your part to see that the energy bill is passed, because it is not the Republican side which is holding it hostage.

Mr. Speaker, I now yield back to the gentleman from Iowa.

Mr. KING of Iowa. Mr. Speaker, I yield now to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for yielding to me. It is good to join my colleagues, and I thank the gentleman from Iowa for taking this special order on a very timely topic.

My colleagues, today in this city, in this Chamber, there are a whole lot of people saying hallelujah and holy cow, because we have created some jobs, and there is news out saying just exactly that. Just a short while ago in this Chamber, we passed a transportation bill, and that transportation bill is going to put Americans to work, and it is going to put Americans to work building infrastructure that is critical to this Nation. Transportation is a jobs bill.

But there are also numbers out from the Department of Labor that are really encouraging. We have heard that 308,000 jobs were added in the United States in the month of March. That is 308,000 new payroll jobs. Now, everybody has a right to say, well, what does that mean? Compared to what? That is the strongest number in 4 years, the strongest in 4 years.

We have been through a bit of a tough cycle. Four years ago right now, we were in a recession. So 308,000 new jobs in the month of March and, in addition to that, numbers that we thought were a little softer than we expected in January and February have now been revised upward. So we are increasingly in better and better shape.

Now, that is good news. That is good news. And here is how I characterize it. Almost anybody can hang onto the wheel of a ship going through calm waters. But it takes a pretty good captain to guide a ship through a stormy sea. If we go back to late 2000, we were slipping into some rough waters. We now know that the recession was upon us in late 2000 when this President was sworn in. He grabbed ahold of a ship that was going into troubled waters. Then it really got rough, with 9/11 happening and SARS happening and on and on and on. We all know the litany.

Where are we today? We are in an expanding economy, with job creation now under way, which, as everybody knows, every economist will tell you, that is the lagging economic indicator.

So I will say it again, because it is happy news. We have 308,000 new jobs in the month of March alone. It is astounding. The policies of the captain of the ship, the Republican leadership in this House, the Republicans in this Congress, have set us on the right path and are calming the waters. It is not the time to change captains nor change course.

I was listening a moment ago to my colleague from New Mexico as he was talking about energy policy, and I could not agree more. Everybody is saying jobs, jobs, jobs; and that is why I am so happy right now, is because we have evidence we have jobs coming back. That is really good news.

But if you want to know where the jobs went, ask the people who have got a different policy. Ask the people who have got a different policy than the one that righted the ship, calmed the waters and set us on this course, the people that have been talking about raising taxes.

What did this House and this President do to set us on this course? We provided some tax cuts. We invested right back in the people in the United States of America who create jobs and who increase consumer demand. That is how an economy works. We understand that on our side of the aisle, and the President certainly understands that. So he set us on the right course. We passed the jobs and growth bill, and here we are, and it is good news.

Now there are some out there saying, no, we need to rescind those tax cuts, we need to increase the strong hand of regulation, and, worse yet, they have fought us on an energy bill, and they are still fighting us on an energy bill.

Now what have we got? Our own Department of Commerce tells us that for every $1 billion spent on imported oil that means 12,389 jobs. Maybe somebody does not think 12,389 jobs is all that much, but I submit, Mr. Speaker, when taken in the context of the billions that we are spending on imported oil, it adds up in a big hurry. How big a hurry? Well, by today's dollars, the amounts we are spending on imported oil equates to 1.7 million jobs, American jobs that are now somewhere else.

The very people who fought us on that energy bill are the ones screaming about outsourcing of jobs. They not only got outsourced, they got outforced, and they were forced out by the very people who fought us on the energy bill and now are raising their hands in wonder saying, where did our jobs go? Where did our jobs go?

What has happened since we have not had an energy bill? Gasoline prices have increased 30 percent; U.S. imports of oil increased another 10 percent. We are about two-thirds import, one-third domestic production. The price of crude oil has increased 65 percent. Natural gas has increased 92 percent.

That is especially sensitive for people like my colleague from New Mexico and me, from Colorado, from the Rocky Mountain States, and my friend from Iowa. You bet. Because we know where it is. It is right there underneath our ground, a lot of it Federal ground. And in places like Iowa, being an old farmer myself, I know how important energy is. It is not just gas and diesel, it is our commercial fertilizer that is produced from those same petroleum products.

Mr. Speaker, I have a potato farmer back home who told me that 35 percent of his operating overhead, 35 percent of his entire cost of production, is energy related, 35 percent. Fire up the electric motors to run his sprinklers to irrigate the potatoes; the commercial fertilizers, the diesel and the gasoline he puts in his vehicles, 35 percent.

Now when you have inflation of energy costs like I just cited, you know what that does to that potato farmer who is operating on a margin that thin already? Where did the jobs go? They were outforced. That is where they go when we have wrong-headed Federal policy like we have right now.

It is not a case of us needing to improve an energy policy that is already out there. We have none. We are just trying to establish one that is so woefully needed. Well, it is time. It is time we act. We need to pass not only an energy bill but continue on this course that has been charted that has got us finally into some calmer waters and headed on the right path. We need to continue that course, not alter that course. We need to stay the course on tax cuts, on deregulation, on sound policy, and bring American jobs home to Americans.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ) for his comments.

Picking up on that theme, I appreciate the gentleman's remarks about how sensitive natural gas prices are to the Corn Belt and the fact that the gentleman's background and experience as a dairy farmer and a banker and someone who has been all involved in this economy understands that the very foundation for all economies is that all new wealth comes from the land.

In our State, it is corn and beans and oats and hay and grass in our pastures, and we value add to that as close to the cornstalk as we can, as many times as we can; and we need the energy from the gentleman's State and from the State of New Mexico because we are extraordinarily susceptible to natural gas. We use it to dry grain with, we use it for anhydrous ammonia, our nitrogen supply, and we use it for all the other uses that the rest of the world does as well.

So I am extraordinarily sensitive to that and the significant point that the natural gas pipeline in the energy bill brings gas down now that is already discovered and already tapped into from the North Slope down to the lower 48 States.

The other tax is the outforcing, but I will also declare there is an ''E'' tax on everything we buy. That means there is an energy component. But the ''E'' does not stand for energy, it stands for environmental tax. It has become a cult in this Congress, a religion in this Congress to the extent that we cannot pass drilling in ANWR, as the gentleman from New Mexico (Mr. PEARCE) said earlier, which is the most logical place in the world to go get oil. It is up there and identical to deposits on the North Slope.

There has not been a single environmental problem on the North Slope since 1972 when they finally lifted the environmental embargo, which, by the way, kept me from going up there and actually actively participating in real jobs up there. So now today that oil sits under ANWR and we have gas on the North Slope that we cannot get here to the United States. We cannot get gas out of the State of Colorado.

Mr. BEAUPREZ. Mr. Speaker, if the gentleman would yield for just a moment.

Mr. KING of Iowa. I would be glad to.

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman. It is estimated that if we could construct that gas pipeline that my colleague referred to from ANWR, 400,000 new jobs, direct and indirect jobs, would be created from that one action alone, including increasing dramatically the supply of natural gas to the lower 48. I repeat, 400,000 new jobs and lower gas prices.

Now, the gas my colleague referred to, and I referred to as well under the Rocky Mountain States, I held a hearing in my district recently on this subject, and I learned a lot. I learned, for example, that under nonpark, nonwilderness Federal land, I repeat, nonpark, nonwilderness Federal lands, we have enough natural gas to take care of the demands of 100 million homes for 157 years.

Now what I cited earlier here, natural gas prices up 92 percent, this is akin to the old biblical tale of the people going through a famine, the granaries being full and the pharaoh being unwilling to unlock the doors.

We have natural gas. It is those crazy, environmentally overly-sensitive policies that have restricted us from going to get it; and the same people who now restrict us from going to get it were the very people who told us a few years ago that we need to convert to natural gas. Why? Because it is affordable, it is clean, and it is abundantly available.

Well, now they are telling us we ought to go get it somewhere else, from abroad, and ship it here in tankers as liquified natural gas. We do not have the storage for it. Somebody says we have a storage problem. Well, we have a storage problem: The natural gas is stored under Federal land. That is the storage problem.

The people that are in the way are us, the Federal Government. We need to change that with an energy policy.

I yield back to the gentleman and thank him.

Mr. KING of Iowa. An environmental tax.

Mr. Speaker, I would now like to yield to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, some of our friends on the other side of the aisle really do, when we are talking off the floor, ask us, can we do this in an environmentally sensitive manner, this drilling for oil on American soil? The case on the North Slope of Alaska is a really good case example.

When we first went there, we were building pads out of gravel or rock or stone. But we have stopped that now, and we build paths to put the equipment on out of ice. We build the roads into the pads out of ice, so that the equipment that goes into the location and then when it sits there to drill the hole in the ground, they are on ice roads and on ice paths.

□ 1500

When spring comes, the ice thaws and there is actually just the pipe sticking out of the hole that is causing the production to come to the surface. We have showed that we can dramatically change the way that we do our drilling and our exploration. We have the necessity in this country to find the balance, to balance our environmental concerns with our need for jobs and with the need for affordable electricity, with the need for affordable gasoline to put into our cars.

I think as we see gasoline approaching $3, we are going to find that the consumers in this Nation demand that we begin to produce in some of the areas where we can do so without destroying the environment. My friend from Colorado adequately pointed out that we have got a trillion cubic feet of natural gas available under his State. That gas, as he said, is not under national parks. It is not under environmentally sensitive areas. In fact, much of the gas is located in fields that have already been drilled. It is not like it is a pristine area there.

Yet we have extremists in this society who are willing to bring lawsuits. Every time an application for a permit to drill is issued by the BLM, they bring a lawsuit to stop that production. We must decide if we are going to have affordable energy in this country, keeping in mind that affordable energy is what drives this economy. We see that it is used in the production of fertilizers. Fertilizers are used in agriculture. Natural gas is used in the production of electricity because it is the cleanest fuel. We must begin to drill for more fuel, or we must begin to accept the fact that our utility bills are going to be double and triple, that our gasoline is going to actually cost three or more dollars per gallon.

Again on the subject of jobs, I have got friends on the other side of the aisle who maybe have not run a business. The gentleman from Iowa and myself and the gentleman from Colorado all come here as previous business owners. My friends on the other side of the field who maybe have not had a business, they really do have a curiosity. Why do we have this growth in our economy, why do we have an economy pushing upward at 8.2 percent in the third quarter, at 4 percent in the first quarter of this year? Alan Greenspan said it looks like we are on a sustained growth period for 4 percent through this year, probably next year. Why are the jobs not coming around?

If you will simply think about it, Mr. Speaker, in terms of when you had your first job, many companies are afraid to add people on for fear that they will have to lay them back off if the economy is still dipping up and down. We find that, as business owners, we do not hire immediately when we have a need. We begin to expand our capacity by increasing overtime hours. Maybe we just stay late and work every evening and have everybody work on the weekends. But you cannot sustain that, you cannot wear your people out, you cannot treat people like a commodity. You cannot do that indefinitely. In my perception, I have never expected to see the jobs react immediately when the growth in the economy came because I, as a businessperson, would not hire people right away.

But now we are seeing that our businesses are sustaining this growth, they are sustaining increased demand, they cannot continue to take care of the demand for labor with overtime hours, with temporary workers; and so it is not surprising that this job growth has lagged behind the growth in the economy. I would expect, Mr. Speaker, that we have such a volatility in the world economy that we will probably peak out and we will stabilize and level off here on job creation, and then we will see another ramp-up a couple of months down the road. It is just the way that I think businesses are very careful in these times to not hire too soon.

When we talk about the number of jobs being created and the number of jobs lost, a lot of times our friends on the other side of the aisle are talking about the number of jobs lost in the last couple of years and they make the numbers sound very good. It is important to remember, Mr. Speaker, that America has about 138 million jobs. While we hate to see any worker displaced, we have to keep it in perspective. We have to understand the balance that is there between 138 million jobs and even the creation of these 300,000 jobs, no matter how important it is, is still just a very small change, that most Americans are finding great stability and they are seeing in their daily lives the stability that this economy is bringing in.

We have to understand that the changes that occurred on 9/11 really were systemic changes. For a narrow period of time, people began to stay home. They did not travel. They did not go to the bowling alley at night. They did not go out to eat quite as much. The spending in this economy after 9/11 changed dramatically and shocked our economy into a recession that we are just now coming out of. It is not possible for an economy just to change itself and to grow out of its recession.

I think the stimulating effect of the President's tax cut is one of the most important things that we did. When people on the other side of the aisle are saying that we should give tax increases back to a certain piece of the population, we have to keep an element in mind, that when government spending increases beyond a certain level, and in general economists think that within the 20 to 24 percent level, if government spending increases beyond that, then the economy does not have the capital to reinvest in growth, to reinvest in new jobs and in new factories and in new equipment. What a tax cut

does is it lowers the amount that the government is actually spending as a piece of the gross domestic product.

If we want a good example of what high government spending will do to an economy, we look at Europe and especially we look at our friends in Germany. Their government spends approximately 40 to 44 percent of every dollar spent in Germany. Because of that, they have a sluggish economy that cannot create jobs, and they have been wrestling with that for some time. I visited in Germany on my way back from Iraq in early November. The Germans were telling us that maybe if you get your economy going in America that we can get our economy going here. They are unwilling, though, to give the tax cuts or to cut spending. Either one would cause a lessening of the percent of gross domestic product. Because of their unwillingness, their economy stays mired and stagnant.

Mr. Speaker, I am proud to be a part of the Republican Party, which has cast a pro-growth initiative in this entire 2 years that I have been in Congress. I am proud as a freshman to have participated in creating policies that will educate our young people, creating the opportunities for them for a lifetime, giving them hope and access to the potential that this great Nation has. I am proud that the President has created an initiative to continue that lifetime training for those young people as they prepare for technical careers. I am proud to have passed this transportation bill which will create many, many new jobs. I am proud to have voted for an energy bill that will create more domestic sources of energy, less dependence on international sources of energy. That bill needs to be passed. There are people in this town who are blocking it from being passed and it needs to be passed.

Mr. KING of Iowa. I thank the gentleman from New Mexico, and I would address some of the cleanup issues here. I would like to point out, also, that as Republicans, we stand here in this Congress together and we work toward a common goal. Those who have been listening here will hear a consistent voice about the progress that we have made, the Jobs and Growth Act, the transportation bill that just passed here in this Congress this afternoon, a number of other initiatives that have been good on balance for all of America. That is not to imply that we think our work is done. It is not to imply that we think our work is perfect. In fact, one of the approaches I have to life is I am always looking back and seeing what should we have done better, the lament I have about how we had an opportunity that could have been better capitalized on than the opportunities that we have had; and those are the things that motivate many of us to go forward into the future and try to perfect a policy that we always recognize is imperfect.

Some of the pieces hanging around out here that do need to be addressed is the regulation burden that is on the backs of American businesses. How do we move to another level? We have the strongest growth of any industrialized country in the world right now. We heard that in the President's speech in this city last night. We have the strongest growth, but that is not good enough. Those who rest on their laurels will soon be swallowed up by those who do not. It puts me in mind of a quotation that I recall, I cannot attribute it to an individual, but someone will know and, that is, that history is the sound of hobnail boots storming up the stairs and silver slippers coming down. That is what we are in danger of, is moving into these silver slippers and being complacent and settling into our easy chairs while those folks that are a little more hungry and a little more aggressive, those folks that will get out of bed and go to work a little earlier, work a little later and will maybe work for a little bit less are putting pressure on this economy. We need to do a number of things to improve our economy in the direction we are going.

We talked about energy. I am pleased with the animation that comes out of my colleagues on energy. It animates me. I was able to go to Alaska with the gentleman from New Mexico to ANWR. I recall flying over that 19.5 million acres of ANWR. Of that 19.5 million, 1.5 million is the area that has oil underneath it. It is the coastal plain. It is an arctic desert coastal plain. The elevations vary just a little bit from sea level across there. We flew over 1.5 million acres of that coastal plain looking for wildlife. ANWR stands for Arctic National Wildlife Refuge. One would think that place would be teeming with wildlife. In fact, they told us that the caribou come for about 4 to 6 weeks in the spring, have their calves and go back to Canada. The rest of the time they are gone. We looked around for wildlife from that plane ride over and back along that coastal plain, two different routes, all of us searching. I saw two white birds and four musk oxen. I did the math on that. I divided the 4 musk oxen into 1.5 million acres of coastal plain. It comes out to 375,000 acres per ox. I did not see them all. There were some more there, but there is plenty of room for people and for musk oxen and for caribou. In fact, the caribou herd on the north slope, a different herd that has lived now with the pipeline since 1972 when it began, that herd was 7,000 in 1972, and today it is 28,000. Caribou do very well in that kind of an environment.

But aside from energy and the policies that we need to promote ethanol, promote biodiesel. I have got wind in my district. Some of that wind is getting cost competitive. It is not just some States like New Mexico or Colorado that are energy States. Iowa and the Fifth Congressional District of Iowa is an energy export center. All of those policies we need to do to move forward with our domestic production puts me in mind of a commercial that I watched on television. I have to phrase it this way. The apparent Democrat nominee for President of the United States has a commercial that ran in Iowa for months and months. It made three points. It said, I blocked the oil drilling in ANWR, and I will never send your sons and daughters over to the Middle East to fight for foreign oil, and I will create 500,000 new jobs. That was the equation.

There are some smart people in this Congress, but I have yet to find anybody that can put that equation together and reconcile those three points. Stop domestic production and be proud of that and why, I have no idea. I want to promote domestic production consistent with sound environmental science, not religion, but science. And so blocking that production does not help new jobs except exports them overseas. And then never sending sons and daughters over to the Middle East to fight for foreign oil. If you declare it to be a police action, then you can fight on this country and you will turn this Nation into one huge Israel where we can only then guard every theater, guard every bus stop, guard every school and every hospital and every church and still see our women and children blown to bits. This is not a police action. This is not a law enforcement problem. This is a war on terror, and we are not in Iraq fighting for foreign oil. We are in Iraq having freed 25 million people in Iraq. And so that equation does not work.

And creating 500,000 new jobs, well, at the rate this economy is going, in another couple of weeks, we will have that done within the last 6 weeks. I can do the math on that. I did the math. 308,000 new jobs in the last month, times 12, that is just one month of growth, that comes out to be 3,696,000 jobs. That is an annual rate of job growth. I maybe would take issue with a couple of the gentlemen that spoke ahead of me. We do want job growth to go on. If it goes on at this pace, we will soon run out of people willing to do the work at any price. We will not have enough bodies to do it. This is excellent, extraordinary economic growth. I do not know that it is sustainable, but it is awfully good news.

One of the things we need to do to sustain our economy is to reduce this burden of litigation and regulation that is on us. I sat in on a presentation by some business executives, it has been about a year ago now, up in New York City. The presentation came down to this final number: 3 percent of our gross domestic product is being consumed by the litigation process, class action lawsuits. If you eat too many French fries, sue McDonald's, those kinds of ideas. The tobacco lawsuits which put a price on the cigarettes that goes regressively against the people that are the greatest users, Mr. Speaker.

And so as you add up the cost of the litigation in this country, and it adds up to 3 percent of our GDP, and you

think in terms of about 3.5 percent GDP is required in order for us to move forward and grow with our economy and sustain the necessities for the infrastructure that we need to build out, 3.5 percent required for that, but the trial lawyers get 3 percent off the top.

□ 1515

That means we have got to grow at 6.5 percent to sustain that, and I think we need to do some things with regard to tort reform. In the Committee on the Judiciary, we have passed a number of them. Nothing broad enough. Nothing broad enough that may have a real impact on this 3 percent.

Plus the burden of regulation in this country, just Federal regulations that are on the backs of all those businesses, the gentleman from New Mexico's (Mr. PEARCE) business and my construction business before I sold it to my oldest son, actually less than a year ago, and the gentleman from Colorado's (Mr. BEAUPREZ) business as well, the burden of those Federal regulations adding up across this country to over $850 billion a year. That is wasted money. That is not productive. It is not things in the productive sector of the economy where jobs are created.

Where we have jobs created in the productive sector of the economy, there are contributions that come from taxes that help to fund government, and when that happens then there is a little money left over for No Child Left Behind, and that is some cleanup.

The gentleman from Ohio made a statement that they are underfunded on No Child Left Behind by $1.5 billion. Well, I hope he is sitting over in his office listening to this, because he needs to take a look at the real process here, and America needs to understand it as well.

There is authorization, and then there is appropriation. Those two numbers do not match. Authorization says we can go ahead and appropriate maybe up to this amount, cap it there, no more, but use judgment to hold this into fiscal restraint. This number that is being claimed by the gentleman from Ohio on No Child Left Behind, this $1½ billion, I can only assume, if it is anchored on anything, it is anchored on authorization, not appropriation. There is not a way that one can calculate that and make that allegation that we owe $1½ billion to Ohio unless it has been appropriated, and if it is appropriated the money would be there, and the difference needs to be understood.

This claim, by the way, if we look back through the records, the last time the Democrats had a majority in the House and the Senate and the Presidency and they got a chance to fund education to their will, they had an authorization number and then they had an appropriation number, and they did not match. But the folks on the other side of the aisle were not here saying, ''We are underfunded, Mr. President.'' That is the issue here, is the credibility aspect between authorization, appropriation.

I yield to the gentleman from north New Mexico.

Mr. PEARCE. Southern New Mexico, Mr. Speaker, I border on the Mexico border, and my district is about as large as the State of Iowa.

I would like to go back to the cost of lawsuits to American business and what it costs each individual. Basically, the frivolous lawsuits in America cost each one of us 5 percent off of our wages. That is an approximate cost of $807 per U.S. citizen. That is across the board. Litigation costs increase insurance premiums, create higher medical costs. They cause less disposable income in our homes. They raise prices on goods and services. Businesses have to charge a higher price in order to cover the cost of litigation. This slows job growth and expansion of the economy.

The U.S. Chamber last year in my district ran ads. They were telling the New Mexico citizens that for every new car they buy, they pay over $500 for the costs of litigation that are acquiring on that car manufacturer somewhere.

One of my friends from Ohio said that we must stop making policy based on the contributions to campaigns. I would like to hold him to that statement. The single largest contributor to our friends on the other side of the aisle are the personal injury lawyers. They are the ones who are buying influence, and they are the ones who are blocking the reforms of lawsuit litigation abuses in this country.

This House has passed medical liability reform, it has passed asbestos liability reform, it has passed class action lawsuit reform, and they sit stalled out because of the special interests who are buying influence here exactly like my friend from Ohio from the other side of the aisle was talking about. I hope that he will join me with as much enthusiasm as he was displaying on the floor of the House to talk about the special interests purchasing the system here in Washington, and that special interest group being the personal injury lawyers of America.

Mr. Speaker, if we are going to consider the environmental cost, the environmental tax on each product in America, we also need to consider the lawsuit cost, the litigation cost, on every product in America. Because it comes from each one of us every time a lawsuit is filed. No one of us would block access to the courts for people who have a serious, legitimate legal claim, but the frivolous lawsuits are designed never to go to court but instead to extract a payment from a company without going to court for a perceived injustice.

Very rarely do the members of the class, those people, the class of the class action, the hundreds and hundreds of thousands of people who are put on the class action lawsuit by the lawyers, very rarely do they get anything. I have heard payments as low as 25 cents for each claimant in a class action lawsuit, while the lawyers get millions and sometimes billions of dollars.

If we are going to improve the business climate in America, if we are going to stop the outflow of jobs from this country, we will deal with the frivolous lawsuits that really affect the ability of any company in this country to continue to produce goods and services and produce jobs for the people who want to live here and to raise their children in just a peaceful, quiet neighborhood, knowing that they have the security of a job for tomorrow. Lawsuit abuse is one of the greatest penalties in our system, both personal and corporate, that we face.

I yield back to the gentleman to conclude. This is all of my statement, and I do thank the gentleman for bringing this conversation to the floor of the House on this day when it is announced that, under the President's policies, under President Bush's policies, 308,000 new jobs have been created in March. I thank the gentleman for his leadership on this issue.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for his comments.

Mr. Speaker, another subject matter I would like to raise is in rebuttal to the remarks made by the previous speakers from the Ohio delegation, and that would be with regard to unemployment and the very strong statements made on why we need to extend and expand unemployment benefits. We have done that in this Congress, and it has been up for a vote twice in a little more than a year that I have been here, and I will tell the Members that I come to the table with a little bit different viewpoint on that.

That is, first of all, the demand on a minimum wage increase and possibly the discussion that has to do with a living wage; and I want to argue that there is hardly a legitimate minimum wage in this country at all. Most people are working for more than the minimum wage. Our economy has grown past that, and the minimum wage itself sometimes keeps people from getting in entry level.

I pointed out that it used to be one could drive into a gas station anywhere and some young person would come out there, entry-level job, and wash the windshield, check the oil, check the air in the tires, and fill the gas tank up and bring them their change and send them along their way. That was kind of a nice service, and they learned a work ethic. We do not do that anymore, and one of the reasons is because of minimum wage.

But labor is an equation just like any other commodity. Labor is a commodity, and it is like corn and beans or oil, as we talked about earlier, or gold or shares in the marketplace. The value of labor is predicated upon two things: the supply and the demand of labor, just like the supply and demand of gold or oil, controls the price. So

when we start to interfere with that cost and we raise that cost of entry level labor up, then we are going to have some people who lose out on jobs.

If we can legislate, by the way, a minimum wage, then I would challenge then the next step is legislating a living wage. As I hear about living wages, then I say, well, if we can raise that price up, and living wage used to be claimed to be something like $8.56 an hour. So if we could legislate a living wage, then why in the world could we not just go ahead and legislate prosperity? If it does not cost jobs, if people are not going to get unemployed because of raising a minimum wage or moving up to a living wage, then let us all just be rich and let us set that level someplace at $20 or $25 or $30 an hour, and then we can all just share in this prosperity that would be legislated by the wise people from over here on the other side of the aisle.

That does not work, because it is supply and demand. It is working. That is why the real minimum wage is substantially higher than the legislative statutory minimum wage.

Transportation, we passed that today. That puts dollars and jobs out there. Transportation is the fundamental, foundational first building block in economic development. Transportation, education, high-speed telecommunications are those components today. Transportation was the first component. It is the most essential component. We have now started down the path of providing for those jobs and building the American economy, but it can be stronger, and the bill could have been better.

I cannot leave this closed without addressing some things that need to be better, and that is the environmental burden on the transportation cost. Eighteen point four cents of every American's gas, when they put the nozzle in their tank, goes into this highway fund. But of that 18.4 cents out of every gallon comes about 28 percent just to feed the E-tax, the environmental monster, the cult, a religious type of environmental cultism, rather than a responsible way of dealing with our environment. We cannot even inventory the offshore natural gas reserves off the coast of Florida because of the barrier here in this Congress because of the E-tax that is on us. So there is an environmental piece to this.

Then there is a wage scale piece to this, the Davis-Bacon wage scale. That will increase the cost of wages from 8 to 38 percent and actually some statistics show 5 to 35 percent. But I will just say average that all out and that comes to about 23 percent of this; this is higher than it needs to be because of federally mandated wage scales. So we add the 28 percent for environmental, let us say 20 percent for the wage scale. So we are at 48 percent, and we have not even dealt yet with mass transit, bike trails, money for scrubbing the graffiti off the walls. Come on. Do we not have some people in our prisons that we could give them a wire brush and send them out there? Why are we imposing that upon the taxpayers of America to clean off the graffiti? Is that not a local issue?

So when we add all these pieces up, I will argue that we can come to 68 percent, maybe 71 percent of this can go somewhere else to be funded if, in fact, we believe it should be a priority whatsoever. I want every dime possible out of those transportation dollars to go into concrete and earth moving and pipe work and transportation that can be used to grow our economy, and I pledge here and now to move forward with this over the next 6 years if they send me back to do so in order to try to turn those dollars in a more responsible fashion for transportation.

We are doing a lot of the right things, Mr. Speaker. We need to continue improving on every single component where we claim credit. We will get better, and we have got a lot to claim credit for, including 308,000 new jobs just in this past month alone.

OUR POROUS BORDERS

The SPEAKER pro tempore (Mr. BURGESS). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, we have a couple of towns in Colorado that are approaching 500,000. I believe a town in my district, Aurora, Colorado, would be in that area somewhere. Just the last 6 months this Nation has added at least one more, Aurora, Colorado, and not by the fact that a group of American citizens or anybody presently living in the country had a number of children that all of a sudden would create a whole new city. We got this because we have porous borders and because, from October 1 last year to the end of March, approximately half a million people came through just one sector of our southern border, just one sector, the Tucson sector. We can be sure that it was at least that many because we know from experience, by how many we catch coming into this country, that there are at least two to three that get by us.

So from the first of October to the end of March to the first of April, about a quarter of a million people were interdicted in that southern border in one sector, just the Tucson sector.

This is astronomical. The numbers are unbelievable. They are up like 50 percent. For every single person that we stop at the border, remember, two or three get by us, get by the Border Patrol. So that is why we know that in that 6-month period of time, a half million people came into this country illegally; and they did so in just one sector. We are not talking about the entire border of the United States of America, north and south.

What does this mean? And, by the way, why do my colleagues think they are doing that, Mr. Speaker? Why, I wonder, are we having so many people right now coming into this country illegally? Every year we have literally hundreds of thousands of people who sneak into the country. We take in a million and a half people approximately every year legally. We are one of the most generous nations in the world.

□ 1530

It is certainly the most liberal policy when it comes to immigration. But beyond that, beyond the people that we bring into this country every year legally, another 1 million or so come in through the back door, another 1 million or so we do not know who they are, we do not know where they are, we do not know what they are doing here. We trust most of them are ''doing these jobs,'' I hear this constantly, ''that no one else wants.'' They are only coming to do jobs that no other American will do.

I tell you, Mr. Speaker, with between 10 and 18 million Americans out of work today, I will bet you anything that there are millions of Americans who are willing to do the jobs, but they have been underbid, if you will, by people who have come here illegally. Their jobs have been taken by people who have said, I will do it for less.

Then the next wave of immigration comes, and they do the same thing. They take jobs from the people who just came in. So that over the last 10 years, our wage rates in this country have stayed flat; and wage rates, especially for low income people, have stayed very, very flat, because it is a depressing effect on wage rates when you have millions of people coming into the country illegally, especially people who are low-skilled and therefore low-wage people.

But half a million through just one sector over the last 6 months. And why? I will tell you why, because the President of the United States made a speech, and in this speech he said that he wants a program of amnesty. And there is no other way to put it.

He connected it with his plan for a guest worker program; but, in fact, because he allows people to stay in this country even if they are here illegally, it is an amnesty plan.

Every time I go to the border, and I go down to the border quite often, Mr. Speaker, and up to our northern border, and every time I do I talk to someone who is Border Patrol, and they will say to you every single time, they will say, whatever you do, do not even use the word ''amnesty'' when you start talking up there in the Congress, because every time you do that, then the flood that I am trying to stop down here turns into a tidal wave.

That is exactly what happened. The numbers went up dramatically right after the President gave his speech, and they continue to go up. On the border, our Border Patrol people are even asking the people they interdict, why

are you coming? They will tell them, to get the amnesty they think they are going to get. So now literally millions of people have come into this country illegally already to obtain this goal of amnesty, which we should never give to anyone.

No one ever should get rewarded for breaking the law, and that is exactly what any amnesty plan is. And no one, no one as an employer, should be exempt from the law, simply because they hire a lot of people who are here illegally. In fact, they should be fined; they should face the full force of the law of the land here, because it is against the law, as you know, Mr. Speaker. It is against the law to hire people who are here illegally, although we do it. We do it quite consistently, and we do it by the millions, and we ignore it. It is because we have learned with immigration policy. We have learned that the law is like a Chinese menu in a Chinese restaurant. We will accept this, we will take that, we will not take this or will not take that. So we do not enforce the law against people who are hiring people who are here illegally, and we should.

There are consequences to massive immigration, consequences that nobody wants to talk about, I know. Many people are concerned about this discussion.

I am a Republican, Mr. Speaker, and I recognize that I many times rile my colleagues and even certainly the White House, because I do talk about this issue as often as I can. And I talk about it because I believe it is one of the most important public policy issues we can deal with here.

It is something to live in Washington, D.C., or in Chicago, or in Billings, Montana, or Omaha, Nebraska. You will see the effects of illegal immigration, certainly. But you do not see them like you see them on the border, where in your backyard every night people are coming across by the thousands, and it is happening on our southern border especially. There are consequences to that.

I want to read a letter I got from a constituent, not of mine, a lady that lives in Arizona. I will condense it. She says: ''This is my story.''

This puts a face on this issue of illegal immigration, because it is not just numbers. When I come here and talk about the fact that a quarter of a million people were interdicted in just one sector in 6 months' time coming in here, that is just a number to most of us. But to this lady and to the thousands of people who live on that border, it is far more than just numbers. It is a way of life that is being destroyed down there. And, believe me, what is happening on the border is going to be happening farther and farther north as time goes on.

She says, ''I live in a world,'' she called this ''My Story.'' She says, ''I live in a world where I do not count. I am not a minority. I am poor, I do not have coalitions rallying for what I feel is important. I do not have news reporters writing about poor me. But I have views, I vote, I pay taxes, and I know there are millions of people in America just like me.

''I live next to a shelter built by politicians who are afraid to have an opinion about closing the border. Daily, 1,500 illegal aliens visit that shelter. It was supposed to keep those poor people from urinating and defecating on the streets. It did not. Now, if I were to defecate on the streets,'' she said, ''I would be fined.

''My home and vehicles have been broken into 22 times in 5 years. I stopped calling the police each time they do now, because they do not come anyway. Instead, we bought a gun. We scared off the last illegal alien trying to steal our truck. He knew enough English to say 'sorry' as we pointed the gun at him. Three months later, we still have a towel over the smashed driver's side window.

''Not too long ago a car ran into the rear end of my car. The policeman came and said I would have to wait while he called for a back-up. My baby was screaming. The police had no film in the camera. The backup policeman had no fingerprinting ink or film. The illegal alien who hit me had an ID, but the police said there was nothing that could be done. The illegal would just get another fake ID and would never show up for court. He did not have insurance.

''The illegal alien who hit me said 'sorry,' as he walked away. He was free to go. I was free to pay the deductible on my car and the chiropractor bills for my children and myself. If I drove without insurance and hurt someone or their possessions, I would be forced to pay for the damages.

''My husband works 6 days a week as a framing contractor. He pays FICA, Social Security, State taxes, Federal taxes, general liability insurance, workman's comp insurance, and probably others I do not even know about. His workman's comp just skyrocketed from $5,000 to $28,000 a year. Now, I ask you, where am I going to come up with the extra $23,000? We had no claims. Should I take it from my food budget? My home insurance costs me $100 more annually because I live in a border State.'' She says, ''How long before Kansas becomes a border State?

''I have no medical insurance and have had no medical insurance for years. I cannot afford it. At 33, I got cancer. My doctor told me to go to the hospital, ACCHS. I do not remember how to spell the State's medical system, since they declined me anyway. My husband's company had no profits for 6 months due to theft. Without studying my receipts, I was declined. Interestingly, hundreds of illegal aliens standing in line were being given food stamps and medical care. They did not have Social Security numbers; they did not speak English.

''My son cries nightly because his arms and legs hurt. He has cried for almost 7 years. They do not know what is wrong with him.''

They do not have insurance, and therefore are hesitant to just take him to the doctor, because they cannot afford to pay. But she goes on to say that when she has gone eventually to the emergency room, they cannot even take them, because there are so many people there ahead of them who are here in this country illegally.

''Two years ago,'' she says, ''I announced to my family there would be no turkey for Thanksgiving. We would eat pasta and be thankful we are a family. My Catholic friend made arrangements for me to get a box of food from her church. I went reluctantly. I drove up in my broken old van. I saw a lot of new stickers on new Suburbans. My van was the worst vehicle there, and it hit me that I really was poor.

''I stood in line for 20 minutes, amazed by the number of illegal aliens who could not show an ID when they were asked. When it was my turn to show an ID, I was told to leave. There was not enough food for me to take a box. I looked around, there were boxes of food everywhere. For a minute, I forgot: I did not count.

''Our church, our pastor, reminds us to stay hopeful. I struggle to make sense out of a system that has taken from me and given to those who have more than I do. Who will be my voice? Where is my coalition? I thought it was the leaders of America. I was wrong. They have sold me out, and millions like me. What is worse, I do not know why.'' Rhonda Rose is her name.

We get literally hundreds in my office, hundreds of e-mails. When I come on the floor here, as I try to do often, to speak on this issue, we go back and the e-mails start. And I want to hear from these people, because, you know, they all tell stories like this, and they ask us to continue to work and try to do something about this illegal immigration problem. I feel like I am overwhelmed by their cries for help.

I know that there are other colleagues who care about this issue, Mr. Speaker, but I do not see it translating in any sort of way into help for these people. We are fearful of doing anything that would actually secure those borders. We are fearful of doing anything that would actually enforce the law in this country.

Why are we fearful? What are we afraid of in this Congress? Why will we ignore the laws on the books? Why will we tell people like her that we will abandon them? Because, Mr. Speaker, as you and I both know, on that side of the aisle they will do nothing about immigration, legal or illegal. They want to encourage it, because they know it turns into votes for them. On our side of the aisle, we do nothing to stop it because we believe that it is cheap labor. And those two powerful interests have stopped us from doing anything significant about this issue.

It is the fear of the political ramification. What would happen? You

know, we have been on this floor for days talking about jobs, about how we cannot possibly go on outsourcing jobs, how many jobs Americans have lost in every industry and what each candidate for President is going to do about it, and candidates for the House of Representatives, what they are going to do.

We discuss how we are going to change this. Should we put on tariffs? Should we try somehow to be protectionist and stop allowing imports? Should we actually pass laws saying corporations cannot offshore, as if we could actually stop it, considering the Internet and the movement of jobs-to-jobs to workers all over the world in an instant?

But we say those things. We are thinking. We are pulling our hair out trying to think about how to create more jobs in this country, how to stop the offshoring of jobs, because we know it is going to be a political issue. But we cannot seem to come up with a real plan, because no one will want to address this issue.

Mr. Speaker, where do you think those 500,000 people are today that came in in the last 6 months through the Tucson sector? Do you think they all just simply went on welfare? Many of them, of course, most of them, are working somewhere in this Nation. And where did they get this job? Was it a job no American wanted? Was it a job that happened to be posted in a newspaper, or was it a job that somebody else had that they have now displaced?

I am told every day that there are not enough jobs available for Americans who want to work, and we are trying to think of ways to create jobs. Yet, we refuse to secure the border; we refuse to do anything about the people who are already working here illegally.

We can create 10 million jobs tomorrow if we just enforce our own laws against illegal immigration. We would not have to do anything. We would not even have to get involved with the World Court because we introduced a concept, an idea, that could be seen as being protectionist.

This would only be enforcing the laws that America actually has on the books, and we will not do that. We do not have the political will.

How are we going to answer these people, or the hundreds of others that call our office, and, I know, other offices of other Members? Not too long, after the President's speech, we had almost 1,000 calls into our office in 2 days. I came on this floor and I talked to other people; and they told me the same thing, that there in fact had been hundreds of thousands of calls coming in to all the offices for all the Members.

□ 1545

So I know people did respond. And we know what that means, Mr. Speaker, because so many people called their Congressmen and Congresswomen in their districts: that plan that the President proposed is dead on arrival. It is not going to pass, my colleagues and I all know it. I am glad that it is not going to pass, and he is a President of my party, and I respect him and admire him and I will support him in many ways, but he is as wrong as he can be on this issue, Mr. President, and Mr. Speaker, and Mr. President, if you are listening.

I see a colleague of mine has joined me. I am going to make an assumption that he has joined me because he wants to join in this debate. I say that because I know him and I know his heart, and I know where he is on this issue.

We are now going to confuse a lot of people, because we are told often that we look very similar, and we are confused often as we go around the House here. I am sorry for him if that is the case, if he does look like me. He is much more handsome than I. But my colleague, the gentleman from Iowa (Mr. KING), has joined me; and I will be glad to yield to him.

Mr. KING of Iowa. Mr. Speaker, I appreciate the gentleman's assumption that I came here asking for you to yield and saying that that is where my heart is and my head is. Without preparation, I did want to also listen to your presentation, which I did last night on C–SPAN, by the way, and I know millions of Americans were listening as well. I thank the gentleman for the leadership he has provided on this issue.

In this Congress and in politics around the country, whether it is State legislatures or city councils or county supervisors, there is a thing that has to happen in the dynamics in order for good public policy to be formed, and that is that there are always two sides to an issue, or it would not be an issue. As those issues get pulled and tugged and massaged and people in the middle start to weigh in for and against the increments of that policy, over time, that policy is shaped in such a way where you finally get to the point where there is enough agreement where we can pass such a policy. We are a long, long ways from that in this immigration policy in the United States today.

I look back to the years when Pat Buchanan was running for President and he insisted that we have a nationwide debate on immigration. I regret that we were not able to move that debate forward at that time, shape this policy before we got to this critical situation that we are in today, with massive numbers flowing over the border and not a policy to deal with it.

I understand the President's motivation. I think his head and his heart want to go down that path to help 10 or 12 or 14 million people. The other side of this equation is one the gentleman from Colorado and I agree on, and many, many members of this Congress and even a greater percentage of people across the country that intuitively understand, that an immigration policy which by Constitution is vested within the responsibility of the United States Congress, an immigration policy must be designed to enhance the economic, the social, and the cultural well-being of the United States of America. What other purpose would we have?

I look at some things that happened in my State. We have an affirmative action program within our universities that has been approved by the board of regents. It is an 8.5 percent, we cannot call it a quota, it is an 8.5 percent minority ''goal.'' Well, this minority goal almost moved some State legislation that would have imposed the equivalent of a high burden on the taxpayers of the State to try to reach this 8.5 percent. In Iowa, we have about a 3 percent minority, but we would do an 8.5 percent minority goal.

Well, in an effort to reach that goal, within one of our regents' institutions, that institution set up a recruitment center down in San Antonio, Texas. I would like to be recruiting those folks of the same ethnicity if we need to do that from Iowa. We have sufficient numbers that are not accessing education, but yet the recruitment office in San Antonio was recruiting Hispanics to meet part of this 8.5 percent goal for minorities, and then they got overzealous and they went across the border and they brought in Mexican nationals from Mexico City to meet a goal for a minority set-aside in Iowa.

What is going on, America? I cannot connect my logic with this.

I will go back to affirmative action. If we take it back to its inception, it was designed to correct the institutionalization of segregation of American blacks in the South. That was the specific, narrow goal of affirmative action, and it is preferential treatment in jobs and educational opportunities. I do not know how we would have fixed that. That is a sin against this Nation. And maybe there was a better way, but I am not wise enough to tell what we should have done. So I am going to let that one pass for a moment and just say we needed to fix that. And we have, to a large degree, repaired the institutionalization of segregation of American blacks in the South. Now they are coming up in job opportunities.

But that affirmative action program that was instituted then, for what arguably was a good cause, now has grown into this monstrosity of a policy that decides that every family reunion has to take place in the United States; it cannot take place in any other country. So we have a repatriation policy that allows someone to reach out and bring their family members into the United States, and that does not fit that equation of what is good for the economic, social, and cultural well-being of the United States.

Mr. TANCREDO. Mr. Speaker, if the gentleman will yield, the economic, social, and cultural well-being of the United States, now that is an interesting phrase; and it is an important one. Because it is important to understand that massive immigration into

the country, both legal and illegal, that phenomenon has, in fact, huge, huge implications for America, for who we are, where we are going, and what we are going to be. And this is an even more dangerous situation than what we were talking about earlier in terms of just the numbers and how they affect us.

Mr. Speaker, there is an assault. People ask me all the time, I am sure they ask the gentleman from Iowa also, they ask, why is this different now? Why are you arguing this issue? What makes immigration today different than when your grandparents, and it was my grandparents, by the way, who came? My folks did not come over on the Mayflower. I am a relatively new American. What is the difference? Why was it okay then and not okay now?

I said, well, there are two main reasons, as far as I am concerned, two things. First of all, it is a different country. We are a different country than the country to which my grandparents came in many ways. One, of course, is that when my grandparents came, and I will bet the gentleman from Iowa's too, there were either of two choices for them: they either worked or they starved. That was it. There was nothing else. There was no such thing as a welfare plan. And there was also no such thing as a radical multiculturalism that permeated our society.

Now, what do I mean by that? I am talking about a philosophy, an idea that has seeped into the absolute soul of our society, and it is what we teach our children in schools, that there is nothing of value in America.

Example: Los Angeles, I heard this on radio just the other day. A Los Angeles school, Roosevelt High School, where an eleventh grade teacher told a nationally syndicated radio program that she ''hates the textbooks she has been told to use and the state-mandated history curriculum'' because they ''ignore students of Mexican ancestry,'' because the students do not see themselves in the curriculum. The teacher has chosen to modify the curriculum by replacing it with activities like mural walks that are intended to open the eyes of the students to their indigenous culture.

Another person who actually created one of these murals was on the radio talking to the students; and he said to them, this is not your country. You should have absolutely no allegiance to this country. Your education has been a big lie, he told them, one big lie after another. And we know that this is one tiny example of something that happens in schools all over this Nation, where children are told that they, in fact, should not attach themselves to what we called the American dream when my grandparents came here; that they should stay separate; that they should keep their separate language and cultural and even political affiliation with the country from which they came. This is what we tell them today. That is why it is a different country. And it may be also that we have a different type of immigration policy.

I met recently with the bishop of Denver, Bishop Gomez; and he said something I will never forget. This was at a breakfast and we were discussing this issue, and he said to me, Congressman, I do not know why you are so worried about immigration from Mexico. And by the way, it is not just Mexico; he happened to be talking about Mexico. He said, I do not know why you are so worried about immigration from Mexico. He said, The Mexicans that are coming here do not want to be Americans. Those were his exact words.

I said, well, Bishop, to the extent that that is true, if what you said is true, then that is the problem. That is what I am worried about. It is not them coming here; it is them coming here not wanting to be Americans on one side and us on the other side telling them we do not want you to either, we want you to stay separate, Balkanized and divided. This is a serious problem for America. I yield to my friend.

Mr. KING of Iowa. Mr. Speaker, I would add to that there is a different philosophy today than there was when your grandparents came here or when mine came here. My grandmother came over from Germany.

I remember her advice to my father who went off to kindergarten on his first day speaking German only and when he came home from the first day, walked into the house and said hello to his mother in German, and she turned to him and said, speaking German in this household is for you from now on verboten, because we came here to be Americans, and you are going to learn English in school and bring it home and teach to it me.

I wish I could say that in German today, but it conveys a philosophy of buying into this culture and this civilization. Yes, there are many immigrants that come into this country who do buy into the philosophy; but sadly, millions of them are met at the border with radical multiculturalists, the cult of multiculturalism with, I used to say hundreds of millions of dollars funding, and now today I say it is in the billions of dollars, funding this multiculturalism that is infused into every level of our curriculum, every level of our lives, and it rejects a greater American civilization. It rejects the very concept that America is a great Nation or that we have the lead culture, economy, and military in the world, or that we are the unchallenged superpower in the world. They focus on the things that they can be critical of, what they call America's failures.

Mr. Speaker, multiculturalism draws a new line. This new line is, everybody belongs to a group, except for the gentleman from Colorado (Mr. TANCREDO) and myself and other folks who fit in our category.

I went to a college campus, and before I went there to speak, I went to their little search engine on their home page and I typed in ''multiculturalism'' and I hit search. What came back was 59 different multicultural groups registered on campus, starting with Asians, ends with Zeitgeists, and in between, and every one, virtually, a victim's group. As I talked to those young people and I said, look at this. When you arrive here as a freshman on the first day, there might as well be 59 card tables set up out here in the parking lot and you can go down through here and choose your victims group. Start with Asians, ends with Zeitgeists, you will belong to 5, 6, 7, 8, or 10 of them before you get down through this line, and everyone will tell you why you ought to have the sweat off of somebody else's brow, everyone will tell you that you are a victim and you deserve special rights and group rights by virtue of this merit of being a victim.

But if I might conclude, then, so your grandparents and my grandparents that came here did not see themselves as victims. They saw themselves as being extraordinarily fortunate individuals that had the opportunity to pull themselves up by their bootstraps. I yield back to my colleague.

Mr. TANCREDO. Mr. Speaker, let me give some more examples of exactly what the gentleman is saying here and the problems we face. A school district in New Mexico, the introduction of a textbook called ''500 Years of Chicano History in Pictures,'' and it was written, now listen to this, it states that it was written in response to the bicentennial celebration of the 1776 American Revolution and its lies. That is why this textbook was produced, because of the lies of the bicentennial. Its stated purpose is to celebrate our resistance to being colonized and absorbed by racist empire builders. The book describes defenders of the Alamo as slave owners, land speculators and Indian killers, Davy Crockett as a cannibal, and the 1847 war on Mexico is an unprovoked U.S. invasion.

The chapter headings include Death to the Invader, U.S. Conquest and Betrayal, We are Now a U.S. Colony in Occupied America, and They Stole the Land. This is a textbook, mind you, that was introduced into classrooms in New Mexico.

This, by the way, this is a quote by a gentleman who is the president of La Raza. La Raza is probably one of the most significant of the Hispanic organizations and it means the people, La Raza. Many would suggest that the positions that they take are antithetical to true democratic principles and that they are part of the problem of dividing people up into these victimized groups. Here is what the president of La Raza said. By the way, this is traditionally supported mass immigration, but today sees a more pressing issue for Hispanics. This is his quote: ''I think the biggest problem we have is a culture clash, a clash between our values and the values in American society.'' That is what he told the Fort Worth Star.

This is a clash of values, he said, that they are not our values. Well, of course, I believe to a large extent they are common values. But if we do not teach children in our public school system to believe and understand who they are and what their heritage really is, the value of a Western Civilization that they can share, if we do not do that and we are not doing it, we are afraid of doing it, then how can we ever expect them to in fact support and defend that concept?

I went into a school in my district not too long ago, brand-new school, built in Douglas County, Colorado, which is one of the fastest growing and also one of the counties with the highest per capita income in the country. Needless to say, I do not live in that particular county, but it is a county of fairly wealthy people.

□ 1600

These kids were great kids and bright, and they had all the advantages of having a school in that area and all the accoutrements of a beautiful school. They came in and talked. We were in an auditorium. There were about 200 kids. They were good kids. I do not mean for a moment to suggest that they were not. But they got to the end, and one of them sent a note up to the thing and said, ''What do you think is the most significant problem facing the country?''

I said, ''Well, I am going to ask you a question and maybe it can help me make that decision.'' I said, ''How many people in this auditorium right now will agree with the following statement: You live and we live in the greatest country on earth?''

Two hundred people, 200 kids, brightest, best educated, healthiest, the product of Western civilization that has created that we have today, and maybe 2 dozen raised their hands out of 200.

I stood there in shock in a way. I have been a teacher. When I looked out at those kids, I saw on a lot of faces something I had seen it before, a lot of kids wanted to say yes to the issue. They did not hate America. They wanted to say yes. But I have seen that look where they said, if I put my hand up, he might actually call on me. So they did not.

They were afraid to put their hand up to say yes to that question because they were intellectually disarmed. They could not possibly have made the case. They were afraid if they said yes, yes, I believe I live in the best country in the world, what if I would have said, ''Okay. Prove it. Why?'' And that is what they were fearful of. Because they had not been taught why they should.

As a teacher, kids come into schools, some have an innate knowledge and love of music. Very few. Some have just an innate knowledge and love of great art or great literature. Very few. Our task as teachers is to teach them why they should appreciate it.

It is exactly the same thing with our society. They do not come in with an innate knowledge and appreciation of Western civilization. They need to be taught. If we do not do so, then it is to our peril.

The children around the room, I could tell, they even looked at the teachers who were standing along the aisles leading down to the stage, and there was some degree of hesitancy that made them very uncomfortable to be placed in this position of having to try to defend this concept.

I suggest that this is because we have become so captivated by the cult of multiculturalism that we are afraid to say the obvious, that we are in the greatest Nation, we do live in the greatest Nation of the world. If we do not tell our children that and if we tell immigrants that that is not the truth and they should never connect us to that kind of a country, will we have a country at all? What will it look like? I do not mean by color, I just mean by division. Is it Balkanized America or is it united America?

Mr. KING. Mr. Speaker, I think I have an anecdote on this scenario that I painted here. That is, some years ago I drafted some legislation, and I began to identify these same things. What is great about this Nation and what are the weaknesses that we have within our educational system that does not infuse this into the minds of young people anymore like it was infused into our mind as we grew up? It was part of our family and educational system, something we learned in church as well.

I drafted legislation, and I called it the God and Country Bill. It simply states that each child in America shall be taught that the United States of America is the unchallenged greatest Nation in the world, and we derive our strength from biblical values, free enterprise capitalism, and Western civilization.

Now, unless you have been there you cannot imagine how many names I got called, how many nasty letters and e-mails and phone calls came my way for stating something that I believe ought to be obvious to the vast majority of Americans. One particular e-mail came, and I noticed it had an educational e-mail address. It said, ''We get plenty of Western civilization. You are trying to impose something on America, and we do not really believe we are the greatest nation in the world.'' It gave a whole list of these things.

By the way, it was not friendly toward Christopher Columbus. I point that out particularly.

But, nonetheless, ''We get 2 years of American history. We get enough Western civilization. We do not need to teach anymore.''

I thought, okay, I am going to help this student out. I did not know how to explain it, so I just typed back an e-mail response that said, go see your teacher about Western civilization. Your teacher will explain to you what Western civilization is.

The answer I got back was, ''I am the teacher.''

There is the problem, at least one of the problems.

Mr. TANCREDO. Mr. Speaker, we will be wrapping this up. I want to thank my colleague very much for joining me for this special order.

About 2 weeks ago, 3 weeks ago now, I introduced a resolution; and it is a very, very simple resolution. It is a Sense of Congress that all children graduating from any school in this country should be able to articulate an appreciation for Western civilization, and I was astounded by the reaction I got.

I mean, first of all, the NEA, the National Education Association, of course, they came unglued. How dare I suggest such a thing? How dare I?

We get e-mails from people who have seen it, and it is the same thing. In fact, an article that was in a newspaper, a Houston Chronicle article written by two individuals co-authored it, they were vilifying me and also an author by the name of Samuel Huntington for writing a book in which he brings this issue out.

They said, ''What is so good about assimilation any way?'' That was their way of addressing it. ''Why should we assimilate into your society?''

These are supposedly Americans. These are people writing in a newspaper that they were regular columnists and they were suggesting that there was some separation there between their America and mine.

Well, I suggest and I would really and truly like for people to go to the Web site. I always get a lot of calls when I do this, people asking how can we get more information about this. I tell them all the time, Mr. Speaker, they should go to the web site www.house.gov/Tancredo. On there you will see a page to go to called ''Our Heritage, Our Hope.''

There is a resolution that we have in front of this Congress. I have another resolution that we have given to State legislators; and I believe in Iowa, if I am not mistaken, we were able to get a State legislator there to introduce it into Iowa. Same exact resolution, that is all we are asking for, is to have children be able to articulate an appreciation for Western civilization.

That does not mean they should demean any other. It does not mean they cannot be critical of our own. It just means they have to have the ability to understand where we came from, who we are, and where we are going.

It does not matter if you come here from Azerbaijan or Albania. It does not matter. It does not matter because, once you get here, there has got to be a canon, a set of standards or ideas that we all will buy into no matter whether we came from and no matter all the other cultural distinctions we have; and we can all appreciate the fact that there are these differences, but something has to hold us together.

It is a set of ideas, because this Nation is the only nation on earth that

was actually started on ideas. It is the only thing. We have enormous pride in that, and we should be able to take pride in it. We should be able to take pride in the fact that there are these tenets of the Western civilization like the rule of law and the value of the individual and the freedom of religion. These things are Western. We should be proud of it, no matter where one comes from, because they are coming to take advantage of it and should be willing to say, look, even in my culture we did not have that, and that is why I am coming here. I want to be part of it.

We need to have things that hold us together. We have to stop doing things that keep tearing us apart and keep telling our own and we have to begin teaching it in schools and we have to tell immigrants that that is exactly what is expected of them.

We have to secure our borders. Because no State can call itself a State if it does not control its own borders. The kind of thing we hear all the time, I know my colleague hears it and I do, racist, racist, racist. That is the word they want to throw at you and other epithets. But, in fact, of course, this has nothing to do with race. Nothing. And a significant number of the e-mails and letters I get are from Hispanic Americans who say, ''Right on. You are absolutely right.''

I say, God bless those people and God bless them for being here and God bless them that they are Americans, Americans first, before anything else. Some of them in my State have been here for generations, far longer in the United States of America and in Colorado than me or my family; and they see exactly the problem that exists.

So it has got nothing to do with race. It has nothing to do with ethnicity. It has nothing to do with country of origin. It has everything to do with this country and whether or not we will still be a country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. DELAY) for today on account of medical reasons.

Mr. HULSHOF (at the request of Mr. DELAY) for today on account of a family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. ANDREWS) to revise and extend their remarks and include extraneous material:

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

The following Members (at the request of Ms. HARRIS) to revise and extend their remarks and include extraneous material:

Mr. DREIER, for 5 minutes, today.

SENATE BILL REFERRED

A joint resolution of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II; to the Committee on Armed Services.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4062. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

ADJOURNMENT

Mr. TANCREDO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at 4 o'clock and 11 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m. on Tuesday, April 6, 2004, unless it sooner has received a message from the Senate transmitting its adoption of the House Concurrent Resolution 404, in which case the House shall stand adjourned pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7508. A letter from the Secretary, Department of Agriculture, transmitting a draft of proposed legislation, ''To authorize the Secretary of Agriculture to prescribe, adjust, and collect fees to cover the costs incurred by the Secretary for activities related to the review and maintenance of licenses and registration under the Animal Welfare Act''; to the Committee on Agriculture.

7509. A letter from the Administrator, Environmental Protection Agency, transmitting a report of a violation of the Antideficiency Act by the EPA's response to oil spills in inland waters under the Clean Water Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

7510. A letter from the Administrator, Environmental Protection Agency, transmitting a report of a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

7511. A letter from the Acting Under Secretary, Department of Defense, transmitting a report identifying, for each of the armed forces (other than the Coast Guard) and each Defense Agency, the percentage of funds that were expended during the preceding two fiscal years for performance of depot-level maintenance and repair workloads by the public and private sectors, pursuant to 10 U.S.C. 2466(d)(1); to the Committee on Armed Services.

7512. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to Mexico, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

7513. A letter from the Director, Regulations Policy and Management Sta., FDA, Department of Health and Human Services, transmitting the Department's final rule—Change of Name; Technical Amendment—received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7514. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2001; to the Committee on International Relations.

7515. A letter from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule—Removal of ''National Security'' controls from, and imposition of ''Regional Stability'' controls on, certain items on the Commerce Control List [Docket No. 031201299–3299–01] (RIN: 0694–AC54) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7516. A letter from the Senior Vice President, Potomac Electric Power Company, transmitting a copy of the Balance Sheet of Potomac Electric Power Company as of December 31, 2003, pursuant to D.C. Code section 43—513; to the Committee on Government Reform.

7517. A letter from the Director, Office of Human Resources Management, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7518. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 031125292–4061–02; I.D. 031504C] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7519. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—

Fisheries of the Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 M) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands [Docket No. 031124287–4060–02; I.D. 031704C] received March 31, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7520. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery [Docket No. 031229327–4073–02; I.D. 121603B] (RIN: 0648–AR58) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7521. A letter from the Deputy Director, Office of Protected Resources, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Test Flight Activities from Vandenberg Air Force Base (VAFB), CA [Docket No. 031112277–4018–02; I.D. 080603B] (RIN: 0648–AR70) received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7522. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2004 Harvest Specifications for Groundfish [Docket No. 031125292–4061–02; I.D. 111703E] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7523. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flatehead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031126295–3295–01; I.D. 022304D] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7524. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2004 Harvest Specifications for Groundfish [Docket No. 031124287–4060–02; I.D. 111703C] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7525. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Catch Sharing Plan [Docket No. 040217059–4059–01; I.D. 021004A] (RIN: 0648–AR95) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7526. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 031125292–4061–02; I.D. 031204A] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7527. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of th Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 031204B] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7528. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 031104A] received March March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7529. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Ft. (18.3 m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacifc Cod Exemption Area in the Bering Sea and Aleutian Islands Area [Docket No. 020718172–2303–02; I.D. 030804B] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7530. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 031125292–4061–02; I.D.0504] received March 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7531. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder; 2004 Specifications [Docket No. 021122284–2323–02; I.D. 030304B] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7532. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Mackeral, Squid, and Butterfish Fisheries; Closure of the Quater I Fishery for Loligo Squid [Docket No. 031104274–4011–02; I.D. 022604C] received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7533. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specification [Docket No. 031125290–4058–02; I.D. 111003D] (RIN: 0648–AQ97) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7534. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Coral Reef Ecosystems Fishery Management Plan for the Western Pacific [Docket No. 020508114–3291–02; I.D. 030702C] (RIN: 0648–AM97) received March 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7535. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 031124287–4060–02; I.D. 032204H] received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7536. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 13A [Docket No. 031107275–4082–02; I.D. 102803A] (RIN: 0648–AP03) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7537. A letter from the Director, NMFS, National Oceanic and Atmospheric Administration, transmitting the 2004 Annual Report Regarding Atlantic Highly Migratory Species, pursuant to 16 U.S.C. 971 et. seq.; to the Committee on Resources.

7538. A letter from the Attorney, TSA, Department of Homeland Security, transmitting the Department's final rule—Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License; Final Rule [Docket No. TSA–2003–14610; Amendment No. 1572–3] (RIN: 1652–AA17) received April 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7539. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Gideon, MO. [Docket No. FAA–2004–17150; Airspace Docket No. 04–ACE–16] received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7540. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2004–NM–17–AD; Amendment 39–13505; AD 2004–05–10] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7541. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–400, –401, and –402 Airplanes [Docket No. 2002–NM–311–AD; Amendment 39–13440; AD 2004–02–05] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7542. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F Airplanes; and Model MD–11 and MD–11F Airplanes [Docket No. 2003–NM–43–AD; Amendment 39–13441; AD 2004–02–06] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7543. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes [Docket No. 2001–NM–88–AD; Amendment 39–13443; AD 2004–02–08] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7544. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes [Docket No. 2002–NM–82–AD; Amendment 39–13444; AD 2004–02–09] (RIN: 2120–AA64) received March 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7545. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Safety Performance History of New Drivers [Docket No. FMCSA–97–2277] (RIN: 2126–AA17) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7546. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements [Docket No. FMCSA–97–2176] (RIN: 2126–AA08) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7547. A letter from the FMCSA Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting the Department's final rule—Transportation of Household Goods; Consumer Protection Regulations [Docket No. FMCSA–97–2979] (RIN: 2126–AA32) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7548. A letter from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule— Railroad Locomotive Safety Standards: Clarifying Amendments; Headlights and Auxiliary Lights [Docket No. FRA–2003–14217; Notice No. 2] (RIN: 2130–AB58) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7549. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule—Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines); Correction [Docket No. RSPA–00–7666; Amendment 192–95] (RIN: 2137–AD54) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7550. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule—Federal Lands Highway Program; Management Systems Pertaining to the National Park Service and the Park Roads and Parkways Program [FHWA–99–4967] (RIN: 2125–AE52) received April 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7551. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Fourteenth Annual Report describing the Board's health and safety activities relating to the Department of Energy's defense nuclear facilities during the calendar year 2003; jointly to the Committees on Armed Services and Energy and Commerce.

7552. A letter from the Chairman, Christopher Columbus Fellowship Foundation, transmitting the FY 2003 Annual Report of the Christopher Columbus Fellowship Foundation, pursuant to Public Law 102—281, section 429(b) (106 Stat. 145); jointly to the Committees on Financial Services and Science.

7553. A letter from the Secretary, Department of Energy, transmitting the Annual Report for calendar year 2003, entitled ''Department of Energy Activities Relating to the Defense Nuclear Facilities Safety Board, as required by Section 316(b) of the Atomic Energy Act of 1954, pursuant to 42 U.S.C. 2286e(b); jointly to the Committees on Energy and Commerce and Armed Services.

7554. A letter from the Administrator, Agency for International Development, transmitting a report required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, for the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, as enacted in Public Law 108–199, for Development Assistance and Child Survival and Health Programs; jointly to the Committees on International Relations and Appropriations.

7555. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of completed negotiations with the Republic of the Marshall Islands (RMI) to bring two of the amended subsidiary agreements to the amended Compact of Free Association, as negotiated and signed with the RMI, into conformity with sections 104(j) and 105(f) and (i) of the Compact of Free Association Amendments Act of 2003 (Pub. L. 108–188); jointly to the Committees on International Relations and Resources.

7556. A letter from the Secretary, Council of the District of Columbia, transmitting a copy of Council Resolution 15–468, ''Sense of the Council in Support of Protection of Civil Liberties Resolution of 2004,'' pursuant to D.C. Code section 1–233(c)(1); jointly to the Committees on Government Reform and the Judiciary.

7557. A letter from the Secretary and Commissioner, Department of Health and Human Services and Social Security Administration, transmitting the Plan For The Transfer of Responsibility for Medicare Appeals, in response to the requirements of Section 931 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 27. A bill to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan; with an amendment (Rept. 108–458). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 3818. A bill to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes; with an amendment (Rept. 108–459). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3866. A bill to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes; with an amendment (Rept. 108–461 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Transportation and Infrastructure, Resources, and House Administration discharged from further consideration. H.R. 1081 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Resources and Transportation and Infrastructure discharged from further consideration. H.R. 1856 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Science discharged from further consideration of H.R. 3266.

Pursuant to clause 2 of rule XII the Committee on the Judiciary discharged from further consideration. S. 1233 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. COX: Select Committee on Homeland Security. H.R. 3266. A bill to authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes, with an amendment; referred to the Committee on Science for a period ending not later than April 2, 2004, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause (n), rule X (Rept. 108–460, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3266. Referral to the Committees on Transportation and Infrastructure, the Judiciary, and Energy and Commerce extended for a period ending not later than June 7, 2004.

H.R. 3866. Referral to the Committee on Energy and Commerce extended for a period ending not later than April 27, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KIND (for himself and Mr. UPTON):

H.R. 4127. A bill to amend the Public Health Service Act to authorize grants to hospitals for measurement-based strategies to improve the quality and efficiency of health care; to the Committee on Energy and Commerce.

By Mr. WELLER (for himself, Mr. NEAL of Massachusetts, Mr. UPTON, Mr. TIAHRT, and Mr. ENGLISH):

H.R. 4128. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003, and for other purposes; to the Committee on Ways and Means.

By Mr. PICKERING:

H.R. 4129. A bill to provide a clear and unambiguous structure for the jurisdictional and regulatory treatment for the offering or provision of voice-over-Internet-protocol applications, and for other purposes; to the Committee on Energy and Commerce, and in

addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUPPERSBERGER (for himself, Mr. LEWIS of California, Mr. MURTHA, Mr. HUNTER, and Mr. SKELTON):

H.R. 4130. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to accept the donation of frequent traveler miles, credits, and tickets for the purpose of facilitating the travel of members of the Armed Forces who are deployed away from their permanent duty station and are granted, during such deployment, rest and recuperative leave and certain other forms of leave and the travel of family members to be reunited with such a member, and for other purposes; to the Committee on Armed Services.

By Mr. HOUGHTON:

H.R. 4131. A bill to amend the Internal Revenue Code of 1986 to limit the increase in the number of individuals affected by the alternative minimum tax and to repeal the alternative minimum tax for individuals in 2014; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4132. A bill to amend the Internal Revenue Code of 1986 to provide a uniform definition of child for purposes of the personal exemption, the dependent care credit, the child tax credit, the earned income credit, and the health insurance refundable credit, and for other purposes.; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4133. A bill to change the name of the head of household filing status to single parent or guardian to describe better those individuals who qualify for the status; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4134. A bill to amend the Internal Revenue Code of 1986 to simplify the deduction for points paid with respect to home mortgages; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4135. A bill to amend the Internal Revenue Code of 1986 to simplify the taxation of minor children; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4136. A bill to amend the Internal Revenue Code of 1986 to combine the Hope and Lifetime Learning credits and to provide a uniform definition of qualifying higher education expenses; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4137. A bill to amend the Internal Revenue Code of 1986 to provide for unified income taxation with respect to pass-thru entities; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4138. A bill to amend the Internal Revenue Code of 1986 to repeal the tax on personal holding companies; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4139. A bill to amend the Internal Revenue Code of 1986 to simplify the taxation of partnerships; to the Committee on Ways and Means.

By Mr. LANGEVIN (for himself, Mr. SHAYS, Mr. MATSUI, Mr. SIMMONS, Mr. PASCRELL, Mrs. MCCARTHY of New York, Mr. VAN HOLLEN, Mr. KENNEDY of Rhode Island, Mr. LARSON of Connecticut, Mrs. DAVIS of California, Ms. MCCOLLUM, Mr. TIERNEY, Ms. SCHAKOWSKY, Mr. KUCINICH, and Mr. NEY):

H.R. 4140. A bill to amend title 5, United States Code, to provide for a corporate responsibility investment option under the Thrift Savings Plan; to the Committee on Government Reform.

By Mr. KOLBE (for himself, Mr. MCHUGH, Mr. FLAKE, Mr. HAYWORTH, Mr. SHADEGG, Mr. RENZI, and Mr. HINOJOSA):

H.R. 4141. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Science, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. NEUGEBAUER, Mr. CARTER, Mr. AKIN, Mr. HENSARLING, and Mr. FEENEY):

H.R. 4142. A bill to amend title XXI of the Social Security Act to prohibit the approval of section 1115 waivers to provide coverage of childless adults under the State Children's Health Insurance Program; to the Committee on Energy and Commerce.

By Mrs. CAPITO:

H.R. 4143. A bill to amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN:

H.R. 4144. A bill to amend the Internal Revenue Code of 1986 to provide for the exclusion from gross income of certain wages of a certified master teacher, and for other purposes; to the Committee on Ways and Means.

By Mr. CRAMER:

H.R. 4145. A bill to establish the President's Council of Advisors on Manufacturing; to the Committee on Energy and Commerce.

By Mr. CRAMER:

H.R. 4146. A bill to establish a comprehensive research program aimed at understanding and predicting the natural processes that lead to the formation of tornadoes; to the Committee on Science.

By Mr. CUMMINGS (for himself, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. CLAY, Mr. CONYERS, Mr. FATTAH, Mr. FORD, Mr. HASTINGS of Florida, Ms. JACKSON-LEE of Texas, Ms. KILPATRICK, Mr. MEEK of Florida, Mr. OWENS, Mr. PAYNE, Mr. RUSH, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mrs. JONES of Ohio, and Ms. WATERS):

H.R. 4147. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Government Reform.

By Mr. FEENEY:

H.R. 4148. A bill to designate the information center at Canaveral National Seashore as the ''T.C. Wilder, Jr., Canaveral National Seashore Information Center''; to the Committee on Resources.

By Mr. GRAVES (for himself, Mr. HONDA, Mr. INSLEE, and Mrs. KELLY):

H.R. 4149. A bill to amend the Internal Revenue Code of 1986 to permit business concerns that are owned by veture capital operating companies or pension plans to participate in the Small Business Innovation Research Program; to the Committee on Small Business, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself, Mr. LAMPSON, Mrs. BLACKBURN, Mr. HAYES, Mr. GOSS, Ms. PRYCE of Ohio, Mr. REGULA, Mr. KIRK, Mr. CARTER, Mr. KELLER, Ms. HART, Mr. CANTOR, Mr. BURNS, Mr. GOODE, Mr. STEARNS, Mr. MILLER of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. SHAW, Ms. GINNY BROWN-WAITE of Florida, Mr. CULBERSON, Mr. PEARCE, Mr. KING of Iowa, Mr. MANZULLO, Mr. MCCOTTER, Mr. SMITH of Texas, and Mr. PUTNAM):

H.R. 4150. A bill to amend title 18, United States Code, and other laws to protect children from criminal recidivists, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLINE (for himself, Mr. KENNEDY of Minnesota, Ms. MCCOLLUM, Mr. RAMSTAD, Mr. PETERSON of Minnesota, Mr. GUTKNECHT, Mr. SABO, Mr. OBERSTAR, Mrs. MUSGRAVE, Mr. MCINNIS, Mr. HEFLEY, and Mr. BEAUPREZ):

H.R. 4151. A bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products; to the Committee on Energy and Commerce.

By Mr. LEVIN (for himself and Mr. CAMP):

H.R. 4152. A bill to amend section 337 of the Tariff Act of 1930 to make unlawful the importation, sale for importation, or sale within the United States after importation, of articles falsely labeled or advertised as meeting a United States Government or industry standard for performance or safety; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mr. RAHALL, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mrs. MALONEY, Mr. LEWIS of Georgia, Mr. OWENS, Mr. PALLONE, Mr. CASE, Mr. CROWLEY, Mr. CARDOZA, Ms. LEE, and Mr. WEINER):

H.R. 4153. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow the Attorney General to award grants under a homeland security overtime program to reimburse law enforcement agencies for past overtime expenditures and to require the Attorney General to waive the matching funds requirement for such grants; to the Committee on the Judiciary.

By Mrs. MALONEY (for herself and Ms. HART):

H.R. 4154. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself, Mr. KING of New York, Mr. WELDON of Pennsylvania, Mr. WAXMAN, Mr. LYNCH, Mr. TOWNS, Mr. MEEHAN, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. MCNULTY, Ms. SLAUGHTER, Mr. DELAHUNT, Mr. CONYERS, Mr. HOLT, Ms. SCHAKOWSKY, Mr. KENNEDY of

Rhode Island, Mr. MORAN of Virginia, Ms. LOFGREN, Mr. NEAL of Massachusetts, Mr. PALLONE, Mr. RANGEL, Mr. BOEHLERT, Mr. WEINER, Mr. WYNN, Mr. LIPINSKI, Mr. CAPUANO, Mr. SHERMAN, Ms. NORTON, Mrs. JONES of Ohio, Mr. ACKERMAN, Ms. JACKSON-LEE of Texas, Mr. STUPAK, Mr. SERRANO, Ms. DELAURO, Mr. VAN HOLLEN, Mr. BLUMENAUER, and Mr. ROTHMAN):

H.R. 4155. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself, Mr. TOWNS, Mr. OSBORNE, Mr. STENHOLM, and Mr. DOGGETT):

H.R. 4156. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

By Mr. NEAL of Massachusetts (for himself and Mr. ISRAEL):

H.R. 4157. A bill to amend the Internal Revenue Code of 1986 to prevent the alternative minimum tax from effectively repealing the Federal tax exemption for interest on State and local private activity bonds; to the Committee on Ways and Means.

By Mr. ORTIZ (for himself, Mr. GONZALEZ, Mr. HINOJOSA, Mr. REYES, Mr. RODRIGUEZ, and Mr. GREEN of Texas):

H.R. 4158. A bill to provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. LEVIN, Mr. PORTER, Mr. SOUDER, Mr. COSTELLO, Mr. LATOURETTE, Mr. RAMSTAD, and Mr. HOBSON):

H.R. 4159. A bill to amend title 23, United States Code, to research and prevent drug impaired driving; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI:

H.R. 4160. A bill to authorize the Secretary of Energy and the Secretary of the Interior to jointly establish a program, in partnership with the private sector, to support research, development, demonstration, and commercial application activities related to advanced hydrogen-based motorboat propulsion technologies suitable for operations in sensitive resource areas such as national parks, and for other purposes; to the Committee on Science.

By Mr. RUSH:

H.R. 4161. A bill to amend the Public Health Service Act to revise and expand the section 340B program to improve the provision of discounts on drug purchases for certain safety net providers; to the Committee on Energy and Commerce.

By Mr. RYUN of Kansas (for himself, Mr. FATTAH, Mrs. JONES of Ohio, Ms. DELAURO, Mr. MCDERMOTT, Ms. LEE, Mr. CRANE, Mr. GRIJALVA, Ms. KILPATRICK, Mr. CUMMINGS, Mr. JEFFERSON, Mr. OWENS, Mr. THOMPSON of Mississippi, Mr. CONYERS, Ms. CORRINE BROWN of Florida, Mr. MEEK of Florida, Mrs. CHRISTENSEN, Mr. TOWNS, Ms. CARSON of Indiana, Ms. WATERS, Mr. PAYNE, Mr. GREEN of Texas, Mr. TIAHRT, Mr. WAMP, Mr. HAYWORTH, Mr. TERRY, Mr. WILSON of South Carolina, Mr. FOLEY, Mr. KELLER, Mr. KINGSTON, and Mr. DAVIS of Illinois):

H.R. 4162. A bill to posthumously award a congressional gold medal to the Reverend Oliver L. Brown; to the Committee on Financial Services.

By Mr. SHUSTER (for himself and Mr. HOLDEN):

H.R. 4163. A bill to provide for a greater number of members on certain combined Farm Service Agency county committees; to the Committee on Agriculture.

By Mr. SHUSTER:

H.R. 4164. A bill to amend the Internal Revenue Code of 1986 to index for inflation the exemption amount for individuals under the alternative minimum tax and to repeal the alternative minimum tax on individuals in 2010; to the Committee on Ways and Means.

By Mr. SMITH of Michigan:

H.R. 4165. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the use of biodiesel as fuel; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. CARTER, Mr. FLAKE, Mr. CHABOT, Mr. GOODLATTE, and Mr. MCKEON):

H.R. 4166. A bill to amend the Immigration and Nationality Act with respect to nonimmigrants described in subparagraphs (H)(i)(b) and (L) of section 101(a)(15) of such Act, and for other purposes; to the Committee on the Judiciary.

By Mr. STEARNS (by request):

H.R. 4167. A bill to authorize appropriations for the motor vehicle safety and information and cost savings programs of the National Highway Traffic Safety Administration for fiscal years 2005 through 2007, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself, Mr. BURTON of Indiana, Mr. DEMINT, and Mr. NORWOOD):

H.R. 4168. A bill to promote freedom, fairness, and economic opportunity for families by repealing the income tax, abolishing the Internal Revenue Service, and enacting a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself and Mrs. MALONEY):

H.R. 4169. A bill to amend the Federal Food, Drug, and Cosmetic Act to reduce human exposure to mercury through vaccines; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER:

H.J. Res. 92. A joint resolution proposing an amendment to the Constitution of the United States relating to Congressional succession; to the Committee on the Judiciary.

By Mr. DELAY:

H. Con. Res. 404. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. DEAL of Georgia (for himself, Mr. TOWNS, Mr. BURR, Mr. NORWOOD, Mr. RAHALL, Mr. WAMP, and Mr. WHITFIELD):

H. Con. Res. 405. Concurrent resolution expressing the sense of Congress with respect to the need to provide prostate cancer patients with meaningful access to information on treatment options, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAYNE (for himself, Mr. CUMMINGS, Mr. CONYERS, Mr. RANGEL, Mr. OWENS, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. JEFFERSON, Ms. NORTON, Ms. WATERS, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mr. CLYBURN, Mr. HASTINGS of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-MCDONALD, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, Ms. KILPATRICK, Ms. LEE, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. WATSON, Ms. MAJETTE, Mr. MEEK of Florida, Mr. RUSH, Mr. WATT, Mr. WYNN, Mr. FATTAH, Mr. JACKSON of Illinois, Mr. BALLANCE, Mr. TANCREDO, Mr. DAVIS of Alabama, and Mr. CLAY):

H. Con. Res. 406. Concurrent resolution remembering the victims of the genocide that occurred in 1994 in Rwanda and pledging to work to ensure that such an atrocity does not take place again; to the Committee on International Relations.

By Mr. HOUGHTON:

H. Res. 595. A resolution amending the Rules of the House of Representatives to prevent the consideration of any tax measure unless it contains a title simplifying the Internal Revenue Code of 1986; to the Committee on Rules.

By Mr. BURTON of Indiana (for himself, Mr. BELL, Mr. CHABOT, Mr. TANCREDO, Mr. LEACH, and Mr. EMANUEL):

H. Res. 596. A resolution condemning ethnic violence in Kosovo; to the Committee on International Relations.

By Mr. OWENS:

H. Res. 597. A resolution congratulating the American Library Association (ALA) as it celebrates its first annual National Library Workers Day on April 20, 2004; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

269. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 215 supporting President George W. Bush's Healthy Marriage Initiative; to the Committee on Education and the Workforce.

270. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 113 memorializing the United States Congress to support the Lifespan Respite Care Act of 2003; to the Committee on Energy and Commerce.

271. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 167 memorializing the United States Congress and the Michigan Department of Community Health to develop collaborative relationships with pregnanccy care centers in Michigan; to the Committee on Energy and Commerce.

272. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 3 memorializing the United States Congress to dissolve the membership of the United States in the United Nations; to the Committee on International Relations.

273. Also, a memorial of the Senate of the State of Ohio, relative to Senate Resolution No. 1550 memorializing the United States Congress to direct the Election Assistance Commission to develop standards and security accreditation guidelines for all electronic voting devices, to establish standards for the design and use of reasonably affordable voter-verifiable paper ballots for electronic voting systems, and to expedite its efforts to provide for the testing and certification of voting system hardware and software and to adopt voluntary voting system guidelines, and to reaffirm the Ohio Senate's commitment to make electronic voting as safe and secure to the Committee on House Administration.

274. Also, a memorial of the Legislature of the State of South Dakota, relative to House

Concurrent Resolution No. 1002, memorializing the Secretary of Agriculture and the Secretary of Game, Fish, and Parks immediately institute a program to control prairie dogs on private land that are encroaching from public lands, and, as part of that program, establish a buffer zone within the public lands affected wherein the prairie dog population is controlled so that they are not migrating to the adjacent private lands; to the Committee on Resources.

275. Also, a memorial of the General Assembly of the State of Ohio, relative to House Concurrent Resolution No. 31 memorializing the United States Congress to reauthorize the abandoned mine land fee collection authority, to disperse shares of that fee without an appropriation, to release the unappropriated balance in the Abandoned Mine Land Fund, and to consider reevaluating the administration of the Abandoned Mine Land Reclamation Program and the Fund; to the Committee on Resources.

276. Also, a memorial of the Legislature of the Commonwealth of The Mariana Islands, relative to House Joint Resolution No. 14-3 memorializing the United States Congress to provide for a nonvoting delegate in the House of Representatives to represent the Commonwealth of the Northern Mariana Islands (CNMI); to the Committee on Resources.

277. Also, a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 14-9, memorializing the United State Congress to provide for a nonvoting delegate in the House of Representatives to represent the Commonwealth of the Northern Mariana Islands (CNMI); to the Committee on Resources.

278. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 24 memorializing the United States Congressto enact legislation to grant a federal charter to the Korean War Veterans Association; to the Committee on the Judiciary.

279. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 168 memorializing the United States Congress and the United States Department of Transportation to permit the use of 75-foot crib carrier log hauling equipment; to the Committee on Transportation and Infrastructure.

280. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 128 memorializing the United States Congress to enact the Great Lakes Controlled Data Collection and Monitoring Act; to the Committee on Transportation and Infrastructure.

281. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Concurrent Resolution No. 198 memorializing the United States Congress to establish a minimum return rate of 95 percent of Michigan's federal transportation funding for highway and transit programs; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 302: Mr. DUNCAN.

H.R. 327: Mr. EVANS.

H.R. 348: Mr. TANNER.

H.R. 525: Mr. BURTON of Indiana, Mr. CAMP, Mr. CARTER, Mr. CHABOT, Mr. COLLINS, Mr. COX, Mrs. CUBIN, Mrs. JO ANN DAVIS of Virginia, Mr. CRANE, Mr. DEAL of Georgia, Ms. DUNN, Mr. EHLERS, Mr. EVERETT, Mr. GINGREY, Ms. GRANGER, Ms. HART, Mr. HENSARLING, Mr. ISTOOK, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, Mrs. MILLER of Michigan, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NEY, Mr. OSBORNE, Mr. PETERSON of Pennsylvania, Mr. RAMSTAD, Mr. ROGERS of Michigan, Mr. TIBERI, Mr. WHITFIELD, Mrs. WILSON of New Mexico, Mr. YOUNG of Florida, and Mr. LATOURETTE.

H.R. 548: Mr. JACKSON of Illinois and Mr. STARK.

H.R. 785: Mr. BRADLEY of New Hampshire.

H.R. 847: Mr. GREEN of Texas.

H.R. 857: Mr. FOLEY, Mr. KING of New York, and Ms. VELÁZQUEZ.

H.R. 918: Mr. SESSIONS, Mr. BASS, and Mr. JOHNSON of Illinois.

H.R. 1068: Mr. KING of New York.

H.R. 1206: Mr. FEENEY and Mr. TIBERI.

H.R. 1214: Mr. MORAN of Virginia and Mr. RYAN of Wisconsin.

H.R. 1258: Mr. HONDA.

H.R. 1264: Mr. NEAL of Massachusetts.

H.R. 1310: Mr. REHBERG.

H.R. 1311: Mr. FORD, Mr. BERRY, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Mr. JOHNSON of Illinois, Mr. OBERSTAR, and Mr. REHBERG.

H.R. 1313: Mr. CLYBURN.

H.R. 1336: Mr. ISSA and Mr. REHBERG.

H.R. 1406: Mr. DOOLITTLE.

H.R. 1448: Mr. WOLF.

H.R. 1480: Ms. SCHAKOWSKY.

H.R. 1684: Ms. SLAUGHTER and Mr. NEAL of Massachusetts.

H.R. 1886: Mr. RANGEL.

H.R. 2042: Mr. SHERMAN and Mr. EVANS.

H.R. 2157: Mr. BECERRA and Mr. GREEN of Texas.

H.R. 2176: Mr. FILNER and Mr. DEFAZIO.

H.R. 2238: Mr. HOYER.

H.R. 2262: Mr. LIPINSKI.

H.R. 2277: Mr. NADLER.

H.R. 2284: Mr. GRIJALVA.

H.R. 2442: Mr. MOORE, Mr. LOBIONDO, Mr. HEFLEY, Mr. COSTELLO, Mr. DELAHUNT, Mr. CRAMER, Mrs. JOHNSON of Connecticut, Mr. SERRANO, Mr. PASCRELL, Mr. GEORGE MILLER of California, Mr. WEXLER, Ms. MCCARTHY of Missouri, Mr. UDALL of New Mexico, and Mr. BOSWELL.

H.R. 2585: Mr. OLVER.

H.R. 2635: Mr. SHUSTER, Mr. VITTER, Mr. GOODE, Mr. MILLER of Florida, and Mr. HERGER.

H.R. 2735: Mr. GINGREY and Mr. CAPUANO.

H.R. 2747: Mr. GREEN of Wisconsin.

H.R. 2811: Mr. STENHOLM.

H.R. 2814: Mr. HERGER and Mr. LINDER.

H.R. 2824: Mr. MCINNIS.

H.R. 2832: Mr. PLATTS.

H.R. 2890: Mr. HUNTER and Mr. CUNNINGHAM.

H.R. 2932: Mr. RAHALL.

H.R. 2944: Mr. BROWN of Ohio.

H.R. 2959: Mr. GREEN of Wisconsin, Mr. BONNER, Mr. BAKER, Mr. ENGEL, Mr. PUTNAM, Mr. CARSON of Oklahoma, Mr. STENHOLM, Mr. BERRY, Mr. NORWOOD, and Mr. CARDIN.

H.R. 2978: Mr. KIND.

H.R. 2983: Ms. JACKSON-LEE of Texas and Mr. HASTINGS of Florida.

H.R. 3015: Mr. SULLIVAN.

H.R. 3085: Mr. PAYNE.

H.R. 3142: Mr. CAMP, Mr. BLUMENAUER, Ms. DELAURO, Mr. HINCHEY, Ms. JACKSON-LEE of Texas, Mr. LARSEN of Washington, Ms. MILLENDER-MCDONALD, Mr. PASCRELL, and Mr. RANGEL.

H.R. 3184: Mr. SABO.

H.R. 3191: Mr. CANNON.

H.R. 3204: Mr. DUNCAN, Mr. PAYNE, Mr. MCHUGH, Mrs. NORTHUP, Mr. SWEENEY, Mr. HOLT, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. HOSTETTLER.

H.R. 3215: Ms. GINNY BROWN-WAITE of Florida, Mr. SWEENEY, Mr. BEAUPREZ, Mr. CHOCOLA, and Mr. RENZI.

H.R. 3270: Mr. HASTINGS of Washington.

H.R. 3360: Mr. LEWIS of Georgia.

H.R. 3361: Mr. BELL, Mr. SPRATT, and Mr. RANGEL.

H.R. 3386: Ms. WOOLSEY.

H.R. 3412: Mr. MURPHY.

H.R. 3436: Mr. HASTINGS of Florida and Mr. BISHOP of New York.

H.R. 3441: Mr. KIND, Mr. MATSUI, Mr. HOLT, and Ms. MAJETTE.

H.R. 3444: Ms. JACKSON-LEE of Texas, Ms. LOFGREN, and Ms. MILLENDER-MCDONALD.

H.R. 3446: Mr. FILNER, Mr. ACKERMAN, and Mr. BROWN of Ohio.

H.R. 3447: Mr. OWENS, Mr. RANGEL, and Mr. HONDA.

H.R. 3474: Mr. COLLINS.

H.R. 3482: Ms. MCCOLLUM.

H.R. 3515: Mr. PASTOR.

H.R. 3519: Ms. MCCARTHY of Missouri.

H.R. 3539: Mr. COSTELLO.

H.R. 3545: Mr. FRANK of Massachusetts.

H.R. 3558: Mr. PAYNE and Mr. BASS.

H.R. 3574: Mr. COOPER, Mrs. MUSGRAVE, Mr. BELL, Mr. BOEHLERT, Mr. DICKS, Mr. HENSARLING, and Mr. CANNON.

H.R. 3596: Mr. BONNER, Mr. DUNCAN, Mr. MCHUGH, Mrs. NORTHUP, Mr. MURPHY, and Mr. BISHOP of Utah.

H.R. 3602: Mr. FORD, Mr. STENHOLM, Mrs. DAVIS of California, and Mr. HALL.

H.R. 3660: Mr. GUTIERREZ, Ms. MILLENDER-MCDONALD, and Mr. FATTAH.

H.R. 3707: Mr. KIND, Ms. GUTKNECHT, and Mr. GUTIERREZ.

H.R. 3719: Ms. SOLIS, Mr. WEINER, Ms. MCCOLLUM, Mr. PASTOR, Ms. DELAURO, Ms. BALDWIN, Mr. SHAYS, Ms. MILLENDER-MCDONALD, Mr. MENENDEZ, and Mr. CUMMINGS.

H.R. 3729: Mr. LANTOS, Mr. BOSWELL, Mr. BISHOP of New York, Mr. DEFAZIO, Ms. WOOLSEY, Mr. PAUL, Mrs. MALONEY, and Mr. INSLEE.

H.R. 3736: Mr. DAVIS of Tennessee and Mr. OTTER.

H.R. 3758: Mr. SNYDER.

H.R. 3773: Mr. MCCOTTER.

H.R. 3779: Mrs. BIGGERT and Ms. DELAURO.

H.R. 3800: Mr. ROHRABACHER, Mr. SHUSTER, Mr. BOEHNER, Mr. MURPHY, Mr. LUCAS of Oklahoma, Mr. DEAL of Georgia, Mr. CANNON, Mr. RADANOVICH, Mr. HEFLEY, Mr. TIAHRT, Mr. MCCRERY, Mr. SHIMKUS, and Ms. HARRIS.

H.R. 3802: Mr. SMITH of Michigan.

H.R. 3803: Mr. BACA.

H.R. 3818: Mr. HASTINGS of Florida, Mr. FRANK of Massachusetts, and Mr. TOM DAVIS of Virginia.

H.R. 3858: Mr. SMITH of New Jersey, Mr. LINCOLN DIAZ-BALART of Florida, Mr. FORD, Mr. LAHOOD, Mr. BELL, Mr. OSBORNE, Ms. NORTON, Mr. BOSWELL, Mr. GUTKNECHT, Mr. ENGLISH, Ms. CARSON of Indiana, Mr. CHOCOLA, Mr. MURTHA, Mr. SAXTON, Mr. SCHROCK, and Mr. PORTER.

H.R. 3867: Mr. FRANK of Massachusetts.

H.R. 3881: Ms. CARSON of Indiana, Mr. LUCAS of Kentucky, Mr. CARSON of Oklahoma, Ms. MCCOLLUM, Ms. MILLENDER-MCDONALD, and Mr. BRADY of Pennsylvania.

H.R. 3888: Mr. DOYLE and Mrs. NAPOLITANO.

H.R. 3914: Mr. POMEROY and Mr. MILLER of Florida.

H.R. 3922: Mr. COSTELLO and Mr. HOBSON.

H.R. 3927: Mr. BROWN of Ohio.

H.R. 3953: Mr. GARY G. MILLER of California.

H.R. 3963: Mr. THOMPSON of Mississippi.

H.R. 3968: Ms. LOFGREN, Mrs. DAVIS of California, and Mr. BISHOP of New York.

H.R. 3991: Mr. LEWIS of Georgia, Mrs. MCCARTHY of New York, Mrs. MALONEY, Mr. THOMPSON of Mississippi, and Mr. EMANUEL.

H.R. 4006: Mr. BOSWELL.

H.R. 4016: Mr. FORD.

H.R. 4020: Mr. FILNER.

H.R. 4023: Mr. WICKER.

H.R. 4032: Mrs. CHRISTENSEN, Mr. ACEVEDO-VILÁ, Ms. JACKSON-LEE of Texas, and Ms. LOFGREN.

H.R. 4041: Mrs. CUBIN, Ms. BORDALLO, and Mr. BRADLEY of New Hampshire.

H.R. 4053: Mr. SCHIFF, Mr. ACKERMAN, Mr. BERMAN, and Mr. BLUMENAUER.

H.R. 4061: Mr. KILDEE and Mr. MCDERMOTT.

H.R. 4067: Mr. DOGGETT and Mr. FRANK of Massachusetts.

H.R. 4069: Ms. WATSON.

H.R. 4101: Mr. GEORGE MILLER of California and Mr. GRIJALVA.

H.R. 4102: Mr. HASTINGS of Florida and Mr. CONYERS.

H.R. 4103: Mr. LEVIN.

H.R. 4116: Mr. EVERETT, Mr. COOPER, Mr. WAMP, Mr. DAVIS of Tennessee, Mrs. BLACKBURN, Mr. TANNER, Mr. CHABOT, Mr. BACHUS, Mr. LEWIS of Kentucky, Mr. DUNCAN, Mr. ROGERS of Kentucky, Mr. SHAW, Mr. WHITFIELD, Mr. ADERHOLT, Mr. PICKERING, Mr. SHIMKUS, Mr. MCKEON, Ms. JACKSON-LEE of Texas, Mr. MICA, Mr. FOLEY, Mr. WELDON of Florida, Mr. STEARNS, Mrs. EMERSON, Mr. MCINNIS, Mr. CRENSHAW, Mr. SIMPSON, Mr. MARIO DIAZ-BALART of Florida, Mr. SWEENEY, Mr. MCINTYRE, Mrs. MUSGRAVE, Ms. HARRIS, Mr. BALLANCE, Mr. KENNEDY of Minnesota, Mr. PORTMAN, Mr. CHOCOLA, Mr. GILLMOR, Mr. BURR, Ms. DUNN, Mr. MANZULLO, Mr. GIBBONS, Mr. NETHERCUTT, Mr. NEUGEBAUER, Mr. MORAN of Kansas, Mr. HOEKSTRA, Mr. RYAN of Wisconsin, Mr. BLUNT, Mr. BOOZMAN, Mr. COBLE, Mr. GREEN of Wisconsin, Ms. GRANGER, Mr. TIAHRT, and Mr. GUTKNECHT.

H.R. 4120: Mr. GEORGE MILLER of California.

H.J. Res. 72: Mr. STARK, Mr. MILLER of North Carolina, and Mr. OWENS.

H.J. Res. 83: Mr. NADLER.

H. Con. Res. 111: Mr. RANGEL and Ms. LORETTA SANCHEZ of California.

H. Con. Res. 200: Mr. SNYDER.

H. Con. Res. 314: Ms. BORDALLO.

H. Con. Res. 321: Mr. BISHOP of New York.

H. Con. Res. 332: Mr. CAMP and Mr. YOUNG of Alaska.

H. Con. Res. 336: Mr. WOLF and Mr. MCCOTTER.

H. Con. Res. 360: Mrs. CHRISTENSEN, Mr. THOMPSON of Mississippi, Ms. LEE, Mr. RANGEL, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. OWENS, Mrs. JONES of Ohio, Ms. WATERS, Mr. SCOTT of Virginia, Ms. CORRINE BROWN of Florida, Ms. NORTON, Ms. CARSON of Indiana, Mr. FRANK of Massachusetts, Mr. FORD, Mr. FATTAH, Ms. JACKSON-LEE of Texas, Mr. DAVIS of Illinois, Ms. KAPTUR, and Mr. CONYERS.

H. Con. Res. 366: Mr. UDALL of New Mexico, Mr. HOYER, Ms. WOOLSEY, Mr. VAN HOLLEN, Ms. MCCOLLUM, Mr. BOUCHER, and Ms. LORETTA SANCHEZ of California.

H. Con. Res. 367: Mr. HAYWORTH.

H. Con. Res. 371: Mr. GORDON and Mr. YOUNG of Alaska.

H. Con. Res. 375: Mr. BELL, Mr. BISHOP of New York, and Mr. VAN HOLLEN.

H. Con. Res. 384: Mr. ACKERMAN, Mr. MCDERMOTT, Mr. BROWN of Ohio, Mr. PAYNE, Mr. EMANUEL, Mr. OWENS, Mr. WEXLER, and Mr. BRADY of Pennsylvania.

H. Con. Res. 390: Mr. WEXLER and Mrs. MCCARTHY of New York.

H. Con. Res. 392: Mr. MCGOVERN and Mr. THOMPSON of Mississippi.

H. Con. Res. 396: Mr. BLUMENAUER and Mr. NADLER.

H. Res. 112: Mr. GREEN of Texas, Mr. FROST, Mr. KENNEDY of Rhode Island, and Mr. OWENS.

H. Res. 387: Mr. ANDREWS.

H. Res. 466: Ms. ROS-LEHTINEN, Mr. VAN HOLLEN, and Ms. LINDA T. SÁNCHEZ of California.

H. Res. 543: Mr. VAN HOLLEN.

H. Res. 550: Mr. FILNER.

H. Res. 556: Mr. ACEVEDO-VILÁ and Mr. FROST.

H. Res. 570: Mr. RUSH, Ms. LOFGREN, and Mr. TOWNS.

H. Res. 572: Mr. NADLER.

H. Res. 575: Mr. RAMSTAD and Ms. LOFGREN.

H. Res. 579: Mr. COSTELLO.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 5 by Mr. HILL on House Resolution 534: ADAM SMITH.

Petition 6 by Mr. TURNER of Texas on House Resolution 523: DENNIS A. CARDOZA and DENNIS J. KUCINICH.

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Senate

The Senate met at 9 a.m. and was called to order by the Honorable JOHN WARNER, a Senator from the State of Virginia.

PRAYER

The visiting chaplain, Rev. Bill Jeschke, The Kings Chapel, Vienna, VA, offered the following prayer:

Let us pray.

O God, our strength and our redeemer, please give these, Your servants, the wisdom to know right and the grace to do it. Apart from You, we can do nothing; but by Your empowerment, we can do all things.

Give them strength for this great adventure, the sober service of directing this Senate into Your paths and ways. Help them to be fountains of blessing to our dear people and Your beloved world.

We pray that they will be committed to their sacred duty, and trust that through them You will accomplish Your wise purposes for our country.

We pray this in Your wonderful Name.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant journal clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 2, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN WARNER, a Senator from the State of Virginia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. WARNER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in for a period, briefly, for morning business. As I stated last night in closing, there will be no rollcall votes during today's session.

I also mentioned in closing last night some of the important issues that need to be addressed that will be considered next week. One of those bills is the Pregnancy and Trauma Care Access Protection Act of 2004. I have repeatedly stated my concern about the current liability system and the fact that physicians are having to leave regions and States and even leave the practice of medicine altogether. That has a direct impact on care for women who are about to deliver children, as well as trauma services and specialty physicians.

We absolutely must find a way to achieve appropriate tort reform and bring common sense back into our court system. Having said that, I hope the Senate can begin the debate on this issue.

PREGNANCY AND TRAINING CARE ACCESS PROTECTION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 462, S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

CLOTURE MOTION

Mr. FRIST. Mr. President, with that objection, I now move to proceed to the consideration of S. 2207, and I will send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant journal clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 462, S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such service.

Bill Frist, Orrin Hatch, Judd Gregg, John Ensign, Lamar Alexander, Peter Fitzgerald, Larry Craig, John Cornyn, Robert Bennett, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James Inhofe, Kay Bailey Hutchison, George Voinovich, Charles Grassley.

Mr. FRIST. Mr. President I now ask unanimous consent that the live quorum under rule XXII be waived, and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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further that notwithstanding rule XXII the vote on the motion to invoke cloture occur at 2:15 on Wednesday, April 7.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. FRIST. Mr. President, I now withdraw my motion.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

Mr. FRIST. Mr. President, over the course of the morning, we will be continuing our discussions on how best to proceed with the JOBS bill, the manufacturing tax bill on which we spent part of last week and this week. Those discussions will continue, and we will be addressing that issue, I hope, in the next week. Medical liability we will be addressing next week.

Discussions continue to go on with regard to the budget, which is in conference. Those conferees were mentioned on the floor of the Senate. We passed the budget under Senator NICKLES' leadership. It was the earliest budget ever passed in this particular body. It is now in conference. I look forward to the product of those conferees at some appropriate time.

As my colleagues know, we have, under the regular order, 10 hours of debate on that before we will be voting on the budget itself.

Next week, we will be voting—and I will talk about this later—on Wednesday and Thursday. This will allow appropriate observance for Passover in preparation for the recess, which will be the following week.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The distinguished Senator from Michigan.

Mr. LEVIN. I thank the Chair.

STRATEGIC PETROLEUM RESERVE

Mr. LEVIN. Mr. President, earlier this week the OPEC cartel announced it would reduce oil production by 1 million barrels of oil per day starting April 1. This move is designed solely for one purpose: to keep pushing up oil prices in the United States and other oil-consuming countries.

Most energy experts say that given current inventory levels in the United States and elsewhere and current consumption rates, OPEC's cuts mean that gasoline prices will likely stay high, hurting American families; jet fuel prices will stay high, hurting our airlines; and diesel fuel prices will stay high, hurting our truckers, manufacturers, and farmers.

As OPEC was planning this price hike, what was the response of the administration? Just a few days before, the Secretary of Energy stated he was not about to go begging for oil.

One step we should take immediately to counteract high prices and OPEC's action is to stop filling our Strategic Petroleum Reserve. This month, the administration is going to put about 200,000 barrels per day of oil into the Strategic Petroleum Reserve. If OPEC's cuts are distributed equally among its customers, this is about how much the OPEC cut will reduce U.S. supplies. Since the U.S. imports about 20 percent of OPEC's output and OPEC plans to cut production by about 1 million barrels per day, about 200,000 barrels per day will be the reduction in the supply to the United States.

Holding off additional deposits into the Strategic Petroleum Reserve would keep about as much oil on the U.S. oil market as OPEC is taking off our market. One way to fight back is to cancel these additional deposits which will otherwise go into the Strategic Petroleum Reserve, which is already 93-percent filled.

Mr. President, 200,000 barrels per day is a lot of oil. It is as much oil as is produced in several of our major oil-producing States. For instance, Oklahoma produces about 180,000 barrels a day. It is about as much as we import from Kuwait. Last year we imported about 205,000 barrels per day from Kuwait.

Over time, 100,000 to 200,000 barrels per day adds up to a significant amount of oil. Over the course of the next year or so, these daily fills will add up to about 50 million barrels of oil. In other words, over the next year or so, the Department of Energy, if it sticks to its plan to continue to fill the Strategic Petroleum Reserve to 100 percent, the DOE will take about 50 million barrels of oil off the market and put them into the Strategic Petroleum Reserve.

If we keep that oil in the market, in the private sector, we would get both short-term and long-term benefits. The day after the Senate passed the amendment which I offered with Senator COLLINS to cancel the planned delivery of 50 million barrels of oil into the Strategic Petroleum Reserve, prices on the New York and London crude oil exchanges fell by more than $1, just on the news that the Senate had acted, even before anyone knew whether the House would follow suit. Prices rose back to their previous levels when the Department of Energy and some key Members of Congress said that the DOE should keep putting that oil into the Strategic Petroleum Reserve.

The market's reaction to the news that the Strategic Petroleum Reserve deliveries might be canceled is good evidence of how the market will react to the cancellation of those deliveries. We should listen to what the market is telling us. Keeping 50 million barrels of oil on the market rather than putting them into the reserve will enable our private sector inventories to build back to normal levels. They have not been at normal levels for some time now. They have been well-below normal and recently fell to historic lows.

If we restore those private sector inventories, this will reduce prices substantially, and most experts agree that absent some type of additional supplies in the market, oil and gas prices are going to stay very high.

I want to make it clear that we are not proposing removing oil from the Strategic Petroleum Reserve at this time. What we are talking about is simply to stop putting even more oil into the reserve which is already 93 percent of capacity.

The administration says the daily addition is too small to make a difference in the price of oil. This is wrong for two reasons.

First, the amount the DOE is putting into the reserve each day is a lot of oil. Second, the administration's position ignores the long-term effect of putting these barrels of oil into the Strategic Petroleum Reserve—and this is the DOE's own staff I am going to quote. This is what DOE's own staff said:

> Essentially, if the reserve inventory grows, and OPEC does not accommodate that growth by exporting more oil, the increase comes at the expense of commercial inventories. Most analysts agree that oil prices are directly correlated with inventories, and a drop of 20 million barrels over a 6-month period can substantially increase prices.

In fact, commercial inventories did fall on average by 20 million barrels in each of the three successive 6-month periods following the DOE staff's warning.

The Department of Energy's own staff who operates the Strategic Petroleum Reserve recommended against buying more oil for the Strategic Petroleum Reserve in tight markets.

In the spring of 2002, as prices were rising and inventories in the private sector were falling, this is what the Department of Energy staff warned:

> Commercial petroleum inventories are low, retail product prices are high and economic growth is slow.

This is DOE staff's bottom line:

> The Government should avoid acquiring oil for the Reserve under these circumstances.

> Commercial petroleum inventories are low,—

They are still at an all-time low.

> retail product prices are high—

They are at an all-time high now.

> and economic growth is slow.

And it does continue to be sluggish. This is what their bottom line is:

> The Government should avoid acquiring oil for the Reserve under these circumstances.

The administration chose to ignore those warnings. The reserve deliveries proceeded, and just as the DOE staff predicted, supplies tightened and prices climbed.

The administration continues to ignore the advice of these experts at the reserve, and American consumers are paying the price.

A wide variety of experts outside the Department of Energy has stated that

filling the reserve during tight oil markets increases oil prices. This January, Goldman Sachs, which is the largest crude oil trader in the world, said the following:

> Government storage builds will provide persistent support to the markets—

meaning filling the reserve pushes prices up, and

> Government increases in storage lowered commercially available petroleum supplies.

Bill Greehey, who is the chief executive of Valero Energy, the largest independent refiner in the United States, has criticized the administration for filling the reserve when commercial inventories were low, thereby preventing increases in the commercial inventories.

Last September, when oil prices were at $29 a barrel, Greehey complained the reserve program was diverting oil from the marketplace. Here is what he said:

> If that was going into inventory, instead of the reserve, you would not be having $29 oil, you'd be having $25 oil. So, I think they've completely mismanaged the strategic reserve.

Now that is the chief executive of the largest independent refiner in the United States.

One of the top energy economists in the country, Phil Verleger, estimates the reserve program has added $8 to $10 to the price of a barrel of oil.

Economist Larry Kudlow said:

> Normally, in Wall Street parlance, you're supposed to buy low and sell high, but in Strategic Petroleum Reserve actions, we're buying higher and higher and that has really helped keep oil prices high.

Now that is from a conservative economist.

In an article explaining why oil prices are so high, a recent issue of the Economist reported the following:

> Another factor . . . propping up oil prices may be what [a] trader calls ''supply disruption risk.''

Here is what the Economist went on to say:

> These worries have, in part, been fueled by a most unexpected source, the American government. Despite the high prices, American officials continue to buy oil on the open market to fill their country's strategic petroleum reserves. Why buy, you might ask, when prices are high, and thereby keep them up? The Senate has asked that question as well. It passed a nonbinding resolution this month calling on the Bush administration to stop SPR purchases, but Spencer Abraham, the Energy Secretary, has refused.

In January, the Petroleum Argus, an energy industry newsletter, stated the following:

> The act of building up strategic stocks diverts crude supplies that would otherwise have entered the open market. The natural time to do this is when supplies are ample, commercial stocks are adequate and prices low. Yet the Bush administration, contrary to this logic, is forging ahead with plans to add [more oil] to the stockpile.

After the Senate passed our amendment that said we should hold off further purchases, Todd Hultman, who is president of Dailyfutures.com, a commodity research provider, was quoted as saying the amendment:

> . . . makes good sense and is designed to make more crude oil available at a time when unleaded gasoline prices have been making new record highs.

Last summer, Dr. Leo Drollas, chief economist at the Centre for Global Energy Studies, criticized the Strategic Petroleum Reserve program:

> They've continued filling the reserve, which is crazy, putting the oil under the ground when it is needed in refineries.

Now that is why the Senate, with support from both Republicans and Democrats, recently approved an amendment, which I offered with Senator COLLINS, to stop Strategic Petroleum Reserve shipments, sell the oil that would have been placed in the reserve and use the money from those sales for important homeland security programs.

Fifty-three House Members, 39 Republicans and 14 Democrats, recently wrote the President requesting a suspension of SPR petroleum reserve shipments. The House letter states the following:

> Filling the SPR, without regard to crude oil prices and the availability of supplies, drives oil prices higher and ultimately hurts consumers.

The administration still chooses to ignore common sense and it adds oil to the Strategic Petroleum Reserve, no matter how high the price or how tight the supply of oil.

Even though this discussion is about suspending additional deposits into the Strategic Petroleum Reserve when prices are high and private and commercial inventories are low, I would like to comment on a misimpression regarding what happened the last time the Strategic Petroleum Reserve was actually used to release oil. Again, we are now shifting the discussion from talking about not putting more oil to the reserve to what happened last time we took oil out of the reserve. This is what happened during the Clinton administration when 30 million barrels were taken from the reserve and put on the private market. This was in September of the year 2000. Here is what the Washington Post recently stated:

> The last time an administration tapped the Strategic Petroleum Reserve, the impact on price was negligible. When President Bill Clinton ordered the sale of 30 million barrels of oil on September 22, 2000, the average price of regular gas had climbed to more than $1.56. By October 24, when the oil began to hit the market, prices had slipped one penny, according to the Energy Department's Energy Information Administration.

Well, that statement is highly misleading because it omits critical information. Here is the full story: On September 22, 2000, with crude oil prices at $37 a barrel, home heating oil stocks at historic lows and winter around the corner, President Clinton ordered the release of 30 million barrels from the Strategic Petroleum Reserve. Within a few days of the announcement of the release, crude oil prices had fallen by $6 a barrel. Within a week, home heating oil prices fell by 10 cents per gallon. Within 2 weeks, wholesale gasoline prices had fallen by 14 cents per gallon.

So what the statement omitted is what happened to oil and gas prices immediately after the order for the release of that 30 million barrels from the Strategic Petroleum Reserve. There was an immediate impact downward on gasoline prices, wholesale prices for home heating oil, in the amounts of 10 cents a gallon for home heating oil and 14 cents a gallon for gasoline. So the statement that gasoline prices on October 24, a month later, were only a cent lower than on September 22 omits the critical information that oil and gasoline prices fell significantly immediately after the release but then rose later due to unrelated events in the Middle East.

Two weeks after the release, crude oil prices were still $6 per barrel lower than the prerelease prices and wholesale gasoline prices were 14 cents per gallon lower. Only when a wave of violence hit the Middle East during the third week after the release did gasoline prices rise to their prerelease levels.

So the release of 30 million barrels of reserve oil during the Clinton administration did have a significant, immediate effect on oil and gas prices downward.

Just as taking oil out of the reserve can significantly affect prices, putting oil into the reserve can have a significant effect as well. That is what is going on now. The administration should listen to its energy experts and the economists and stop adding oil to the Strategic Petroleum Reserve which is already 93 percent full. The result will be lower oil and gasoline prices, a welcome relief to American consumers, manufacturers, and airlines.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

REPORT ON JOBS

Mr. MCCONNELL. Mr. President, today is spin day in Washington. As the first Friday of the month, we just received a report on jobs this morning. The report shows the unemployment rate is little changed at 5.7 percent. But some 308,000 new jobs were added last month, the most in 4 years, and about 3 times more than Wall Street predicted.

Over the past year, we have added three-quarters of a million new jobs. But since this is an election year, we will hear some say this jobless rate today is a disaster. In fact, the number is irrelevant. Whatever number came out today, some are prepared to spin it as a disaster. Why? Well, I think we all know this is an election year, and one

party can't win the White House if the economy is doing well. Therefore, the ''sky is falling'' crowd has to spin the wheel of misfortune, telling us good news is in fact bad news. They are going to try to convince us good news is really bad news. It is a sort of newspeak approach. But it is not that easy.

This town is full of people very experienced when it comes to putting lipstick on a pig. But this is different. This is like scribbling a mustache on the Mona Lisa. It is not so easy, but it can be done. For example, you can do it if you first ignore all of the facts around you—just ignore them all. Next you have to ignore your own past claims that the same fact was a good fact. Lastly, you have to search very hard to find a dark lining in the silver clouds, take that one fact and wrap some blue-in-the-face hyperbole around it, and repeat it day after day after day until anyone hearing it turns blue, too.

The reason you can keep repeating that scratched, warped record is because it may be the only sad song you can play. The simple facts, the overwhelming weight of facts, are on the President's side.

First, the U.S. has had the strongest economic growth of any modern economy over the past 12 months. Let me repeat that. The United States—our country—has had the strongest economic growth of any modern economy over the past 12 months. Our 4.3-percent economic growth rate is the best economic performance in the world. But we are told this stunning success is bad, that somehow the best is the worst.

Absolutely wrong. The U.S. economy is the best. This chart illustrates the point. It compares the U.S. growth rate over the last 12 months—this line—with Australia, Japan, Britain, Spain, Sweden, Canada, Belgium, Austria, France, euro area, Denmark, Germany, Italy, Switzerland, and Netherlands. It compares to all of the industrialized world. We had dramatically better growth than any other country. The only one close to us is Australia.

Not only did we do well over the last 12 months, but what is projected? The U.S. is projected to have the strongest economic growth among developed countries in the next year.

So let's look ahead at the projections. The consensus of international economists, as reported in the Economist, indicates the U.S. will have 4.7 percent growth this year. While far and away the best projection for growth in the industrialized world, we are told that somehow here at home the worst is yet to come. Look at the projections.

Over the next year, we are projected to have the strongest GDP growth of any country in the industrialized world. But they will continue to try to convince us that the best is not here.

The U.S. jobs record compared to other modern economies is indeed reason for optimism, in fact even pride. Not only is there reason for optimism, there is reason for pride. America has an unemployment rate almost one-third less than that of Europe's, with 5.7 percent here, 8.8 percent in Europe. We have an unemployment rate that is one-third less than Europe. Of all the European nations, only the three EU members have a local unemployment rate lower than the national unemployment rate in the U.S. So the U.S. jobs record is the best of Europe, Australia, and Canada. The U.S. jobs record is the best of any of these industrialized nations—any of them. Ours is better.

Next, let's compare America's job record today to that of our own past, because we have heard a lot of discussion about our economy today versus what it used to be like in the ''good old days,'' as they say.

It is clear that America is on a course to have the best jobs decade in half a century, the decade we are currently in. Right now, America is poised to experience the best decade, in terms of the unemployment rate, in 50 years. The decade we are in now is likely to be the best, in terms of unemployment, in 50 years.

We are halfway to the best jobs decade in half a century. From 2000 to 2004, it was 5.2 percent. Looking at the same first 4 years in the previous decade, it was 6.6 percent. The first 4 years in the 1980s, it was 8.3 percent. Look at the first of the 4 years in the 1970s, when it was 5.4 percent. In the first 4 years in the 1960s, it was 5.7 percent. Back in 1950 to 1954, it was 4 percent.

So we are on the way to having the best jobs decade in the last 50 years. Again, some will try to convince the American people that things are not going well. If the unemployment rate for 2004 stays around 5.7 percent for the year—no improvement at all but no worsening—then the unemployment rate for the period of 2000 to 2004 will be 5.2 percent. How does that compare to the jobs performance in the first half of the previous decade? I just went over it. We are in the process of having the best first half of the decade in terms of jobs performance in the last 50 years.

But, again, we are told that somehow the best is the worst. The sky is falling crowd is wrong again. The best is still the best. It is funny how they thought the best was the best not long ago.

For example, in 1996, another election year, we had some around here who thought a 5.6-unemployment rate was something to crow about. They were happy about it. Back in 1996, when we had an incumbent President running in the other party and the unemployment rate was about what it is today, they were crowing about it.

When the unemployment rate was 5.6 percent under President Clinton in 1996, Senator KERRY said:

> Unemployment is down. The economy is doing well.

He said that in 1996 when we had essentially the same unemployment rate we have today.

Also that year, Senator KERRY was bragging about the fact that ''unemployment is the lowest in the industrial world,'' when it was essentially what it is today. He was bragging about it then; this was terrific then but it is not so good today.

When the unemployment rate was at 5.6 percent under President Bush, Senator KERRY said:

> The fact is that Americans are worse off.

He said:

> The bottom line is, for America's workers, there is no ''greater prosperity'' under George Bush.

These comments were made when the unemployment rate was 5.6 percent, just recently. These other comments were made when the unemployment rate was 5.6 percent and President Clinton was running for reelection in 1996. The same individual, looking at the same unemployment figure, one time acted as if it is something to applaud, and next suggested the country is going to heck in a handbasket.

It is kind of funny how they thought the best was the best not so long ago. As I just said, in April of 1996, Senator KERRY said:

> Unemployment is down. The economy is doing well.

He praised the economy, saying unemployment was the lowest in the industrialized world. That is what he said when unemployment was at 5.6 percent in April of 1996. But now, facing the same facts in the last week or two, it is somehow not good news.

So when unemployment is 5.6 percent under a Democratic President, Bill Clinton, it is the best of times; when it is 5.6 percent under President Bush, it is the worst of times.

That is just spin: 5.6 percent is the worst of times under George Bush; 5.6 percent is the best of times under Bill Clinton. It is just Washington spin.

Does anyone not have any memory around here? Today we will hear the same debate but with a different number. The unemployment rate edged up to 5.7 percent. We will hear that a 5.7 percent unemployment rate was good back then but bad now. So why is a 5.7 percent unemployment rate good then and bad now?

They claim millions of jobs have been lost since President Bush took office, creating, as you have heard them say, the worst performance since the Great Depression. Think of that. They believe today is like the Great Depression.

In 1937, Franklin Roosevelt stated:

> I see one-third of our Nation ill housed, ill clad, and ill nourished.

Yet we are told that today, when home ownership is the highest ever recorded—home ownership is the highest ever recorded—when the poverty rate is the fourth lowest in a quarter century, and when we have the strongest economy in the developed world, we are practically in a Great Depression.

On what single fact do they hang this utterly absurd charge? Actually, they don't have a fact but, rather, they have a survey of business establishments.

That survey suggests that from March 2001 to February 2004, payroll jobs are down by 2.5 million.

Of course, another survey of jobs, the household survey, says that we have more jobs now than at any time in our history, 138 million jobs—138 million jobs—the most in our history under the household survey. We have not lost jobs by this measure; we have gained jobs, half a million jobs more than at any time in American history, leading to the question: Which survey is right?

Let's look at the statistical abstract for 2003. If you look at this abstract, which is the final word on facts and statistics in America, you will not see the measure showing job loss. Instead, the statistical abstract uses the job measure that says the U.S. today has the most jobs ever in our entire history.

This is the Economic Report of the President. Whether it is the report of a Democratic President or a Republican President, this report uses the job measure that says the U.S. today has the most jobs ever.

If you look at the unemployment rate announced today by the Labor Department, the unemployment rate calculation by that Department and repeated by every newspaper, TV, and radio, uses the job measure that says the U.S. has the most jobs ever—the most jobs ever—in our history.

If you ask the farmer, if you ask the self-employed worker, the private household worker, the domestic servant, or the family-run business, they are part of the job measure that says the U.S. has the most jobs ever—the most jobs ever.

These workers, roughly some 8 million and some of the hardest working in our country, the ''sky is falling crowd'' does not count these workers under the measure they use. We think they work for a living. My friends across the aisle apparently do not.

So, you can make this absurd charge about job losses if you ignore the statistical abstract, if you ignore the Presidential reports, if you ignore the Department of Labor's unemployment rate, and if you ignore 8 million workers, but after all is said and done, after we have all revved up the spin machine so that we are all dizzy, after all this is over, we are going to have an election. On that day, all the spinning will stop, and the American people will decide. They will decide if America is closer to the worst of times—the ''sky is falling crowd'' claim—or nearer to the best of times, as the facts suggest. I look forward to the day all the spin is set aside.

The unemployment rate today is a good number. We would like for it to get even better, but it is a good number. It is the same good number as in 1996 when President Clinton was bragging on it. It is the same good number as in 1996 when Senator KERRY was bragging on it. So I can say despite our challenges, despite 9/11 and recessions, stock crashes and corporate scandals, our economy is strong, our security is rising.

Challenges remain, of course. We will not rest until everyone who wants a job can find a job. But for America, have no doubt about it, the best is yet to come. It is not behind us; it is ahead of us. I think the facts are compelling that the economy is good and getting better.

I yield the floor.

The PRESIDING OFFICER. The minority whip.

JOBS

Mr. REID. Mr. President, for 38 months, the Bush administration has had job loss. We join in the celebration that we have had jobs created, and the President during the next 7 months until the election will have to create another 2.5 million jobs to not be known as the only President since Herbert Hoover who created no private sector jobs. So he has 2.5 million more jobs to go, and we hope that he beats Herbert Hoover's record.

Let me also say, the numbers that came out today indicate the unemployment rate went up this month. It was not stable. It went up. It went up from 5.6 percent to 5.7 percent. This number is not an irrelevant number.

I will also say that when Senator KERRY spoke, of course, he was dealing with what took place in the Clinton years. When President Clinton took office from President Bush 1, the unemployment rate was 7.4 percent. During President Clinton's administration, as a result of the very difficult deficit reduction vote that took place in 1993 where not a single Republican voted in the House or the Senate for the deficit reduction plan, the deficits disappeared and unemployment dropped downward significantly, from 7.4 percent to 4 percent. That is where we were when this man, the President of the United States George Bush, took office. Senator KERRY was talking about how good things were when it was 5.4 percent because it had dropped 2 percent from Bush 1 to Clinton 1.

The number of people unemployed in America today—5.7 percent—is not irrelevant. It is not irrelevant to the millions of Americans who are out of work. So many are out of work. The unemployment rolls are around 9 million or 10 million, but there are millions no longer listed on the unemployment rolls because they are taken off after they are unemployed for such a long period of time. The average time a person is unemployed in America today is almost 1 year. I do not think we should be doing high-fives out here.

I join with my friend, the senior Senator from Kentucky, in talking about it is good we have had for the first time in a long time a significant rise in the number of employed. But we have to go forward because during this President's term of office, we will have to gain about 2.5 million more jobs for him not to be considered a President in the same category as Herbert Hoover.

Speaking of ignoring past claims, the administration, as we know, claimed there would be millions of jobs created with these tax cuts, and we have lost jobs. Let me also say this: Of course, there are more jobs now than there were because we have millions more people in this country today. That is the reason.

As happy as we are with the creation of new jobs last month, let's understand we have a long way to go. We have gas prices that are high. Nevada has the second highest gas prices in America. We have to focus on the fact that we had nine Americans killed in Iraq yesterday. We have to focus on the fact that the number of dead in Iraq is now over 600. We have to focus on the fact now that casualties in Iraq are more than 3,500, with people missing arms, legs, and being paralyzed.

So we still have lots of problems. I have no doubt, and I join with my friend from Kentucky, about the greatness of America. We believe in the greatness of America, but as legislators we also believe we have an obligation to make our country even greater. That is why we think it is wrong that 8 million Americans are not going to be able to have overtime under the Bush rule that has been promulgated. We also think it is wrong that people who are on minimum wage are not going to get an increase as other people in America are getting. We think that is important. We also believe those people who are going off the unemployment rolls every week deserve extended unemployment benefits, as was done during the Reagan administration and during the first Bush administration.

So there is a lot of work we have to do. I hope next month we can again be talking about the increased jobs. Certainly it is something we should be happy about.

CBO REPORTS

Mr. DOMENICI. Mr. President, at the time Senate Report No. 108–236 Harpers Ferry National Historical Park Boundary Revision Act of 2003 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report which is now available be printed in the CONGRESSIONAL RECORD for the Information of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 25, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1576, the Harpers Ferry National Historical Park Boundary Revision Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them.

The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1576—Harpers Ferry National Historical Park Boundary Revision Act of 2003

S. 1576 would expand the boundary of the Harpers Ferry National Historical Park in West Virginia by about 1,240 acres. The bill would authorize the National Park Service (NPS) to acquire the added acreage by purchase, donation, or exchange, except that lands that are already owned by the federal government would be acquired by transfer. Finally, the bill would authorize the appropriation of whatever amounts are necessary for these purposes.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1576 would cost the federal government about $5 million over the next year or two. Of this amount, we estimate that $4 million would be used to purchase about 190 acres of private property, and $1 million would be used to develop that land. The remaining acreage that would be added to the park is either already owned by the federal government or would be donated by the nonprofit Civil War Preservation Trust. CBO estimates that additional costs to operate and maintain those additional lands would be less than $200,000 a year. This estimate is based on information provided by the NPS.

S. 1576 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. DOMENICI. Mr. President, at the time Senate Report No. 108–230 Fort Donelson National Battlefield Expansion Act of 2004 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report which is now available be printed in the CONGRESSIONAL RECORD for the information of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 26, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 524, the Fort Donelson National Battlefield Expansion Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll, who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 524—Fort Donelson National Battlefield Expansion Act of 2004

S. 524 would expand the boundary of the Fort Donelson National Battlefield, a historic Civil War site located in Calloway County, Kentucky. The bill would authorize the Secretary of the Interior to acquire lands to include in the battlefield by purchase, donation, or exchange. Finally, the bill would direct the Secretary of the Interior and the Secretary of Agriculture to enter into a memorandum of understanding to protect and interpret Fort Henry, a nearby Civil War site administered by the Forest Service.

According to the National Park Service (NPS), most of the lands to be added to the battlefield would be donated by the state of Kentucky, Calloway County, and the West Kentucky Corporation. Assuming the availability of appropriated funds, we estimate that first-year costs to acquire additional lands, hire staff, and purchase equipment for the expanded battlefield would total about $1.2 million. We also estimate that future operational costs would total $1 million annually. Finally, we estimate that the NPS and the Forest Service would spend less than $100,000 annually to enhance interpretation services at Fort Henry.

S. 254 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs incurred by the state of Kentucky or local governments in that state to acquire land for the park would be voluntary.

The CBO staff contact for this estimate is Megan Carroll, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

THE DANGERS OF FIFTY CALIBER SNIPER RIFLES

Mr. LEVIN. Mr. President, two weeks ago, the Violence Policy Center released a report rebutting a number of assertions made by the Fifty Caliber Institute about the civilian sale of .50 caliber anti-armor sniper rifles.

The .50 caliber sniper rifle is among the most powerful weapons legally available. According to the Violence Policy Center's report, a .50 caliber sniper rifle is capable of accurately hitting a target over 1,500 yards away, and the ammunition available for the .50 caliber includes armor-piercing, incendiary, and explosive bullets. The report also cites the U.S. Army's manual on urban combat, which states that .50 caliber sniper rifles are designed to attack bulk fuel tanks and other high-value targets from a distance, using ''their ability to break through all but the thickest shielding material.''

One of the most disturbing parts of the report quotes a brochure from the leading manufacturer, Barrett Firearms, advertising the .50 caliber sniper rifle.

The Model 82A1 is designed to provide extreme accuracy at extended ranges with standard military ammunition. . . . The accuracy of the Model 82A1 makes possible the placement of the shot in the most vulnerable area of the target. The compressor sections of jet engines or the transmissions of helicopters are likely targets for the weapon, making it capable of destroying multi-million dollar aircraft with a single hit delivered to a vital area. The cost-effectiveness of the Model 82A1 cannot be overemphasized when a round of ammunition purchased for less than 10 USD [U.S. Dollars] can be used to destroy or disable a modern jet aircraft.

I believe that information detailing the potential destruction these weapons can cause should alert us to the dangers to airline safety, as well as homeland security. That is why I cosponsored Senator FEINSTEIN's Military Sniper Weapon Regulation Act, S. 429. This bill would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act. This would subject these weapons to the same regimen of registration and background checks as those weapons regulated under the National Firearms Act. This is a necessary and commonsense step towards assuring the safety of all Americans.

The .50 caliber sniper rifle is among the most powerful firearms legally available. Senator FEINSTEIN's bill presents us with a simple solution to improving their regulation, and I urge my colleagues to support it.

ADDITIONAL STATEMENTS

UNIVERSITY OF MICHIGAN WINS THE 2004 NATIONAL INVITATION TOURNAMENT

● Mr. LEVIN. Mr. President, last night the University of Michigan Wolverines defeated the Rutgers University Scarlet Knights 62–55 in the final game of the 2004 Men's Basketball National Invitation Tournament to complete a 23–11 season.

The win was even sweeter for the Wolverines as they defeated Rutgers before a crowd of 16,064, largely cheering for the Scarlet Knights, at Madison Square Garden in New York City. Throughout the season and particularly during the NIT, a vocal home crowd at Crisler Arena cheered Michigan to victory. Cheering their team through the first three games of the tournament, Michigan's fans were truly the team's sixth man.

For the season, Michigan won 16 of their 19 home games. Prior to the NIT, they had only won five of their 13 road games. Winning two games in Madison Square Garden proved the mettle of this young team that has relied heavily upon its many sophomores and freshmen. I know I speak for all of Michigan in extending my heartiest congratulations to University of Michigan men's basketball team on their championship. This was a hard fought victory and one that I'm sure Wolverines fans enjoyed immensely.

Twenty years ago, Bill Frieder coached a young Wolverines team that won the NIT Championship. That team used their championship as a springboard to greater success: in each of the next two years they won the Big Ten Championship. I am sure that Michigan Coach Tommy Amaker and his players have similar hopes for a program that has not been to a postseason tournament since 2000. This banner will be raised in the rafters of Crisler Arena next to the 1989 NCAA championship and the 1984 NIT championship banners.

For 68 years, the National Invitation Tournament has showcased some of the

greatest talents in college basketball and this year was no exception. Last night, players from both teams displayed their excellent training and hard work. Michigan was led by tournament Most Valuable Player Daniel Horton, who led Michigan with 14 points and Dion Harris who had 13 points.

Michigan opened a lead of 41–29, but a 15–2 Rutgers' run quickly nudged the Scarlet Knights in front, albeit briefly. The old adage ''the best offense is a good defense'' came true as Michigan constructed its win around a defensive strategy where defensive specialist Bernard Robinson, a senior whose leadership helped guide this young team, limited Rutgers' hot-shooting freshman to just two points.

In his third year with the Wolverines, Coach Amaker not only assembled the winning game plan, but also brought together a team that will consistently compete with any team in the nation. Last night's victory is testament to a team that worked hard to salvage its season and reputation. While individual performances by Robinson, Daniel Horton and Dion Harris played a key role in this game, Michigan's championship was a team effort that has helped restore the pride in the Michigan basketball program. I congratulate Coach Amaker and his team for their selfless efforts in putting University of Michigan basketball back on the national map.

I know my colleagues will join me in congratulating the University of Michigan men's basketball team on their victory, and I know we all look forward to next year when this team really comes of age.

Mr. President, I ask that the players and coaches names be printed in the RECORD.

The list follows:

Players: Lester Abram; John Andrews; Amadou Ba; Ashtyn Bell; Graham Brown; Colin Dill; Sherrod Harrell; Dion Harris; Daniel Horton; Chris Hunter; J.C. Mathis; Brent Petway; Bernard Robinson Jr.; Courtney Sims; Dani Wohl.

Coaches: Head Coach Tommy Amaker; Assistant Coach Charles E. Ramsey; Assistant Coach Chuck Swenson; Assistant Coach Andrew Moore.●

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 329. A resolution authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of the discovery of lethal ricin powder in the Senate Complex; considered and agreed to.

By Mr. WYDEN:

S. Res. 330. A resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries (''OPEC'') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 1730

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1730, a bill to require the health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1804

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1804, a bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes.

S. 2179

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2250

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 2250, a bill to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes.

S. 2267

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 329—AUTHORIZING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE TO ASCERTAIN AND SETTLE CLAIMS ARISING OUT OF THE DISCOVERY OF LETHAL RICIN POWDER IN THE SENATE COMPLEX

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 329

Resolved, Section 1. Payment of claims arising from the Ricin discovery.

(a) SETTLEMENT AND PAYMENT.—The Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, consider, and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the discovery of lethal ricin powder in the Senate Complex on February 2, 2004, or the related remediation efforts undertaken as a result of that discovery; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) FILING OF CLAIMS.—Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than July 31, 2004.

(c) USE OF CONTINGENT FUND.—Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

SENATE RESOLUTION 330—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD COMMUNICATE TO THE MEMBERS OF THE ORGANIZATION OF PETROLEUM EXPORTING COUNTRIES (''OPEC'') CARTEL AND NON-OPEC COUNTRIES THAT PARTICIPATE IN THE CARTEL OF CRUDE OIL PRODUCING COUNTRIES THE POSITION OF THE UNITED STATES IN FAVOR OF INCREASING WORLD CRUDE OIL SUPPLIES SO AS TO ACHIEVE STABLE CRUDE OIL PRICES

Mr. WYDEN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 330

Whereas the United States currently imports the majority of its crude oil;

Whereas ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is a continuing critical objective of United States foreign and economic policy for the foreseeable future;

Whereas the 11 countries that make up the Organization of Petroleum Exporting Countries (''OPEC'') produce 40 percent of the world's crude oil and control three-quarters of proven reserves, including much of the spare production capacity;

Whereas beginning in February 2004, OPEC instituted production cuts, which reduced production by 2,000,000 barrels per day and have resulted in dramatic increases in crude oil prices;

Whereas in February 2004, crude oil prices were around $28 per barrel and have steadily risen since then, exceeding $38 per barrel in March 2004, the highest prices in 13 years;

Whereas the increase in crude oil prices has translated into higher prices for gasoline and other refined petroleum products; in the case of gasoline, the increases in crude oil prices have resulted in a pass-through of cost increases at the pump to an average national price of $1.75 per gallon;

Whereas increases in the price of crude oil result in increases in prices paid by United States consumers for refined petroleum

products, including home heating oil, gasoline, and diesel fuel; and

Whereas increases in the costs of refined petroleum products have a negative effect on many Americans, including the elderly and individuals of low income (whose home heating oil costs have doubled in the last year), families who must pay higher prices at the gas station, farmers (already hurt by low commodity prices, trying to factor increased costs into their budgets in preparation for the growing season), truckers (who face an almost 13-year high in diesel fuel prices), and manufacturers and retailers (who must factor in increased production and transportation costs into the final price of their goods): Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President and Congress should take both a short-term and a long-term approach to reducing and stabilizing crude oil prices as well as reducing dependence on foreign sources of energy;

(2) to address the problem in the short-term, the President should communicate to the members of the Organization of Petroleum Exporting Countries ''OPEC'' cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that—

(A) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(B) the United States believes that restricting supply in a market that is in demand of additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(C) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world; and

(D) the United States seeks an immediate increase in the OPEC crude oil production quotas;

(3) the President should be commended for sending Secretary of State Powell to personally communicate with leaders of several members of the Organization of Petroleum Exporting Countries on the need to increase the supply of crude oil;

(4) to ameliorate the long-term problem of the United States dependence on foreign oil sources, the President should—

(A) review all administrative policies, programs, and regulations that put an undue burden on domestic energy producers; and

(B) consider lifting unnecessary regulations that interfere with the ability the United States' domestic oil, gas, coal, hydroelectric, biomass, and other alternative energy industries to supply a greater percentage of the energy needs of the United States; and

(5) to ameliorate the long-term problem of United States dependence on foreign oil sources, the Senate should appropriate sufficient funds for the development of domestic energy sources, including measures to increase the use of biofuels and other renewable resources.

Mr. WYDEN. Mr. President, the Reuters news service is reporting that Saudi Arabia, and their Foreign Minister specifically, have said in the last day or so they have not been contacted by the Bush administration over OPEC's decision to cut oil production once again. As a result, today I am introducing a resolution urging the President communicate to OPEC that oil production be increased, and I intend next week to ask for its immediate consideration.

I am very troubled by the comments of the Foreign Minister of Saudi Arabia. In fact, what Reuters has reported is the Saudi Foreign Minister was asked whether the United States had expressed its disappointment over OPEC's cut in production and the Saudi Foreign Minister said at the time:

I didn't hear from this Bush administration. I'm hearing it from you that they are disappointed.

This is very troubling. Up and down the west coast of the United States our constituents are getting mugged by high oil prices. We have to have an administration that is willing to put some heat on OPEC to step up oil production at a critical time, particularly as we move in this country to the high driving season. These high gasoline prices are devastating to consumers. They are going to be very harmful to our economy overall, particularly job production. It is consumer spending that is driving the Oregon economy, and if we continue to see our consumers shellacked with these high gasoline prices, it is going to be harder and harder for us to create family wage jobs and generate business growth.

I am hopeful my colleagues will support this resolution I am introducing today and which I am going to ask for immediate consideration of next week. The reason I am hopeful for such bipartisan support is this resolution, in terms of its substance, is identical to one introduced on February 28 of 2000, with our current Secretary of Energy, our friend Spencer Abraham, as one of the principal sponsors. Back then it was clear our colleagues thought it was important, particularly with influential Senators on the other side. Then the Senator from Michigan, Senator Abraham, also the chairman of the Finance Committee, Senator GRASSLEY, Senator SANTORUM, and a number of our distinguished colleagues were cosponsors of that legislation. The feeling was then it was important to put some heat on OPEC. It was important to make it clear it was the position of the Senate that OPEC boost production.

Of course, that is what then-candidate George W. Bush said, that it was important to boost oil production. Yet with the comments of the Saudi Foreign Minister in the last day or so, I think it is very clear at best it is not a case of getting a full court press, in terms of this administration, on Saudi Arabia and on OPEC.

I will tell you, if ever there was an administration that had some bargaining chips to play with Saudi Arabia in terms of boosting oil production, it is certainly this administration. If you look at what happened after 9/11, in terms of people being helped out of the country, various issues with respect to declassifying Government documents, it is very clear Saudi Arabia has been treated pretty darned well by this administration. If ever there was an administration that had some bargaining chips to play in terms of trying to get OPEC to increase oil production, it is certainly this administration. Yet the Saudi Foreign Minister has said, just in the last day, he wasn't even contacted by the Bush administration with respect to oil production.

Let me also say there are some other troubling signs, and why I feel so strongly about the Senate next week passing the resolution I am introducing. When Secretary Powell was in Saudi Arabia about 2 weeks ago, he also had a chance to talk about the oil crunch and how it is so harmful to American consumers. The press release that came from the U.S. Information Agency—this is again another document coming from our Government—indicated the Secretary and the Crown Prince and Foreign Minister talked about a variety of subjects, terrorism and governmental reforms, but nothing was said about oil prices. What we have, and I have said this before, is OPEC is going to stick up for OPEC. OPEC is not going to stick up for the American consumer. If you think OPEC is going to stick up for the American consumer, then you think Colonel Sanders is going to stick up for the chickens. It is not going to happen. It is the job of our administration to stick up for the consumer, and when the Saudi Foreign Minister says he hasn't even been contacted, that he heard from reporters the administration was disappointed, that is not good enough. It is not good enough for my constituents where consistently we are paying some of the highest prices for gasoline in our country, where we faced anticompetitive practices like redlining and zone pricing for years. It is not good enough where you have a situation such as we have in Bakersfield, CA, where a very large refinery has been closed. They didn't even look for a buyer. There is a lot of oil in the area.

The American people are entitled to some answers. They are certainly entitled to an administration that does what then-Governor George W. Bush said was important, and that was to fight for the consumer, to push OPEC to increase production. Instead, what we learned from the Saudi Foreign Minister is the administration has essentially just sat on its hands.

I was following the remarks of the Senator from Kentucky a bit ago. He makes the point, and it is certainly one that makes sense to me, that what is good for then-President Clinton should be good for President Bush. What I say to my friend is the same principle ought to be applied when it comes to a Senate resolution on OPEC and high oil and gasoline prices.

I hope we will have a good debate in the Senate in the days ahead with respect to our policy as it relates to OPEC and oil production. A number of

our distinguished colleagues were there when this resolution was considered earlier: Senator GRASSLEY, Senator SANTORUM, our current Secretary of Energy, a good friend of mine, Senator Abraham. I also note the distinguished Presiding Officer of the Senate, Senator CHAFEE, was also a cosponsor of that resolution.

I am hopeful we will be able to do as the Senator from Kentucky said and that is apply the same principle to this administration as was applied to the Clinton administration. Every administration ought to be pushing OPEC to increase oil production. We certainly ought to take action when the Saudi oil minister was saying he wasn't even contacted.

I ask unanimous consent to have printed in the RECORD the article from the Reuters news service. The title of this article is ''Saudi Says Not Heard From Bush Over OPEC Oil Cut.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Reuters News Service, Apr. 1, 2004]

SAUDI SAYS NOT HEARD FROM BUSH OVER OPEC OIL CUT

VIENNA, April 1.—Saudi Arabia's foreign minister said on Thursday he had not been contacted by the Bush administration over OPEC's decision on Wednesday to cut crude output by one million barrels per day.

U.S. Energy Secretary Spencer Abraham told a House of Representatives committee on Thursday President George W. Bush had spoken to most of the leaders of OPEC nations about global crude oil supplies and rising prices.

But Abraham declined to respond to a lawmaker's question about whether the president had specifically spoken to Saudi Arabia, the cartel's largest member which led a push this week to cut OPEC production by one million barrels per day in April.

Asked if the United States had expressed its disappointment to him over the cut, Saudi Foreign Minister Prince Saud al-Faisal told reporters:

''I didn't hear this from the Bush administration. I'm hearing it from you that they're disappointed.''

The Bush administration faces growing pressure from Democrats to take action amid record-high U.S. retail gasoline prices.

In the run-up to Wednesday's OPEC meeting, the administration abandoned its so-called ''quiet diplomacy'' and instead said publicly that it was pressuring OPEC to delay a production cut.

Its request was supported by OPEC members Kuwait and the United Arab Emirates, but opposed by Saudi Arabia, a longtime U.S. ally.

Abraham said Bush administration officials may have spoken to Saudi officials in recent weeks.

''We are very disappointed with the decision (OPEC) made yesterday and obviously are evaluating what we might'' do, Abraham added.

U.S. crude fell 50 cents to $35.26 on Thursday after losing 1.4 percent on Wednesday on news of a huge build in U.S. crude inventories and the Saudi foreign minister said earlier the fall justified the cartel's decision.

''As you have seen, since we reduced production in OPEC the price went down. This reflects the veracity of the position that Saudi Arabia has taken that there is an excess capacity on the market rather than shortages,'' he said.

Mr. WYDEN. Mr. President, I will be back on the floor in the days ahead to talk about this critical question. It seems to me what is coming in this country on this oil issue is a perfect storm. The combination of the fact this administration is unwilling to push OPEC over its production cuts, the fact the Federal Trade Commission is unwilling to do anything about these anticompetitive practices or even investigate this refinery closure in Bakersfield, which has great implications for the west coast, all of these factors are coming together to create what I believe is a perfect storm for the gasoline consumer in this country. Given that consumer spending is what is driving our economy right now, we cannot afford to have these high gasoline prices continue or, as I fear, escalate to $3 a gallon.

We will continue to focus on the question of the Strategic Petroleum Reserve, swiping oil out of the private sector and squirreling it away into the Strategic Petroleum Reserve at a time when it already has a very high level and national security questions are being addressed. But that is not the focus of my comments today. The focus of my comments today is every Member of the Congress ought to be very troubled when the Saudi Foreign Minister says he wasn't contacted by the administration over these production cuts.

We ought to do as was done in 2000 when the Senate, led by a number of our distinguished colleagues on the other side of the aisle who moved ahead on a resolution to boost oil production by OPEC. We ought to do the same now and stand up for the American consumer.

I yield the floor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

TEXT OF AMENDMENTS

SA 3010. Mr. MCCONNELL (for Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. KOHL)) proposed an amendment to the bill H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Standards Development Organization Advancement Act of 2003''.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and

periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998. The term 'standards development organization' shall not, for purposes of this Act, include the parties participating in the standards development organization.

''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

(2) by adding at the end the following:

''(c) The term 'standards development activity' excludes the following activities:

''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person in making or performing a contract to carry out a joint venture shall'' and inserting the following: ''of—

''(1) any person in making or performing a contract to carry out a joint venture, or

''(2) a standards development organization while engaged in a standards development activity,

shall''.

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting '', or for a standards development activity engaged in by a standards development organization against which such claim is made'' after ''joint venture'',

(2) in subsection (e)—

(A) by inserting '', or of a standards development activity engaged in by a standards development organization'' before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

''(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

''(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting '', or of a standards development activity engaged in by a standards development organization'' after ''joint venture'', and

(2) by adding at the end the following:

''(c) Subsections (a) and (b) shall not apply with respect to any person who—

''(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting ''(1)'' after ''(a)'', and

(C) by adding at the end the following:

''(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

''(A) the name and principal place of business of the standards development organization, and

''(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.'',

(2) in subsection (b)—

(A) in the 1st sentence by inserting '', or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms'' before the period at the end, and

(B) in the last sentence by inserting ''or available to such organization, as the case may be'' before the period,

(3) in subsection (d)(2) by inserting '', or the standards development activity,'' after ''venture'',

(4) in subsection (e)—

(A) by striking ''person who'' and inserting ''person or standards development organization that'', and

(B) by inserting ''or any standards development organization'' after ''person'' the last place it appears, and

(5) in subsection (g)(1) by inserting ''or standards development organization'' after ''person''.

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this title, including the existing standard under which the conduct of the parties is reviewed, regardless of the standard under which the conduct of the standards development organizations in which they participate are reviewed, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003''.

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) EXCEPTION.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) ANTITRUST DIVISION.—The term ''Antitrust Division'' means the United States Department of Justice Antitrust Division.

(2) ANTITRUST LENIENCY AGREEMENT.—The term ''antitrust leniency agreement,'' or

''agreement,'' means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) ANTITRUST LENIENCY APPLICANT.—The term ''antitrust leniency applicant,'' or ''applicant,'' means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) CLAIMANT.—The term ''claimant'' means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) COOPERATING INDIVIDUAL.—The term ''cooperating individual'' means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) PERSON.—The term ''person'' has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) IN GENERAL.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) REQUIREMENTS.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) TIMELINESS.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a State, or subdivision of a State, has issued compulsory process in connection with an investigation of allegations of a violation of section 1 or 3 of the Sherman Act or any similar State law based on conduct covered by the antitrust leniency agreement or after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) CONTINUATION.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS, AUTHORITIES, AND LIABILITIES NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement;

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement; or

(3) affect, in any way, the joint and several liability of any party to a civil action described in section 213(a), other than that of the antitrust leniency applicant and cooperating individuals as provided in section 213(a) of this title.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the purpose of the Tunney Act was to ensure that the entry of antitrust consent judgments is in the public interest; and

(B) it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a ''mockery of the judicial function''.

(2) PURPOSES.—The purpose of this section is to effectuate the original Congressional intent in enacting the Tunney Act and to ensure that United States settlements of civil antitrust suits are in the public interest.

(b) PUBLIC INTEREST DETERMINATION.—Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: ''Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.'';

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) striking ''court may'' and inserting ''court shall''; and

(ii) inserting ''(1)'' before ''Before''; and

(B) striking paragraphs (1) and (2) and inserting the following:

''(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

''(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

''(2) Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.''; and

(3) in subsection (g), by inserting ''by any officer, director, employee, or agent of such defendant'' before '', or other person''.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on April 2, 2004, at 9:30 a.m., in open and closed session to receive testimony on the Department of Defense Counter Narcotics Program in review of the Defense authorization request for fiscal year 2005.

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

ORDER OF PROCEDURE—S. 2207

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, with respect to the previously filed cloture motion, I ask unanimous consent that the live quorum under rule XXII be waived, and further that notwithstanding rule XXII the vote on the motion to invoke cloture occur at 2:15 on Wednesday, April 7.

Mr. REID. No objection.

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

AUTHORIZATION TO SETTLE CLAIMS ARISING OUT OF DISCOVERY OF LETHAL RICIN POWDER IN SENATE COMPLEX

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 329, which was introduced by Senators LOTT and DODD earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 329) authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of the discovery of lethal ricin powder in the Senate Complex.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 329) was agreed to, as follows:

S. RES. 329

Resolved,

SECTION 1. PAYMENT OF CLAIMS ARISING FROM THE RICIN DISCOVERY.

(a) SETTLEMENT AND PAYMENT.—The Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, consider, and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the discovery of lethal ricin powder in the Senate Complex on February 2, 2004, or the related remediation efforts undertaken as a result of that discovery; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) FILING OF CLAIMS.—Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than July 31, 2004.

(c) USE OF CONTINGENT FUND.—Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. MCCONNELL. I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 376, H.R. 1086.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1086) to encourage the development and promulgation of volunteer consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Standards Development Organization Advancement Act of 2003''.

[SEC. 2. FINDINGS.

[The Congress finds the following:

[(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

[(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

[(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

[(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

[(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

[(A) notice to all parties known to be affected by the particular standards development activity,

[(B) the opportunity to participate in standards development or modification,

[(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

[(D) readily available access to essential information regarding proposed and final standards,

[(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

[(F) the right to express a position, to have it considered, and to appeal an adverse decision.

[(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

[(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

[(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

[(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

[(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

[SEC. 3. DEFINITIONS.

[Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

[(1) in subsection (a) by adding at the end the following:

[''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

[''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

[''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4)

of the National Technology Transfer and Advancement Act of 1995.

[''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

[(2) by adding at the end the following:

[''(c) The term 'standards development activity' excludes the following activities:

[''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

[''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

[''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

[SEC. 4. RULE OF REASON STANDARD.

[Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person in making or performing a contract to carry out a joint venture shall'' and inserting the following: ''of—

[''(1) any person in making or performing a contract to carry out a joint venture, or

[''(2) a standards development organization while engaged in a standards development activity,

[shall''.

[SEC. 5. LIMITATION ON RECOVERY.

[Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

[(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting '', or for a standards development activity engaged in by a standards development organization against which such claim is made'' after ''joint venture'', and

[(2) in subsection (e)—

[(A) by inserting '', or of a standards development activity engaged in by a standards development organization'' before the period at the end, and

[(B) by redesignating such subsection as subsection (f), and

[(3) by inserting after subsection (d) the following:

[''(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

[''(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

[''(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

[''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

[SEC. 6. ATTORNEY FEES.

[Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

[(1) in subsection (a) by inserting '', or of a standards development activity engaged in by a standards development organization'' after ''joint venture'', and

[(2) by adding at the end the following:

[''(c) Subsections (a) and (b) shall not apply with respect to any person who—

[''(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

[''(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

[''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

[SEC. 7. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

[Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

[(1) in subsection (a)—

[(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

[(B) by inserting ''(1)'' after ''(a)'', and

[(C) by adding at the end the following:

[''(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

[''(A) the name and principal place of business of the standards development organization, and

[''(B) documents showing the nature and scope of such activity.

[Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.'',

[(2) in subsection (b)—

[(A) in the 1st sentence by inserting '', or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms'' before the period at the end, and

[(B) in the last sentence by inserting ''or available to such organization, as the case may be'' before the period,

[(3) in subsection (d)(2) by inserting '', or the standards development activity,'' after ''venture'',

[(4) in subsection (e)—

[(A) by striking ''person who'' and inserting ''person or standards development organization that'', and

[(B) by inserting ''or any standards development organization'' after ''person'' the last place it appears, and

[(5) in subsection (g)(1) by inserting ''or standards development organization'' after ''person''.

[SEC. 8. RULE OF CONSTRUCTION.

[Nothing in this Act shall be construed to alter or modify the antitrust treatment under existing law of—

[(1) parties participating in standards development activity of standards development organizations within the scope of this Act, or

[(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the Act.]

TITLE I—STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Standards Development Organization Advancement Act of 2003''.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 103. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

(2) by adding at the end the following:

''(c) The term 'standards development activity' excludes the following activities:

''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

SEC. 104. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person in making or performing a contract to carry out a joint venture shall'' and inserting the following: ''of—

''(1) any person in making or performing a contract to carry out a joint venture, or

''(2) a standards development organization while engaged in a standards development activity,

shall''.

SEC. 105. LIMITATION ON RECOVERY.

Section 4 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4303) is amended—

(1) in subsections (a)(1), (b)(1), and (c)(1) by inserting '', or for a standards development activity engaged in by a standards development organization against which such claim is made'' after ''joint venture'', and

(2) in subsection (e)—

(A) by inserting '', or of a standards development activity engaged in by a standards development organization'' before the period at the end, and

(B) by redesignating such subsection as subsection (f), and

(3) by inserting after subsection (d) the following:

''(e) Subsections (a), (b), and (c) shall not be construed to modify the liability under the antitrust laws of any person (other than a standards development organization) who—

''(1) directly (or through an employee or agent) participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of the standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 106. ATTORNEY FEES.

Section 5 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4304) is amended—

(1) in subsection (a) by inserting '', or of a standards development activity engaged in by a standards development organization'' after ''joint venture'', and

(2) by adding at the end the following:

''(c) Subsections (a) and (b) shall not apply with respect to any person who—

''(1) directly participates in a standards development activity with respect to which a violation of any of the antitrust laws is found,

''(2) is not a fulltime employee of a standards development organization that engaged in such activity, and

''(3) is, or is an employee or agent of a person who is, engaged in a line of commerce that is likely to benefit directly from the operation of the standards development activity with respect to which such violation is found.''.

SEC. 107. DISCLOSURE OF STANDARDS DEVELOPMENT ACTIVITY.

Section 6 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4305) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(B) by inserting ''(1)'' after ''(a)'', and

(C) by adding at the end the following:

''(2) A standards development organization may, not later than 90 days after commencing a standards development activity engaged in for the purpose of developing or promulgating a voluntary consensus standards or not later than 90 days after the date of the enactment of the Standards Development Organization Advancement Act of 2003, whichever is later, file simultaneously with the Attorney General and the Commission, a written notification disclosing—

''(A) the name and principal place of business of the standards development organization, and

''(B) documents showing the nature and scope of such activity.

Any standards development organization may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4 to standards development activities that are not covered by the initial filing or that have changed significantly since the initial filing.'',

(2) in subsection (b)—

(A) in the 1st sentence by inserting '', or a notice with respect to such standards development activity that identifies the standards development organization engaged in such activity and that describes such activity in general terms'' before the period at the end, and

(B) in the last sentence by inserting ''or available to such organization, as the case may be'' before the period,

(3) in subsection (d)(2) by inserting '', or the standards development activity,'' after ''venture'',

(4) in subsection (e)—

(A) by striking ''person who'' and inserting ''person or standards development organization that'', and

(B) by inserting ''or any standards development organization'' after ''person'' the last place it appears, and

(5) in subsection (g)(1) by inserting ''or standards development organization'' after ''person''.

SEC. 108. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to alter or modify the antitrust treatment under existing law of—

(1) parties participating in standards development activity of standards development organizations within the scope of this title, or

(2) other organizations and parties engaged in standard-setting processes not within the scope of this amendment to the title.

TITLE II—ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003''.

Subtitle A—Antitrust Enforcement Enhancements and Cooperation Incentives

SEC. 211. SUNSET.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of sections 211 through 214 shall cease to have effect 5 years after the date of enactment of this Act.

(b) EXCEPTION.—With respect to an applicant who has entered into an antitrust leniency agreement on or before the date on which the provisions of sections 211 through 214 of this subtitle shall cease to have effect, the provisions of sections 211 through 214 of this subtitle shall continue in effect.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) ANTITRUST DIVISION.—The term ''Antitrust Division'' means the United States Department of Justice Antitrust Division.

(2) ANTITRUST LENIENCY AGREEMENT.—The term ''antitrust leniency agreement,'' or ''agreement,'' means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) ANTITRUST LENIENCY APPLICANT.—The term ''antitrust leniency applicant,'' or ''applicant,'' means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) CLAIMANT.—The term ''claimant'' means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of the Sherman Act or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) COOPERATING INDIVIDUAL.—The term ''cooperating individual'' means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) PERSON.—The term ''person'' has the meaning given it in subsection (a) of the first section of the Clayton Act.

SEC. 213. LIMITATION ON RECOVERY.

(a) IN GENERAL.—Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of the Sherman Act, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that

portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) REQUIREMENTS.—Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).

(c) TIMELINES.—If the initial contact by the antitrust leniency applicant with the Antitrust Division regarding conduct covered by the antitrust leniency agreement occurs after a civil action described in subsection (a) has been filed, then the court shall consider, in making the determination concerning satisfactory cooperation described in subsection (b), the timeliness of the applicant's initial cooperation with the claimant.

(d) CONTINUATION.—Nothing in this section shall be construed to modify, impair, or supersede the provisions of sections 4, 4A, and 4C of the Clayton Act relating to the recovery of costs of suit, including a reasonable attorney's fee, and interest on damages, to the extent that such recovery is authorized by such sections.

SEC. 214. RIGHTS AND AUTHORITY OF ANTITRUST DIVISION NOT AFFECTED.

Nothing in this subtitle shall be construed to—

(1) affect the rights of the Antitrust Division to seek a stay or protective order in a civil action based on conduct covered by an antitrust leniency agreement to prevent the cooperation described in section 213(b) from impairing or impeding the investigation or prosecution by the Antitrust Division of conduct covered by the agreement; or

(2) create any right to challenge any decision by the Antitrust Division with respect to an antitrust leniency agreement.

SEC. 215. INCREASED PENALTIES FOR ANTITRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by—

(1) striking ''$10,000,000'' and inserting ''$100,000,000'';

(2) striking ''$350,000'' and inserting ''$1,000,000''; and

(3) striking ''three'' and inserting ''10''.

Subtitle B—Tunney Act Reform

SEC. 221. PUBLIC INTEREST DETERMINATION.

Section 5 of the Clayton Act (15 U.S.C. 16) is amended—

(1) in subsection (d), by inserting at the end the following: ''Upon application by the United States, the district court may, for good cause (based on a finding that the expense of publication in the Federal Register exceeds the public interest benefits to be gained from such publication), authorize an alternative method of public dissemination of the public comments received and the response to those comments.''; and

(2) in subsection (e)—

(A) in the matter before paragraph (1), by—

(i) inserting ''independently'' after ''shall'';

(ii) striking ''court may'' and inserting ''court shall''; and

(iii) inserting ''(1)'' before ''Before''; and

(B) striking paragraphs (1) and (2) and inserting the following:

''(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous and any other competitive considerations bearing upon the adequacy of such judgment necessary to a determination of whether the consent judgment is in the public interest; and

''(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

''(2) The Court shall not enter any consent judgment proposed by the United States under this section unless it finds that there is reasonable belief, based on substantial evidence and reasoned analysis, to support the United States' conclusion that the consent judgment is in the public interest. In making its determination as to whether entry of the consent judgment is in the public interest, the Court shall not be limited to examining only the factors set forth in this subsection, but may consider any other factor relevant to the competitive impact of the judgment.''.

Mr. HATCH. Mr. President, I rise today to support passage of H.R. 1086, the Standards Development Organization Advancement Act of 2003. This legislation, along with provisions added to it during the Judiciary Committee markup and by the substitute amendment that I have offered along with Senators LEAHY, DEWINE, and KOHL, provides several important and significant improvements to our antitrust laws.

This legislation incorporates the limited antitrust protection for Standards Development Organizations that Senator LEAHY and I introduced as S. 1799, and that Chairman SENSENBRENNER introduced in the House as H.R. 1086. Under this provision, the civil liability for Standards Development Organizations or ''SDOs'' will be limited to single, rather than treble, damages for standards-setting activities about which they have informed the Department of Justice and Federal Trade Commission using a newly-created notification procedure.

The bill also increases the maximum criminal penalties for antitrust violations so that they are more in line with other comparable white collar crimes. I will note that this provision of the legislation is substantially the same as the one included in S. 1080, a Leahy-Hatch bill.

This legislation also provides increased incentives for participants in illegal cartels to blow the whistle on their co-conspirators and cooperate with the Justice Department's Antitrust Division in prosecuting the other members of these criminal antitrust conspiracies. This is accomplished by allowing the Justice Department, in appropriate circumstances, to limit a cooperating company's civil liability to actual, rather than treble, damages in return for the company's cooperation in both the resulting criminal case as well as any subsequent civil suit based on the same conduct.

Finally, this substitute would amend the Tunney Act to end the problem of courts simply ''rubber-stamping'' antitrust settlements reached with the Justice Department. In my view, this amendment essentially codifies existing case law, while reemphasizing the original congressional intent that lead to passage of the Tunney Act. When this provision was added to H.R. 1086 in the Senate Judiciary Committee, I noted that, although I supported it in principal, I thought that continued modifications of the actual language might be necessary to respond to concerns that had been raised. I am pleased to be able to state that, largely through the efforts of Senator KOHL and his staff, a compromise on this language was reached that is supported—or at least not strongly objected to—by the parties involved.

With that introduction, I will briefly discuss the four principal sections of the legislation.

The section Protection of Standards Development Organizations, which comes from S. 1799, a bill that Senator LEAHY and I introduced as a Senate companion to H.R. 1086, is designed to extend limited antitrust protection to Standards Development Organizations, or ''SDOs''.

In the United States, most technical standards are developed and promulgated by private, not-for-profit organizations called SDOs. Numerous concerns have been raised that the threat of treble damages deters SDOs from their pro-competitive standard-setting activities. This legislation addresses those concerns by providing a notification process whereby SDOs may inform DOJ and the FTC regarding their intended standards-development activities. If the authorities do not object to the proposed activities but the SDO is subsequently sued by a private plaintiff, the SDO's civil liability is limited

to single rather than treble damages. Importantly, this legislation does not in any way immunize industry participants who cooperate in the development of standards from antitrust liability for using the standards-setting process for anti-competitive purposes.

I thank Senator LEAHY and Chairman SENSENBRENNER and their staffs for their vigilant efforts toward passage of the Standards Development Organization Advancement Act of 2003.

The legislation also amends the antitrust laws to provide corporations and their executives with increased incentives to come forward and cooperate with the Department of Justice in prosecuting criminal antitrust cartels. It does so by enhancing the effectiveness of the already-successful Corporate Leniency Policy issued by the Justice Department's Antitrust Division.

In general, the leniency policy provides that a corporation and its executives will not be criminally charged if the company is not the ringleader of the conspiracy and it is the first of the conspirators to approach the division and fully cooperate with the division's criminal investigation. The program serves to destabilize cartels, and it causes the members of the cartel to turn against one another in a race to the Government. Cooperation obtained through the leniency program has led to the detection and prosecution of massive international cartels that cost businesses and consumers billions of dollars and has led to the largest fines in the Antitrust Division's history.

Though this important program has been successful, a major disincentive to self reporting still exists, the threat of exposure to a possible treble damage lawsuit by the victims of the conspiracy. Under current law, the successful leniency applicant is not criminally charged, but it still faces treble damage actions with joint and several liability. In other words, before voluntarily disclosing its criminal conduct, a potential amnesty applicant must weigh the potential ruinous consequences of subjecting itself to liability for three times the damages that the entire conspiracy caused.

This provision addresses this disincentive to self-reporting. Specifically, it amends the antitrust laws to modify the damage recovery from a corporation and its executives to actual damages. In other words, the total liability of a successful leniency applicant would be limited to single damages without joint and several liability. Thus, the applicant would only be liable for the actual damages attributable to its own conduct, rather than being liable for three times the damages caused by the entire unlawful conspiracy.

Importantly, this limitation on damages is only available to corporations and their executives if they provide adequate and timely cooperation to both the Government investigators as well as any subsequent private plaintiffs bringing a civil suit based on the covered criminal conduct. I should also note that, because all other conspirator firms would remain jointly and severably liable for three times the total damages caused by the conspiracy, the victims' potential total recovery would not be reduced by the amendments Congress is considering. And again, the legislation requires the amnesty applicant to provide full cooperation to the victims as they prepare and pursue their civil lawsuit.

With this change, more companies will disclose antitrust crimes, which will have several benefits. First, I expect that the total compensation to victims of antitrust conspiracies will be increased because of the requirement that amnesty applicants cooperate. Second, the increased self-reporting incentive will serve to further destabilize and deter the formation of criminal antitrust conspiracies. In turn, these changes will lead to more open and competitive markets.

The enhanced criminal penalties provision, which was originally part of S. 1080, which I introduced with Senator LEAHY, improves current law by increasing the maximum prison sentences and fines for criminal violations of antitrust law. This change puts the maximum prison sentences for antitrust violations more in line with other white collar crimes. By increasing these criminal penalties, we are recognizing the profoundly harmful impact that antitrust violations have on consumers and the economy.

This legislation also amends the Tunney Act to end what some have seen as courts simply ''rubber-stamping'' antitrust settlements reached with the Justice Department without providing meaningful review. As I have stated, while I agree with the principle behind this proposal, I had significant concerns with the specific language that was reported out of the Judiciary Committee. After several months of discussions, I am happy to say that the current language appears to have answered most, if not all, of the principal concerns that were raised regarding the amendments to the Tunney Act.

In conclusion, I would like to thank Senators LEAHY, KOHL, and DEWINE and their staffs for their efforts on this bill. In particular, I would like to thank Susan Davies of Senator LEAHY's staff, Jeff Miller and Seth Bloom of Senator KOHL's staff, and Pete Levitas and Bill Jones of Senator DEWINE's staff. I also appreciate the expert and energetic efforts of my own antitrust counsel, Dave Jones. And finally, I thank Makan Delrahim, my former chief counsel, for all of his ''technical assistance.''

I urge my colleagues to support this bill.

Mr. LEAHY. Mr. President, I am delighted that Senator HATCH, Senator KOHL, Senator DEWINE, and I have been able to work together to develop a version of this bill that can pass today as the Standards Development Organization Advancement Act. Technical standards help to promote safety, increase efficiency, and allow for interoperability in a variety of products Americans use every day. Despite the fact that they go largely unnoticed, we would be markedly less safe without airbags that deploy properly in serious automobile collisions, more vulnerable were there not technical standards for fire retardant materials in homes. And consumers would be less likely to make the purchases that drive our economy without the technical standards that ensure a light bulb will fit in its socket or allow DVDs to function properly regardless of the manufacturer.

In the United States, most technical standards are developed by private, not-for-profit Standards Development Organizations, which often possess superior knowledge and adaptability in highly technical matters. Rather than Government overregulation of technical standards, SDOs promulgate guidelines that frequently are then adopted by State and Federal governments. Like many conveniences we take for granted, technical standards are so deeply infused in our lives that they may attract little or no individual attention.

While standards serve this vital societal role, there exists a natural tension between the antitrust laws that prohibit businesses from colluding and the development of technical standards, which require competitors to reach agreement on basic design elements. The Standards Development Organization Advancement Act reduces this tension, providing relief for SDOs under current law while preserving the trademark features of antitrust enforcement that benefit consumers.

Without creating an antitrust exemption, the Standards Development Organization Act allows SDOs to seek review of their standards by the Department of Justice or Federal Trade Commission prior to implementation. If these agencies do not object to the standard during this ''screening'' phase, but the organization is later sued by a private plaintiff, the SDO would be limited to single damages, rather than the treble damages levied under existing law.

Additionally, this bill amends the National Cooperative Research and Production Act of 1993, by directing courts to apply a ''rule of reason'' standard to SDOs and the guidelines they produce. Under existing law, standards may be deemed anticompetitive by a court even if they have the effect of better serving consumers. Courts should be able to balance the competing interests of safety and efficiency against any anticompetitive effect, making certain that the law is doing everything possible to meet the needs of the one constituent we all share—the American consumer. The Standards Development Organization Advancement Act gives our courts the authority to do so.

We may fail to notice the technical standards that provide dependability,

security, and convenience in our lives, but they serve an increasingly vital role in a country driven by technological change but devoted to safety and reliability.

Title II of the Standards Development Organization Advancement Act also addresses several areas of our antitrust laws that merit updating, as our experience with the actual practice in the world has shown. First, the act strives to eliminate the disparity between the treatment of criminal white collar offenses and antitrust criminal violations. Without this legislation, offenders who violated the criminal provisions of the antitrust laws would face much less significant penalties than would their wire fraud or mail fraud counterparts. The act increases the maximum penalty for a criminal antitrust violation from 3 years to 10 years and raises the maximum fines to corporations from $10 million to $100 million per violation. Senator HATCH and I had introduced this provision in S. 1080, the Antitrust Improvements Act of 2003, and I am pleased that this useful update to the penalties for criminal violations of the antitrust laws can be made as part of this bill.

Title II will also update the Justice Department's amnesty program in the criminal antitrust context. We have worked with the antitrust division of the Department of Justice and our States' attorneys general to give prosecutors the maximum leverage against participants in criminal antitrust activity. The Department has long had an ''amnesty'' or ''leniency'' policy that is generally available to the first conspirator involved in a criminal cartel that offers to cooperate with the authorities. But under the current policy, the Department may only agree to not bring criminal charges against a corporation, and its officers and directors, in exchange for cooperation in providing evidence and testimony against other members in the cartel. Under this bill, to qualify for amnesty, a party must provide substantial cooperation not only in any criminal case brought against the other cartel members, but also in any civil case brought by private parties that is based on the same unlawful conduct.

This bill would then give our prosecutors the authority to effectively limit a cooperating party's potential civil liability as well, and to limit that liability to single damages in any subsequent civil lawsuit brought by a private plaintiff. And while a party that receives leniency would only be liable for the portion of the damages actually caused by its own actions, the rest of its non-cooperating co-conspirators would remain jointly and severally liable for the entire amount of damages, which would then be trebled, to ensure that no injured party will fail to enjoy financial redress.

Finally, the Standards Development Organization Advancement Act makes some useful adjustments to the Tunney Act. That law provides that consent decrees in civil antitrust cases brought by the United States must be reviewed and approved by the District Court in which the case was brought. Under the Tunney Act, before entering a consent decree, the court must determine that ''the entry of such judgment is in the public interest.'' In making this determination, the court may, but is not required to, consider a variety of enumerated factors. As currently drafted, the court has discretion in making this public interest determination, and some have expressed concerns that this lack of guidance results in courts that are overly deferential to prosecutors' judgments. Thus, this bill intends to explicitly restate the original and intended role of District courts in this process by mandating that the court make an independent judgment based on a series of enumerated factors. In addition, the legislation makes clear that this amendment to the Tunney Act will not change the law regarding whether a court may be required, in a particular instance, to permit intervention or to hold a hearing in a Tunney Act proceeding.

A final and important technical change would allow a judge to order publication of the comments received in a Tunney Act proceeding by electronic or other means. Currently, the Tunney Act requires the Antitrust Division to publish in the Federal Register the public comments received on its proposed consent judgments, along with the Division's response to those comments. This can be very expensive—it cost almost $3 million in the Microsoft case—with little benefit, because those materials are, if anything, more accessible on the Web than in a library. Of course, interested people who lack Internet access will need to go to a library, but they would have had to do that for a paper copy as well.

This is an important bill that makes necessary, well-conceived, and bipartisan reforms.

Mr. KOHL. Mr. President, I rise today in strong support of the Antitrust Criminal Penalty Enhancement and Reform Act of 2003. It passed the Judiciary Committee unanimously in November 2003. Today, along with Senators HATCH, LEAHY, and DEWINE, we offer a substitute amendment to H.R. 1086. This legislation will enhance and improve the enforcement of our nation's antitrust laws in several important respects.

In light of the importance of this legislation to the administration of our antitrust laws, as well as the infrequency with which we amend major provisions of the antitrust laws, it is essential to describe in detail the reasons we our advancing this bill. Our proposal will accomplish four important goals. First, our legislation will restore the ability of Federal courts to review the Justice Department's civil antitrust settlements to be sure that these settlements are good for competition and consumers. We will amend the Tunney Act, the law passed in 1974 in response to concerns that some of these settlements were motivated by inappropriate political pressure and failed to restore competition or protect consumers. Congress concluded then, and it is still true now, that judicial review will ensure that cases are settled in the public interest. Unfortunately, in recent years, many courts seem to have ignored this statute and do little more than ''rubber stamp'' antitrust settlements. This practice is contrary to the intent of the Tunney Act and effectively strips the courts of the ability to engage in meaningful review of antitrust settlements. Our bill will overturn this precedent and make clear that the courts have the authority to do this vital job.

Second, our legislation enhances criminal penalties for those who violate our antitrust laws. It will increase the maximum corporate penalty from $10 million to $100 million; it will increase the maximum individual fine from $350,000 to $1 million; and it will increase the maximum jail term for individuals who are convicted of criminal antitrust violations from 3 to 10 years. These changes will send the proper message that criminal antitrust violations, crimes such as price fixing and bid rigging, committed by business executives in a boardroom are serious offenses that steal from American consumers just as surely as does a street criminal with a gun.

Our legislation will give the Justice Department significant new tools under its antitrust leniency program. The leniency program helps the Government break up criminal cartels by encouraging wrongdoers to cooperate with the authorities. Our bill will give the Justice Department the ability to offer those applying for leniency the additional reward of only facing actual damages in antitrust civil suits, rather than treble damage liability. This will result in more antitrust wrongdoers coming forward to reveal antitrust conspiracies, and thus the detection and ending of more illegal cartels.

Finally, our bill incorporates a provision in the original House passed version of H.R. 1086. This provision limits the liability that standards setting organizations face under the antitrust laws to single damages in most circumstances. It will protect these important organizations from the threat of liability. However, it will not in any way limit the damages available to any company that is a member of such an organization for antitrust violations, nor limit damages should a standard setting organization engage in conduct that is a per se violation of antitrust law.

It is important to explain clearly and specifically why it is necessary to amend the Tunney Act and what we intend to accomplish with these changes. In recent years, courts have been reluctant to give meaningful review to antitrust consent decrees, and have been only willing to take action with respect to most egregious decrees that

make a ''mockery'' of the judicial function. Our bill will effectuate the legislative intent of the Tunney Act and restore the ability of courts to give real scrutiny to antitrust consent decree.

The Tunney Act was enacted in 1974 and provides that consent decrees in civil antitrust cases brought by the United States must be reviewed and approved by the district court in which the case was brought to determine if they are in the public interest. However, the text of the statute contains no standards governing how a court is to conduct this review. While the legislative history of the law is clear that it was meant to prevent ''judicial rubber stamping'' of consent decrees, the leading precedent of the D.C. Circuit Court of Appeals currently interprets the law in a manner which makes meaningful review of these consent decrees virtually impossible. Leading cases stand for the proposition that only consent decrees that ''make a mockery of the judicial function'' can be rejected by the district court. The changes in the Tunney Act incorporated in this legislation, as well as the statement of Congressional findings, will make clear that such an interpretation misconstrues the legislative intent of the statute.

The amendments to the Tunney Act found in our bill will restore the original intent of the Tunney Act, and make clear that courts should carefully review antitrust consent decrees to ensure that they are in the public interest. It will accomplish this by, No. 1, a clear statement of congressional findings and purposes expressly overruling the improper judicial standard of recent D.C. Circuit decisions; No. 2, by requiring, rather than permitting, judicial review of a list of enumerated factors to determine whether a consent decree is in the public interest; and No. 3, by enhancing the list of factors which the court now must review.

The Tunney Act was enacted in 1974 to end the practice of courts ''rubber stamping'' antitrust consent decrees, and to remove political influence from the Justice Department's decision as to whether to settle antitrust cases. There were several prominent decisions in the preceding years in which antitrust settlements by the Justice Department came under strong criticism as inadequate or motivated by illegitimate purposes, and which were not scrutinized by the courts. One of the leading early cases applying the Tunney Act noted that

> the legislators found that consent decrees often failed to provide appropriate relief, either because of miscalculations by the Justice Department [citation omitted] or because of the ''great influence and economic power'' wielded by antitrust violators [citing S. Rep. No. 93–298, 93d Cong., 1st Sess. 5 (1973)]. The [legislative] history, indeed, contains references to a number of antitrust settlements deemed ''blatantly inequitable and improper'' on these bases [citing 119 Cong. Rec. 24598 (1973) (Remarks of Sen. Tunney)].

U.S. v. *American Telephone and Telegraph,* 552 F.Supp. 131, 148 (D.D.C. 1982), aff'd sub nom., *Maryland* v. *U.S.,* 460 U.S. 1001 (1983).

While there were several notable cases which gave rise to the concern that the government was settling for inadequate remedies for antitrust violations, see *U.S.* v. *AT&T,* 552 F.Supp. at 148 n. 72; 119 Cong. Rec. 24598, Remarks of Sen. Tunney, the most prominent case was the Government's settlement in 1971 of an antitrust suit brought against ITT. Critics alleged that the Nixon administration had been influenced by campaign contributions to the Nixon reelection effort in 1972. The reasons for the settlement were not publicly disclosed, and the settlement was strongly criticized by consumer advocates. The settlement's critics attempted to have the settlement overturned by the district court, but the court rejected these efforts. ''[T]here was no meaningful judicial scrutiny of the terms of the consent decree and no consideration of whether it was in the public interest.'' *Anderson,* supra, 65 Antitrust Law Journal at 8.

The legislative history of the original Tunney Act is clear that the purpose of the statute was to give courts the opportunity to engage in meaningful scrutiny of antitrust settlements, so as to deter and prevent settlements motivated either by corruption, undue corporate influence, or which were plainly inadequate. In introducing the bill, Senator Tunney highlighted his concern that antitrust settlements could result from the economic power of the companies under scrutiny. He noted that ''[i]ncreasing concentration of economic power, such as occurred in the flood of conglomerate mergers, carries with it a very tangible threat of concentration of political power. Put simply, the bigger the company, the greater the leverage it has in Washington.'' 119 Cong. Rec. 3451, Feb. 6, 1973.

Senator Tunney also pointed with concern at the lack of scrutiny the courts were applying to antitrust settlements. He argued that ''too often in the past district courts have viewed their rules [sic] as simply ministerial in nature—leaving to the Justice Department the role of determining the adequacy of the judgment from the public's view.'' Id. at 3542. Thus, his legislation was intended to substantially expand the role of the court in considering an antitrust consent decree. Senator Tunney described the criteria in the bill under which the courts to review the settlements, and stated that

> The thrust of those criteria is to demand that the court consider both the narrow and the broad impacts of the decree. Thus, in addition to weighing the merits of the decree from the viewpoint of the relief obtained thereby and its adequacy, the court is directed to give consideration to the relative merits of other alternatives and specifically to the effect of the entry of the decree upon private parties aggrieved by the alleged violations and upon the enforcement of antitrust laws generally.

In a later floor debate on the legislation, Senator Tunney cited the testimony of Judge J. Skelley Wright of the U.S. Court of Appeals for the D.C. Circuit, who had testified at an earlier hearing of the Senate Antitrust and Monopoly Subcommittee expressing concern as to whether antitrust settlements ''might shortchange the public interest.'' 119 Cong. Rec. 24597, July 18, 1973. Commenting on this testimony, Senator Tunney stated that ''I think Judge Wright gets to the heart of the problem—it is the excessive secrecy with which many consent decrees have been fashioned, and *the almost mechanistic manner in which some courts have been, in effect, willing to rubber stamp consent judgments.*'' *Id.* at 24598 (emphasis added). The bill passed the Senate that day on a 92 to 8 vote.

The later House debate in which the bill was passed echoed Senator Tunney's concern. Congressman Seiberling of Ohio commented that, in considering antitrust consent decrees, ''too often the courts have, in fact, simply rubber-stamped such agreements, and the public or competitors that might be affected have had an effective way to get their views before the court . . .'' 120 Cong. Rec. 36341, Nov. 19, 1974. Similar sentiments were expressed by Congressman McClory, id., Congressman Jordan, id. at 36343, and Congressman Heinz, id. at 36341. Congressman Holtzman of New York commented that these procedures would ''insure that our antitrust laws are not for sale.'' Id. at 36342.

The House and Senate Committee Reports on the legislation also echo the floor debate. The Report of the House Judiciary Committee states that

> [o]ne of the abuses sought to be remedied by the bill has been called ''judicial rubber stamping'' by district courts of proposals submitted by the Justice Department. The bill resolves this area of dispute by requiring district court judges to determine that each proposed consent judgment is in the public interest.

House Rep. No. 93–1463, 93rd Cong., 1st Sess. (1974), reprinted in 1974 U.S. Code Cong. & Admin. News 6535, 6538.

In one of the first cases to construe the statute, the Government's case to break up the AT&T phone monopoly, Judge Greene of the U.S. District Court for the District of Columbia reviewed, and then summarized, the legislative history of the Tunney Act. He concluded that:

> To remedy these problems [that led to the passage of the Tunney Act], Congress imposed two major changes in the consent decree process. First, it reduced secrecy by ordering disclosure by the Justice Department of the rationale and the terms of proposed consent decrees and by mandating an opportunity for public comment. Second, it sought to eliminate '''judicial rubber stamping' of proposals submitted to the courts by the Department,'' by requiring an explicit judicial determination in every case that the proposed decree was in the public interest. *It is clear that Congress wanted the courts to act as an independent check upon the terms of decrees negotiated by the Department of Justice.* . . .

U.S. v. *AT&T,* 552 F. Supp. at 148–149 (emphasis added) (citations omitted).

This conclusion is supported by a recent law journal article co-authored by

John J. Flynn, who was special counsel to the Senate Antitrust Subcommittee during the period when the Tunney Act was drafted and adopted. Professor Flynn writes that, in enacting the Tunney Act, Congress rejected the ''notion that courts must give deference to the DOJ when determining if a consent decree is in the public interest. Instead, Congress wanted the courts to make an independent, objective, and active determination without deference to the DOJ.'' Flynn and Bush, The Misuse and Abuse of the Tunney Act: The Adverse Consequences of the ''Microsoft Fallacies'', 34 Loyola U. Chicago L. J. 749, 758 (2003).

The early case law that followed the adoption of the Tunney Act in 1974 imposed fairly stringent requirements on courts reviewing antitrust settlements reached by the Justice Department.

The leading early case is the district court's review of the Government's proposed settlement with AT&T in the massive antitrust case that broke up the telephone monopoly, U.S. v. AT&T, supra (D.D.C. 1983). Judge Greene of the U.S. District Court for the District of Columbia rejected an argument for a highly deferential review of the proposed consent decree. The court stated that

> It does not follow . . . that courts must unquestionably accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit. To do so would be to revert to the ''rubber stamp'' role which was at the crux of the congressional concerns when the Tunney Act became law.

U.S. v. *AT&T*, 552 F. Supp. at 151.

Instead the standard the court applied to determine if the public interest was served by the consent decree was rather exacting. The court stated it would only enter the proposed consent decree ''if the decree meets the requirements for an antitrust remedy that is, if it effectively opens the relevant markets to competition and prevents the recurrence of anticompetitive activity, all without imposing undue and unnecessary burdens upon other aspects of the public interest.'' Id. at 153.

The more recent precedent under the Tunney Act have sharply retreated from Judge Green's opinion in AT&T to a much more deferential standard of review. It is this misinterpretation of the Tunney Act that our bill corrects. In describing the recent Tunney Act precedent, one commentator has called it a ''retreat toward rubber stamping.'' Anderson, supra, 65 Antitrust Law Journal at 19. We agree. It is this overly deferential standard review which makes reform of the Tunney Act necessary so that the legislative intent can be effectuated and courts can provide an independent safeguard to prevent against improper or inadequate settlements. The changes we make to the Tunney Act today address these problems and correct the mistaken precedents.

The precedent continues to recognize that the Tunney Act is intended ''to prevent ''judicial rubber stamping' of the Justice Department's proposed consent decree,'' and for the court to '''make an independent determination as to whether or not entry of a proposed consent decree [was] in the public interest.''' *U.S.* v. *Microsoft*, 56 F.3d 1448, 1458 (D.C. Cir. 1995), quoting S. Rep. No. 298 at 5. Further, in reviewing the proposed consent decree, the court should inquire into ''the purpose, meaning, and efficacy of the decree.'' *Microsoft*, 56 F.3d at 1463.

However, these same decisions improperly and strictly circumscribe the role of the trial court and give it little leeway to fail to approve an antitrust consent decree. The D.C. Circuit has stated that:

> [T]he district judge is not obligated to accept [an antitrust consent decree] that, on its face and even after government explanation, appears to make a mockery of judicial power. *Short of that eventuality*, the Tunney Act cannot be interpreted as an authorization for a district judge to assume the role of Attorney General.

Id., 56 F.3d at 1462 (emphasis added). In other words, under this precedent, unless the proposed decree would ''make a mockery of judicial power,'' the consent decree must be entered by the Court. In another portion of this opinion, in language much cited by lower courts, the D.C. Circuit held that the court should not insist that the consent decree is the one that will ''*best* serve society,'' but only confirm that the resulting settlement is ''within the *reaches* of the public interest.'' Id. at 1460, citations omitted; emphasis in original.

In a subsequent decision, the D.C. Circuit summarized a district court's review under the Tunney Act, as follows:

> The district court must examine the decree in light of the violations charged in the complaint and should withhold approval *only* if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if third parties will be positively injured, or if the decree otherwise makes ''a mockery of judicial power.''

Massachusetts School of Law v. *U.S.*, 118 F.3d 776, 783 (D.C. Cir. 1997) (emphasis added) (quoting *Microsoft*, 56 F.3d at 1462). This is plainly quite a limited standard of review, which contains no admonition to review the likely effects of the consent decree on competition, and makes it very unlikely that a court would fail to enter almost any consent decree.

In the opinion of a leading academic commentator on the Tunney Act,

> the court of appeals in Microsoft made a potentially serious mistake by formulating a rule that, so long as procedural niceties are followed, all antitrust consent decrees must be approved unless they are a ''mockery.'' Once the real threat of meaningful scrutiny is eliminated, the benefits of deterrence and mediation would be destroyed and the Tunney Act would be nullified.

Anderson, supra, 65 Antitrust Law Journal at 38. Professor Flynn, who was involved in drafting the Tunney Act, agrees with this criticism of the D.C. Circuit's approach. Professor Flynn states that ''from the language of the Tunney Act and its legislative history, this is precisely the sort of deferential standard the drafters of the Tunney Act did not want. . . . [T]he D.C. Circuit chose to ignore the legislative intent and cast judicial review of consent decrees back to the days when rubber-stamping was prevalent.'' Flynn and Bush, supra, 34 Loyola U. Chi. L. J. at 780–781.

As originally written, the Tunney Act serves two goals deterrence and mediation. The prospect of judicial scrutiny deters the Justice Department from heeding political pressure to enter into a ''sweetheart'' settlement. And real Tunney Act review also provides an opportunity for a judge to act as a mediator, obtaining modifications to deficient settlements. As Professor Anderson points out, ''[i]f the government and antitrust defendants come to perceive that meaningful [judicial] scrutiny is not a real threat, the door will be wide open for attempts to swing sweetheart deals and for the public to lose confidence in antitrust enforcement by the government.'' 65 Antitrust Law Journal at 38.

In sum, as the Tunney Act is currently interpreted, it is difficult if not impossible for courts to exercise meaningful scrutiny of antitrust consent decrees. The ''mockery'' standard is contrary to the intent of the Tunney Act as found in the legislative history. Our legislation will correct this misinterpretation of the statute. Our legislation will insure that the courts can undertake meaningful and measured scrutiny of antitrust settlements to insure that they are truly in the public interest, and to remind the courts of Congress' intention in passing the Tunney Act.

In an effort to explain how the revisions to the Tunney Act in H.R. 1086 correct the mistaken standard used by certain courts in applying the law, it is important to describe each of the specific provisions of section 221 of H.R. 1086. Today we have introduced, with Senators HATCH, LEAHY, and DEWINE, a Managers' Amendment to H.R. 1086. These comments address H.R. 1086 as amended.

First, section 221(a) of our bill contains Congressional Findings and Declarations of Purposes. These provisions clarify that we are determined to effectuate the original Congressional intent of the Tunney Act. In other words, after the enactment of this legislation, courts will once again independently review antitrust consent decrees to ensure that they are in the public interest. The Congressional Findings expressly state that for a court to limit its review of antitrust consent decrees to the lesser standard of determining whether entry of the consent judgments would make a ''mockery of the judicial function'' misconstrues the meaning and intent in enacting the Tunney Act. The language quoted paraphrases the D.C. Circuit decisions in

Massachusetts School of Law v. *U.S.*, 118 F.3d 776, 783 (D.C. Cir. 1997) and *U.S.* v. *Microsoft*, 56 F.3d 1448, 1462 (D.C. Cir. 1995). To the extent that these precedents are contrary to section 221(a) of our bill regarding the standard of review a court should apply in reviewing consent decrees under the Tunney Act, these decisions are overruled by this legislation. While this legislation is not intended to require a trial de novo of the advisability of antitrust consent decrees or a lengthy and protracted review procedure, it is intended to assure that courts undertake meaningful review of antitrust consent decrees to assure that they are in the public interest and analytically sound.

Section 221(b)(2)(A) of our bill amends the existing subsection of Section 5 of the Clayton Act (codified at 15 U.S.C. § 16(e)) containing the requirement that courts review antitrust consent decrees to determine that these consent decrees are in the public interest. Our bill modifies the law by stating that, in making this determination, the court ''shall'' look at a number of enumerated factors bearing on the competitive impact of the settlement. The current statute merely states that the court ''may'' review these factors in making its determination. Requiring, rather than permitting, the court to examine these factors will strengthen the review that courts must undertake of consent decrees and will ensure that the court examines each of the factors listed therein. Requiring an examination of these factors is intended to preclude a court from engaging in ''rubber stamping'' of antitrust consent decrees, but instead to seriously and deliberately consider these factors in the course of determining whether the proposed decree is in the public interest.

Our bill, in section 221(b)(2)(B), also revises and enhances the factors which the court is now required to review in making its public interest determination. In addition to the factors enumerated under current law, the court must examine whether the terms of the proposed decree are ambiguous. While complete precision when dealing with future conduct may be impossible to achieve, an overly ambiguous decree is incapable of being enforced and is therefore ineffective. A mandate to review the impact of entry of the consent judgment upon ''competition in the relevant market or markets'' is also added by our bill. This will ensure that the Tunney Act review is properly focused on the likely competitive impact of the judgment, rather than extraneous factors irrelevant to the purposes of antitrust enforcement. Finally, this list is not intended to be exclusive, as the court is directed to review any other competitive consideration ''that the court deems necessary to a determination of whether the consent judgment is in the public interest.''

Under the existing statute, the trial court is granted broad discretion as to how to conduct Tunney Act proceedings. Our amendments make no changes to these procedures. In deciding whether to approve the consent decree, the court may, but is not required to, hold a hearing on the proposed decree. Id. § 16(f). In such a hearing, the court may take the testimony of Government officials or expert witnesses. The court may also take testimony from witnesses or other ''interested persons or agencies'' and examine documents relevant to the case. The court may also review the public comments filed during the sixty-day period pursuant to the Tunney Act. In addition, the court may appoint a special master or outside consultants as it deems appropriate. Finally, the court is granted the discretion to ''take such other action in the public interest as the court may deem appropriate.'' Id. While the court may do any of the preceding, it is not required to follow any of these procedures.

Our amendments to section five of the Clayton Act add language stating that nothing in that section will be ''construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' This language is not intended to make any changes to existing law, but merely to restate the current interpretation of the law. Under the statute, the court is not required to conduct an evidentiary hearing, but is permitted to do so or to take testimony if it wishes to do so. See 15 U.S.C. §16(f). This will remain the procedure, a court will be permitted, but not required, to conduct evidentiary hearings in making its Tunney Act determination. Additionally, the statute currently permits in 15 U.S.C. §16(f)(3) intervention by interested parties in the Tunney Act review proceeding. This will remain the procedure a court will be permitted, but not required, to allow parties to intervene.

Our amendments also make two other minor and technical changes to Tunney Act procedures. First, section 221(b)(1) of the bill permits the district court to authorize an alternative means of publication, rather than publication in the Federal Register, of the public comments received in response to the announcement of the proposed consent decree. A court may only authorize such alternative means of publication if it finds the expense of Federal Register publication exceeds the public interest benefits to be gained from such publication. This provision is intended to avoid unnecessary expense in publishing proposed consent decrees if alternate means are available, such as, for example, posting the proposed decrees electronically, which are sufficient to inform interested persons of the proposed consent decree.

The second technical amendment, found in section 221(b)(3) of our bill, amends the provision of the Tunney Act codified in 15 U.S.C. § 16(g) which requires that defendants notify the court of all communications with the Government relevant to the consent decree, except for communications between the defendant's counsel of record and the Justice Department. Our bill adds language which clarifies the statute's language to make clear that only communications with the defendant, or any officer, director, employee, or agent of such defendant, or other person representing the defendant must be disclosed. The defendant is not required to disclose contacts with the Government concerning the settlement by persons not affiliated with, representing, or acting on behalf of the defendant, for example, competitors of the defendant. The defendant's obligation to disclose contacts by agents or persons representing the defendant, including outside lobbyists, is unaffected by this technical change.

In sum, our bill will mandate that courts engage in meaningful review of the Justice Department's antitrust consent decrees and not merely ''rubber stamp'' the decrees. It will make clear that it is a misinterpretation of the Tunney Act to limit a court's review to limit judicial review of these consent decrees to whether they make a mockery of judicial function, and therefore overrule recent D.C. Circuit decisions holding to the contrary. The bill is expressly intended to effectuate the legislative intent of the Tunney Act and ensure the ability of courts to effectively review consent decrees to ensure that they are in the public interest. It will require, rather than permit, a court to review a list of enumerated factors to determine whether a consent decree is in the public interest. By restoring a robust and meaningful standard of judicial review, our bill will ensure that the Justice Department's antitrust consent decrees are in the best interests of consumers and competition.

Mr. DEWINE. Mr. President, I rise today, along with Senator HATCH, Senator LEAHY and Senator KOHL, as a sponsor of H.R. 1086, the Standards Development Organization Advancement Act of 2003. H.R. 1086 was passed unanimously by the Judiciary Committee in November 2003, and I am proud to say that H.R. 1086 encompasses many of the provisions of S. 1797, the Antitrust Criminal Penalty Enhancement and Reform Act of 2003, which Senator KOHL and I introduced in October 2003. H.R. 1086 is a comprehensive bill that will enhance and improve the enforcement of U.S. antitrust law in four key areas.

First, and perhaps most important, this bill will raise the penalties for criminal violations of antitrust law and bring those penalties more into line with penalties for other, comparable white collar offenses. Antitrust crimes such as bid rigging or cartel activity cheat consumers and distort the free market just as surely as any other type of commercial fraud, and should be strongly punished. Under current antitrust laws, the maximum criminal penalties for individuals guilty of

price-fixing are three years incarceration and $350,000 in fines. For corporations, the maximum fine is $10 million. This bill will, No. 1, raise the maximum prison term to 10 years; No. 2, raise the maximum fine for individuals to $1,000,000; and No. 3, raise the maximum corporate fine to $100 million. By increasing the prison terms for individuals, this bill brings criminal antitrust penalties closer in line with the maximum penalties assessed for mail fraud and wire fraud, which are both 20 years. Executives and other antitrust offenders need to know that they face serious consequences when they collude with their competitors, and this bill will send that message to the marketplace.

Second, this bill improves on an investigative and prosecutorial tool already being employed effectively by the Justice Department. Since 1993 the Antitrust Division has successfully used a revised corporate amnesty program to help infiltrate and break-up criminal antitrust conspiracies. In short, if a corporate conspirator self-reports its illegal activity to the Antitrust Division and meets certain conditions—it must be the first conspirator to confess, it cannot be the ringleader of the conspiracy, and it must agree to cooperate fully with the investigation, among other things—it will receive a ''free pass'' from prosecution. This program has been extremely successful in cracking conspiracies, because it creates a strong uncertainty dynamic among co-conspirators; members of the cartel can never be sure that one of the other conspirators will not confess its illegal activity to the Antitrust Division in order to avoid criminal liability. This uncertainty decreases the likelihood of cartels forming to begin with, and makes cartels less stable when they do form.

H.R. 1086 helps to enhance the Division's corporate amnesty program by expanding its reach. The current amnesty program does not affect the civil liability of the conspirators; that is, a corporation cooperating with the Division through the amnesty program receives protection from government prosecution, but may still be sued in court by private parties for treble damages. This bill decreases that liability by limiting the damages a private plaintiff may recover from a corporation that has cooperated with the Antitrust Division. Specifically, the conspirator is not liable for the usual treble-damages; instead, it is only liable for actual damages. This modification recognizes that a corporation that has fully cooperated with the Antitrust Division is less culpable than other conspirators, and provides a far greater incentive for corporations to cooperate with the Antitrust Division.

Third, H.R. 1086 addresses a concern raised recently by a string of court opinions that appear to limit the depth of review required by the Tunney Act. In brief, the Tunney Act requires that prior to implementing an antitrust consent decree a court must review that decree to assure that it is in the public interest; historically, that requirement has been understood to require that the courts engage in more than merely ''rubber-stamping'' those decrees. A number of recent opinions have led some to question the depth of review required by the Tunney Act. This bill makes clear that the Tunney Act requires what it has always required, and that mere rubber-stamping is not acceptable. In addition, H.R. 1086 makes a small number of minor modifications and revisions to ensure both that the Tunney Act accurately reflects its original intent and that it effectively functions in the modern legal and economic environment.

Finally, this bill will treat Standard Development Organizations (SDOs) more favorably under the antitrust laws. SDOs are private, voluntary nonprofit organizations that set standards for industry products—e.g., one SDO sets the standard for the required depth of a swimming pool before a diving board may be installed. Under the bill, qualifying SDOs which pre-notify the Antitrust Division of their standard-setting activities will not be subject to treble damages in private suits brought against them. Moreover, SDO activities will be scrutinized for antitrust violations under the less strict ''rule of reason'' legal standard, and SDOs may be awarded certain costs and attorney fees if they substantially prevail in litigation which is later held to be frivolous.

In all of these ways, H.R. 1086 modernizes and enhances the enforcement of U.S. antitrust laws, and I am proud to sponsor it.

Mr. MCCONNELL. I ask unanimous consent that the Hatch-Leahy amendment at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3010) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1086), as amended, was read the third time and passed.

ORDERS FOR MONDAY, APRIL 5, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, April 5. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

AUTHORITY TO FILE

Mr. MCCONNELL. I ask unanimous consent that notwithstanding the Senate's adjournment, it be in order for the Commerce Committee to file legislative matters until 2 p.m. today.

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

PROGRAM

Mr. MCCONNELL. On Monday, the Senate will be in a period for the transaction of morning business throughout the day. There will be no rollcall votes on Monday, but Senators are encouraged to come to the floor to deliver morning business statements if they have any.

As a reminder, earlier today the majority leader propounded a unanimous consent request that would have allowed us to take up and begin debate on S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. There was an objection to that request, and the majority leader was forced to file cloture on the motion to proceed.

The cloture vote on the motion to proceed to S. 2207 will occur on Wednesday of next week at 2:15, and that vote will be the next rollcall vote.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator WYDEN for up to 15 minutes and Senator SESSIONS for up to 15 minutes.

Mr. REID. Mr. President, I ask unanimous consent to add Senator CORZINE for 10 minutes following that.

Mr. MCCONNELL. Senator CORZINE for 10 minutes.

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

(The remarks of Mr. WYDEN pertaining to the submission of S. Res. 330 are printed in today's RECORD under ''Submitted Resolutions.'')

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Alabama is recognized.

INCREASE IN EMPLOYMENT

Mr. SESSIONS. Madam President, I would like to celebrate the good employment news we received today.

I think it is important for us to at least take a few moments to celebrate what was revealed today in the March employment figures released by the Department of Labor statistics.

I just left a hearing of the Joint Economic Committee, of which I am a

member. It was held in the House this time. We had the Department of Labor statistician give those reports. They were good numbers indeed.

There were 308,000 new jobs added this month. Since last fall, we have added over 700,000 new jobs. These are not vague numbers. These new jobs are payroll jobs that are identified easily because these are payroll jobs where the employer is sending the money to the Federal Government for Social Security, Medicare, and income tax withholding. These are really hard numbers.

For some time, we have had a divergence between the household survey and the payroll numbers. Payroll numbers have not been as good as the household numbers. Household numbers are a survey of homes in America. Many think they are even more accurate, because they ask whether you are employed and whether you are working. The truth is a lot of people do not show up on a payroll because they are self-employed, they are consultants, or they operate a business out of their home. They help their spouse or family member with a job. They do not show up on a payroll. Also, a large number of people are working here illegally and are not counted. That is something we need to get more serious about.

It is odd to me that Members in this Senate who are most angry and most upset about unemployment seem to have no concern whatsoever about how many jobs are being taken by people coming into this country illegally. We are a nation of immigrants, and we believe in immigration. But we also want to know who is coming to make sure they are coming legally, they are not terrorists, and that they are not flooding our job market and putting Americans out of work who could have had those jobs.

So the question becomes, where did all these new jobs come from? I think we can say with some fairness and objectivity with the history of our current situation—not to try to be partisan in any way—President Bush last year said he believed this economy was not where it should be. Our unemployment rate was not where it should be. It was too high. We needed to increase employment in America, and we needed to increase growth. The way you increase employment in this country is to increase growth, so we set out to do that.

What did we do? We carried through on a plan to stimulate this economy through tax cuts for American citizens, businesses, and investment. We began to see some real change. Growth began to occur.

During the third quarter of last year, growth was 8.2 percent. That is the highest rate of growth in 20 years. The fourth quarter was over 4 percent. We expect, according to Mr. Greenspan, growth this year to be 5 percent. That is a tremendous level of growth. It is something we should be very proud of.

Economists also say that growth creates jobs. If the economy does not grow, if businesses are not expanding, then they don't hire people. You don't have jobs created. If you want to create jobs, you have to have growth. So we have created growth.

There has been some concern about the number of jobs added as we began to grow. It has not been at the rate we would like to see. It is somewhat below historical averages. You would think jobs would increase faster considering the highest level of growth we have seen, but as we heard in the hearing this morning I attended—and I think most economists would agree—the problem has been productivity. Productivity has a short-term adverse impact on employment, but it is not a problem in the long term. Increased productivity means that a plant, a factory, or a business is doing better than they have done before. They are producing more widgets at less cost and less employment, and they are more efficient. In the long run, that is good. In the short run, it could mean an increase in unemployment.

We have had incredible increases in productivity and this has made us competitive in the world market. If you do not have productivity increases, how can a high-wage country like the United States compete with other countries around the world that pay less wages?

Productivity is the key to our being competitive in the world market. Everybody who is honest and who understands the situation would agree with that. But it has caused us to lag in jobs.

Growth is occurring. Now we see a 308,000-person increase in employment this month. It is really good news. I think it is something we should celebrate.

There has been so much political rhetoric going on. President Bush is a strong leader. He takes responsibility. He says he is not satisfied right now with the employment level in our country, although this unemployment rate we have today is below the 20-year average for unemployment in America. It is an unemployment rate that existed when President Clinton ran for reelection last time. The unemployment rate of 5.7 percent is not an extreme situation when viewed in historical terms. In fact, today's unemployment rate is less than the average rate for the decade of the 1980s and its less than the average rate for the decade of the 1990s.

Let me show you this chart that I think is pretty dramatic. It is entitled, ''Best Is Yet To Come, U.S. Picked to Have the Strongest Gross Domestic Product Growth Over Next Year.''

These were economists picking which countries have the greatest economic growth this year. The United States is almost 5 percent. All the rest of the countries—Australia, Canada, Britain, Spain, Japan, Sweden, Denmark, France, Euro Area, Belgium, Austria, Switzerland, Italy, Germany, and the Netherlands—all have lower growth.

Whose economy is doing well? Our economy is doing well. Why? We are doing better for several reasons. One is we have lower taxes than those countries. Another is that we have fewer regulations than those countries. We are committed to a more free market economy. That produces growth. That is the engine for American prosperity. It always has been, and we should never abandon that and move to the Socialist state economies in these other countries.

This is tremendous. How people can come around and whine and complain and grumble about the kind of situation we are in now is beyond me.

This chart shows the gross domestic product growth in the past 12 months. The United States has the highest growth in gross domestic product of all of these nations: Australia, Japan, Britain, Spain, Sweden, Canada, Belgium, Austria, France, Euro Area, Denmark, Germany, Italy, Switzerland, and the Netherlands. All of those countries have lower growth rates than we do. The European Union unemployment rate is 8.8. Ours is 5.7. Canada's is 7.4.

Something is being done right here. We are not quite as bad as people would like to moan and groan about.

We just added 300,000 new payroll jobs last month. These are not survey jobs. These are people who are on the payroll and who are paying withholding taxes—Social Security and Medicare taxes. These are substantially payroll and employment taxes. Things are moving along pretty well. I have been concerned. I don't think it is fair that many on the other side have blamed President Bush because the economy has not done as well as we would like and it slipped into recession.

I will take a moment to explain some things. Back when former President Bush was President, he had been in office a year or so, the Reagan boom had been going on, and all of a sudden we got into a slowdown. A lot of economists know why it occurred, but we got into a slowdown. We had negative growth a couple of quarters when former President Bush was in office, about his second year in office. President Clinton ran for office and said: It's the economy, stupid. He said the economy was bad and President Bush would be removed from office and he won, to a large degree, on that issue.

The truth was, by the time President Clinton took office, the economy had grown during the fourth year of President Bush's Presidency and President Clinton inherited a growing economy. The fourth quarter of President Bush's last year in office showed significant growth. So it is clear: President Clinton inherited a growing economy when he took office. And for most of his two terms in office, the economy performed well. I guess he gets credit for that, although I am not sure how much any President deserves credit for these things, but they think they do. So they get the credit and the blame, whether they deserve it or not.

So President Clinton enters office and the economy goes along well for a

while. But it was in trouble his last year in office. And during the 2000 campaign President Clinton and Vice President Gore spent a lot of time saying how wonderful the economy was and how much his Vice President, Mr. Gore, deserved credit for it, but, this just wasn't so. In fact, the economy had already begun to sink dramatically during President Clinton's last year in office.

For example, the NASDAQ exchange lost one-half of its value during the last year of President Clinton's tenure and before President Bush took office. When President Clinton was President, the economy was in trouble. Another fact is that during the third quarter of President Clinton's last year in office the economy experienced negative growth.

To compound the problem further, the first quarter President Bush inherited also experienced negative growth, even though the President hadn't been in office long enough to have this slowdown occur as the result of any of his policies. The fact is, President Bush inherited an economy from President Clinton that was already in trouble. There was no doubt about it. The numbers I have given are indisputable. President Bush's opponents want to ignore them and pretend that these facts did not happen. They want to promote the myth that President Bush is responsible for this economy, for the economic troubles we had, not that he inherited them.

But to his credit, President Bush has not whined or complained about the economic problems he inherited. Instead, he set about on a program to get our economy moving again by empowering the American people. He did this by allowing people to keep more of the money they earn instead of sending it to Washington to be spent by this gaggle in the Senate and the House. This President trusts the American people. In a nutshell his program is based on the premise that our economy functions best when we put more money into the hands of the people who earned it in the first place.

And the President's approach has created this growth we are now seeing. It resulted in 8.20-percent growth the third quarter of last year. It resulted in significant growth in the fourth quarter of last year. It is an approach that leads many people, such as Alan Greenspan, to predict the economy many sustain GDP growth of 5% this year. And it is an approach that has helped create the 300,000 new jobs we celebrate today.

Things are moving well. We want to see it continue. We want to see the unemployment numbers fall, and we want to see continued growth in productivity and jobs. In the long run, growth will determine whether we are successful as an economy and whether people will have jobs.

We hear all these things about China and Mexico being a threat to us, outsourcing and all these problems, and we need to look at every single one of them and be very protective of jobs in America.

The President of the United States understands this. He understands that he is not president of the European Union. He is not president of the world. President Bush understands that he represents the United States of America. He is working every day to help our interests.

We have a lot to celebrate with these numbers today. They are really good. If we could maintain something close to that for the next 4, 5, or 6 months, we will feel a difference in income and revenue to the Government. We have 300,000 people now paying money to the Federal Government in taxes. One reason we have had a revenue shortage is because we have had less employment, so they are paying less taxes. If businesses are in a recession, they do not make a profit; the corporation does not pay a tax unless they make a profit.

Maybe we are back in the mood of growth and profitability and hiring that will make a difference not only in jobs for American citizens but maybe it will also make a difference for revenue to our Government and help us get this budget balanced again, which is something I feel very strongly about.

These tax reductions have been mischaracterized. Right now, we are dealing with it, as part of our budget process that we need to complete. We need to extend the child tax credit of $1,000 per child for a working family in America today. The marriage penalty falls on working families and the expansion of the 10-percent bracket—in other words, people who are used to paying 15 percent income taxes—the lower income taxpayers, some pay 10 percent, the middle group pays 15 percent—more people will be paying at a lower rate. All of those are in doubt right now. We need to make that happen, allow the American people to keep more of their money, follow the great American tradition—not the European Socialist tradition—the American tradition of individual responsibility, lower taxes, free markets, less regulation, and we will continue to beat the world in economic growth and productivity.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 10 minutes.

ECONOMIC INDICATORS

Mr. CORZINE. Madam President, it is good news to have an increase in employment in America today. Everyone is pleased to see more jobs are coming into our economy and Democrats, as well as Republicans, are pleased to see more Americans are going to work.

But that said, working men and women, and everyone, has to understand numbers of 1 month do not indicate a change in whether one assesses economic policy working for average Americans, for middle-class Americans, for moderate-income Americans, for those who are trying to make ends meet in our economy.

These good numbers we would like to see continued. We would like to see more Americans going to work, but the American people need to understand this number, this 1-month number, in the context of a whole 38 months of development of economic policy in this country, is a record that I believe, and I think many people would believe, has put enormous stress on the American people.

We are pleased with the job growth, but the fact is, we saw growth in the unemployed this month of about 184,000. We now have 8.4 million Americans unemployed in this economy. That is up substantially this month.

We have also seen the unemployment rate tick up about one-tenth of a percent. I heard some spinning about Senator KERRY saying 5.6 was pretty good in 1996. There is a difference when you come from 7.2 percent, which is where President Clinton's unemployment rate was when he came to office, going to 5.6—on the way, by the way, to 3.8 percent—than when we have a 5.6 or 5.7 percent rate, coming up from 4.2 percent, which is what the current administration inherited.

We have rising unemployment in this country, not declining. One month is a good thing to have happen, even a good quarter is a good thing to happen, but let's put it into the context of the 38 months of the stewardship of this administration's economic policies.

The fact is, we have had the worst record in 70 years, and it still stands. It has not been substantially altered by a 1-month performance in job growth in private sector jobs that we have seen since the Herbert Hoover years in the late 1920s and early 1930s.

The fact is, every other President from that point in time on—Roosevelt right through Clinton; including George Bush 1, Ronald Reagan, Carter—produced private sector jobs. And we have about a .7-percent decline in jobs under this administration in the private sector. We have lost about 2.6 million of those jobs, even after these numbers.

In fact, we have been producing more jobs in Government during the Presidency of someone who said they did not believe in Government—which is quite strange—relative to an emphasis on the private sector.

Again, I repeat, you have to look at this in the overall context. One month is good, and we are all pleased about that, but the fact is we have lost private sector jobs in this economy. It is a fact of which I think the American people have a real understanding.

Economic policy is something to analyze over a period of time, in context. It is not just a month. Remember, in the Clinton years, there were roughly 21 million jobs created—21 million jobs created—over that 8-year period. Right now, we have lost something in the

neighborhood of 2.5 to 2.6 million jobs over the term of this stewardship of the economy.

It is the context you have to think about, what kind of economic policy leads to sustained economic growth and sustained economic job creation, which is the end result that I think people will measure in their own lives—whether they have a job, whether they are working, whether they are actually able to take care of their families.

By the way, it is not just jobs; it is actually the earnings one gets on those jobs. One of the things that has been happening in our job market is, as people lose a job, and then they take another job, we have seen a 21-percent decline in the average wages of people who get reemployed.

So those factory workers in Edison, NJ, where our last Ford factory was closed—they go from a Ford manufacturing job to a service sector job that is, on average, 21 percent lower in real earnings than the job they had before. So they may be working but going into a Wal-Mart or going into hamburger flipping, which is not as good a job as the ones we are losing.

That is the problem in this economy, even though we might be seeing job growth. By the way, if you look at the actual numbers in this month's job creation, so many of them are in the service sector, where you are seeing this phenomenon happening, where there is a decline in the earnings of families and their purchasing power. They are losing their ability to go into the economy and have the strength to participate in the way they were before.

So it is not just the jobs; it is the quality of jobs that is at stake in the debate we have with regard to economic policy. So not only do we have a poor performance with regard to job creation, we have poor performance with regard to the quality and the earnings power that is associated with those jobs.

I think it is hard to hear some of the celebration and spinning that I have heard this morning on some of the television stations and from others who are focusing only on the good news of the 308,000 jobs created. That is great. How about the 184,000 people who lost their jobs? How about the 8.4 million people who are unemployed? How about the 2 million people who are on long-term unemployment in this country, who are detached or who have dropped out and are not looking for jobs? It is the highest number we have ever seen.

By the way, if you added that into the unemployment rate—the people who have stopped looking because they have given up hope looking for a job—the unemployment rate would be 7.2 percent. This is not just a single number. I know there is going to be a lot of focus on it, and that is a good thing. I hope it sustains itself over a long period of time so we can start correcting this malaise we have in our jobs market around this country. And it is serious.

People know about outsourcing. They know about offshoring. They know about the fact that the minimum wage has not increased so that real earnings can grow for working men and women in America. There is a real problem.

In January 2001, we had about 700,000 long-term unemployed. Today, we have 2 million. You tell me whether that is a good stewardship of our economic policy and our jobs policy in this country. Where I come from that does not sound like a good performance.

I saw one of my esteemed colleagues from the other side of the aisle—I know he was trying to make a positive case—saying we have record employment at 138.4 million jobs in this country. That may be true, but last time I checked the population just keeps growing every month. Every month, the population keeps growing. If the employment rate does not go up, do you know what. What happens this week or what happened in this month's numbers is exactly what is taking place. We get rising unemployment, particularly when you add in all those people who have dropped out of the workforce. It is not that hard to do fractions. If you keep the base the same, and the numbers go up, you are going to get a changed number. And that is what is happening. It is hard for me to understand why we want to take victory laps when there are 8.4 million Americans without jobs.

Now, this is something we all hope turns and continues along the path. By the way, it is sure coming at a fairly serious price. The last time I checked, the President's own OMB Director was projecting we are going to have a $540 billion budget deficit. I guess if you go out with a credit card and spend up a storm, you can get some activity going on in the marketplace. If you go to the malls and spend until you are in debt to the point where you cannot sustain it over a long period of time, you can get some economic stimulus, but that does not mean that is good economic policy. In fact, that means we are mortgaging our children's future so we can get results now. Funny, we want results about 6 months in front of an election, but we are spending in an uncontrolled manner, and almost everyone, on both sides of the aisle, is troubled. Spending and tax cuts and borrowing just make no sense, but they are getting some results in stimulating the economy. I do think we have a good thing going on with regard to the Federal Reserve. We have had the lowest interest rates now for 15, 16, 17 months—the lowest interest rates in 45 years. That actually does put some stimulus in the economy.

We could not do any more with regard to trying to stimulate. The problem is, we did not do it very efficiently. We put it in all at the top income brackets, and it sort of trickles down.

And that may create jobs. But I want to go back to what I think maybe is as important as anything that needs to be analyzed in the job market. When we trade manufacturing jobs, white collar technology jobs, for service sector jobs, what happens to the American people? Their standard of income goes down.

Madam President, $44,570 is the average wage for a job that was lost in 2001. And the average wage today, when you get a new job, is $35,410, according to this calculation. That is a decline of 21 percent. When you go from manufacturing and high-technology jobs to service jobs, you see a deterioration in the real earnings of the American people. That is happening. And we still have a major unemployment problem in this country: 8.4 million people, 2 million of whom are unemployed on a long-term basis. We have the longest average tenure on unemployment we have had in 20 years.

So, yes, it is a good thing that we saw 308,000 jobs created this month. It is a good thing that we are starting to see some pickup. But by my calculation—and by anyone's calculation—we still have the worst job performance record of any President since Herbert Hoover. Those are the facts. People can talk about the facts however they want. We have not performed for the American people in creating jobs and creating real earnings that will make a difference in their lives.

So I hope we do not start celebrating and spinning so much that we lose track of what the reality is for people in their own lives—certainly what is the reality for those people in Edison, NJ, who just had their Ford plant closed. I can tell you, it is happening all across my State. We have seen the elimination of high-quality jobs, and people are replacing them with those lower earning ones. I think we have serious issues to debate as we go through this campaign season. We ought to stay focused on the facts—both the number of jobs created and the quality of those jobs. I look forward to having greater discussion about these issues in the weeks and months ahead.

Thank you, Madam President.

ADJOURNMENT UNTIL MONDAY, APRIL 5, 2004, AT 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m., on Monday, April 5.

Thereupon, the Senate, at 11:24 a.m., adjourned until Monday, April 5, 2004, at 1 p.m.

EXTENSIONS OF REMARKS

HONORING OFFICER NICHOLAS K. SLOAN: A MAN OF COURAGE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Nicholas K. Sloan for exhibiting tremendous courage while serving with the St. Louis Metropolitan Police Department. During his tenure with the St. Louis Metropolitan Police Department, Officer Sloan's energy, commitment and dedication to his job made him an extraordinary benefit to the entire St. Louis community.

Officer Sloan knew at an early age that he wanted to become a police officer, just like his father. After graduating from the Police Academy, he honorably requested to be placed with the Eighth District so that he could make a difference in the inner city. Officer Sloan later earned a spot on the Eighth District Weed & Seed Unit which is a Department of Justice Initiative that assigns officers to help designated neighborhoods work on some of their worst problems, mainly centered on narcotics and firearm violations.

Quickly becoming ''streetwise'' and impressing his supervisors, he knew first hand who the ''players'' were in the community. He was instrumental in helping the unit compile a substantial amount of arrests and seizures. During his time, the unit was credited with 396 total arrests, recovering 123 firearms, seizing 31 vehicles and collecting $35,901 under Asset Forfeiture guidelines.

Mr. Speaker, Officer Sloan was just 24 years old when he was killed in the line of duty while proudly and heroically serving the St. Louis community. His immense contribution to reducing crime in St. Louis, his bravery and his kindness will never be forgotten. It is with great privilege that I recognize Officer Nicholas K. Sloan today before Congress.

HONORING JOSEPH BOMMARITO

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today in honor of Joseph Bommarito upon his retirement after 32 years of service to our community.

Since his family moved to Redford when he was just 10 years old, Joe has been a staple in our community. Before accepting the appointment as Deputy Supervisor in January of 1997, Joe served the Redford Township Police Department for 25 years in the capacities of patrolman, sergeant, lieutenant and inspector. Joe's impact was immediately felt as he successfully negotiated cost saving contracts and gave the Townhall a new look.

His wife, Carol, and his sons, Joseph, Tony, Michael and Bryan, should be extremely proud of the undeniable mark he has left on the community. We at home will sorely miss and always benefit from his dedication and leadership.

Mr. Speaker, I extend my sincere appreciation to Mr. Joseph Bommarito, upon his retirement as Deputy Supervisor of Redford Township, for his fine service to our community and our country.

A PROCLAMATION HONORING CHARLES DAVIS PALMER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. NEY. Mr. Speaker, whereas, Brett and Emily Palmer are celebrating the arrival of their son, Charles Davis Palmer; and

Whereas, Charles Davis Palmer was born on the twenty-fourth Day of March, 2004 and weighed eight pounds and fifteen ounces; and

Whereas, Mr. And Mrs. Palmer are proud to welcome their new son into their home; and

Whereas, Charles Davis Palmer will be a blessed addition to his family, bringing love, joy and happiness for many years to come;

Therefore, I join with Members of Congress and Congressional Staff in celebrating with Brett and Emily Palmer and wishing Charles Davis Palmer a very Happy Birthday.

HONORING OFFICER GABRIEL KEITHLEY: DEDICATED TO SERVICE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Officer Gabriel Keithley for being extremely courageous and dedicated while serving with the. St. Louis Metropolitan Police Department. Officer Keithley's strong work ethic and commitment to his job make him an extraordinary benefit to the entire St. Louis community.

Officer Keithley fulfilled his life's ambition when he was hired by the St. Louis Metropolitan Police Department in 2001. After graduating from the Police Academy, Officer Keithley was placed with the Eighth District where he gained the reputation of being a hard working and devoted officer. His endeavors have not gone unnoticed by his colleagues; in January of 2003 they voted Gabriel Keithley Officer of the Month. His supervisors later recommended him to the Eighth District Weed & Seed Unit. This is a Department of Justice Initiative that assigns officers to help designated neighborhoods work on some of their worst problems, mainly centered on narcotics and firearm violations.

Officer Keithley has been an immense asset to the Weed & Seed Unit. He has been instrumental in helping the unit compile a substantial amount of arrests and seizures. During his time, the unit was credited with 396 total arrests, recovering 123 firearms, seizing 31 vehicles and collecting $35,901 under Asset Forfeiture guidelines.

Mr. Speaker, Officer Keithley recently exhibited exceptional bravery while in the line of fire. Having been critically wounded, he courageously fought back and forced an armed criminal to flee the scene. I am honored to recognize Officer Gabriel Keithley today before Congress.

PRESIDENT'S DAY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. SMITH of Texas. Mr. Speaker, last month America celebrated President's Day. In recognizing a generic holiday, though, perhaps we didn't take the time to focus on our first President, George Washington. A friend, advisor, constituent and cousin, Frates Seeligson of San Antonio, wrote an article for the San Antonio Express-News that conveys the greatness of the individual called, ''First in war, first in peace and first in the hearts of his countrymen.'' I hope my colleagues and others will enjoy Mr. Seeligson's trenchant observations.

[From the San Antonio Express-News, Feb. 22, 2004]

OLYMPIAN IN WAR, SAGACIOUS IN PEACE

(By Frates Seeligson)

During the past three decades, knowledge and appreciation of George Washington have declined to an all-time low.

One survey has revealed that Washington's coverage in history textbooks has declined by 90 percent since the 1960s. One high school textbook has only a paragraph on George Washington but more than two pages on Marilyn Monroe.

For that reason, his birthday today is an appropriate time to remind ourselves about his wonderful contributions to America, which resulted in his being known as the ''Father of his Country.'' It is even more appropriate at a time when we constantly are looking for role models.

Consider Washington's greatest services in the creation of our country:

For 8½ years, he commanded the Continental forces, which won our independence.

He presided over the constitutional convention that produced the document under which we live, and without his support it would not have been ratified.

He became the first president of the United States.

Washington was a magnificent horseman and looked every inch a general. He was one of the wealthiest men in America, yet he pledged his life, his future, his beloved Mount Vernon and his sacred honor to win our freedom. At one battle he stopped his retreating army, turned them around and fought the British to a draw.

The Marquis de Lafayette described the effect of Washington's arrival on the tired, discouraged, beaten men: ''His presence stopped

the retreat. His fine appearance on horse, his calm courage, roused to animation by the vexations of the morning, gave him the air best calculated to excite enthusiasm.''

Lafayette also recalled how later he ''rode all along the lines amid the shouts of the soldiers cheering them by his voice and example and restoring to our standard the fortunes of the fight. I thought then, as now, that never had I beheld so superb a man.''

After the war, no one knew whether the 13 states would separate into different countries or become one nation. The government under which they lived was basically a league of states absorbed in their own concerns.

The country found it impossible to operate under this type of government, and a constitutional convention was called.

Washington was already a legend.

As John Adams said: ''He made every crowned head in Europe look like a valet. Noble, incorruptible, Olympian in war, sagacious in peace, he was the ideal man to preside over the convention.''

The Constitution that the founding fathers created was absolutely new and revolutionary for its time. To create it was one thing; to get it ratified by the states was another. Washington's support was essential to its passage.

As he said: ''It is too probable that no plan we propose will be adopted, perhaps another dreadful conflict is to be sustained.

''If to please the people, we offer what we ourselves disprove, how can we afterwards defend our work. Let us raise a standard to which the wise and the honest can repair.''

Once the Constitution was ratified, most of the European powers felt there was no question it would be a failure.

They underestimated the first president. He guided the nation through its first eight years and set it on a course that has lasted to this day.

Washington's last service to his nation was to retire after two presidential terms.

To paraphrase what has been written before, there are two roads: one to absolutism and another road to democracy. On the first we see Napoleon and emperors, perpetual presidents, Mussolinis, Hitlers, Maos and directors of the proletariat advancing to band music to the death of political freedom.

On the other road, to democracy, there is a solitary figure in a rusty blue and buff uniform hasting to the happy halls of Mount Vernon.

All hail to Washington. First in war, first in peace and first in the hearts of his countrymen.

FREEDOM FOR MARIO ENRIQUE MAYO HERNÁNDEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Mario Enrique Mayo Hernández, a prisoner of conscience in totalitarian Cuba.

Mr. Mayo Hernández is a lawyer by profession who was fired by the Castro dictatorship from his job as a lawyer because he believes in freedom and democracy. After being terminated for his democratic opinions, Mr. Mayo Hernández began working as an independent journalist so the world could understand the reality of Castro's hideous oppression. Using the limited tools of independent journalism in a totalitarian state, Mr. Mayo Hernández courageously wrote about the bleak, broken, society that is the result of the tyrannical policies of the Cuban totalitarian dictatorship. In order to better disseminate the truth about totalitarian Cuba, Mr. Mayo Hernández eventually became the director of the press agency ''Félix Varela.''

On March 18, 2003, as part of Castro's brutal March 2003 crackdown on peaceful pro-democracy activists, Mr. Mayo Hernández was arrested by the tyrant's police thugs. According to Amnesty International, he was accused of ''creating conditions'' that would allow the UN Commission on Human Rights to condemn the totalitarian regime for its gross human rights violations. In the sham trial that sentenced him to 20 years in the totalitarian gulag, Mr. Mayo Hernández was convicted because of ''counterrevolutionary'' articles on the abhorrent prison conditions and the situation of families of political prisoners.

Mr. Mayo Hernández is currently languishing in the oppressive conditions of the totalitarian gulag. According to Reporters Without Borders, Mr. Mayo Hernández has been held in conditions of ''maximum harshness'' that include being locked in solitary confinement, having to wait four months between family visits, and being transferred to a cell with common law criminals. Let there be no doubt, Mr. Mayo Hernández is being tortured in the totalitarian gulag. Because of his belief in freedom and democracy, because of his truthful depictions of the decrepit reality of the Castro regime, Mr. Mayo Hernández has been ''sentenced'' to 20 years in Castro's violent, corrupt, inhumane, totalitarian gulag.

Mr. Speaker, it is categorically unacceptable that peaceful pro-democracy activists languish in the gulags of tyrannical regimes. My Colleagues, we must demand the immediate release of Mario Enrique Mayo Hernández and every prisoner of conscience in totalitarian Cuba.

HONORING JULIE AND JIM TURNER

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. FROST. Mr. Speaker, earlier this year, I attended the 10th Annual Awards Luncheon of the Senior Source, formerly known as Senior Citizens of Greater Dallas. At that event, the Senior Source presented its Spirit of Generations Award to Julie and Jim Turner, two highly respected citizens of Dallas.

Jim Turner, an internationally recognized leader in the soft drink industry, is CEO/President of the Dr. Pepper/Seven Up Bottling Group in Dallas. Over the years, Jim Turner and his company have been good corporate citizens and have made many contributions to the betterment of Dallas.

I would like to insert in the RECORD at this point the description of Julie and Jim Turner that appeared in the program marking the occasion of the presentation of the Generations Award.

JULIE AND JIM TURNER

Julie and Jim Turner work tirelessly to improve the well being of the community in which they live and conduct business. Throughout their 35 years of marriage, they have given and received their energy from family, faith, and friends. And they have generously extended that strength to others. They have taken an active part in numerous nonprofit and corporate boards and are the force behind Dr Pepper/Seven Up Bottling Group's outstanding role as a corporate citizen. In recognition of Julie and Jim Turner's contributions to the greater Dallas community, The Senior Source is pleased to honor them with the 10th Annual Spirit of Generations Award.

Jim Turner, an internationally recognized leader in the soft drink industry, is part owner and CEO/President of the Dr Pepper/Seven Up Bottling Group. He has been recognized with the two most coveted awards in the beverage industry: Man of the Year from Beverage Industry and Beverage World's Hall of Fame. He has also received the nationally prestigious Horatio Alger Award, as well as the Russell H. Perry Free Enterprise Award, the Baylor University Distinguished Alumni Award, and has been inducted into the Baylor Sports Hall of Fame. He serves on the board of Baylor Health Care System, Boy Scouts of America Circle Ten Council, and Alzheimer's Association, among other local and national organizations.

Like her husband, Julie Turner is involved in the business affairs of the company and actively supports many local organizations. She serves on the boards of the Baylor Health Care System Foundation, Dallas Historical Society, is Chairman of the Board of Trustees of Dallas Baptist University, and is a member of the Crystal Charity Ball Committee. A former teacher, she has served as PTA President and was awarded Life-time Membership in the Texas PTA She is committed to a number of local causes including, among others, American Heart Association, Kidney Texas, Inc., AWARE, and Dallas Symphony Association.

The Turners are members of Park Cities Baptist Church and enjoy family time with their daughters, Jenna and Amy, Amy's husband, Brent, and their new pride and joy, grandson Turner.

With the Spirit of Generations Award, The Senior Source is honoring this extraordinary couple for their selfless work throughout the greater Dallas area.

HONORING STEPPENWOLF THEATRE COMPANY

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Steppenwolf Theatre Company for three decades of excellence in Chicago's fine arts community for producing highly popular and consistently first-rate theatre.

Steppenwolf Theatre Company began performing plays in a church basement of Highland Park, Illinois back in 1974. With the leadership of Terry Kinney, Jeff Perry and Gary Sinise, the group incorporated in 1975 and has now grown to include thirty-five premier theater artists with wide-ranging and nationally recognized talent.

In that time, Steppenwolf Theatre has made Chicago proud time and again by making tremendous advancements in the vitality and diversity of American Theatre—both for its actors and its audience. Today, the city demonstrates its appreciation and continued patronage with a subscription base of 25,000 members and growing.

The Steppenwolf Theatre Company has evolved effortlessly with changing times, while maintaining relationships with established playwrights such as Sam Shepard, Lanford Wilson and Alan Ayckbourn. They have reinvented classics like John Steinbeck's The Grapes of Wrath, and more recently produced and developed the world premiere of Man from Nebraska by ensemble member Tracy Letts.

With their original principals of ensemble collaboration and artistic risk still flourishing, Steppenwolf now approaches its 30th anniversary as a professional theater company. The Company has been lavished with high praise from national and international media, art critics and audiences alike.

This persistent effort has earned Steppenwolf several prestigious awards. Most recently, they include the Joseph Jefferson Award for Chicago Theatre Excellence and the 2003 Equity Special Award for leadership in national and international acclaim for Chicago Theatre, and for excellent training and outreach programs, partnership and support of theatres, playwrights and artists new to the scene.

Mr. Speaker, I join with all proud residents of the Fifth District and the City of Chicago in congratulating the Steppenwolf Theatre Company on its many achievements in thirty years, and wish it continued success as it further solidifies its unique and landmark status in our great City.

HONORING THE LIFE AND CAREER OF GEORGE R. TUCKER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. KAPTUR. Mr. Speaker, I rise today to honor the life's work of George R. Tucker, retiring as the Regional Director and Executive Secretary of the American Federation of State, County, and Municipal Employees (AFSCME) Ohio Council 8, AFL–CIO. Mr. Tucker has spent his career furthering the goals of organized labor in the struggle to improve the lives and livelihoods of the brothers and sisters and thus, make our Nation stronger.

AFL Founder Samuel Gompers explained in an 1898 speech, ''To protect the workers in their inalienable rights to a higher and better life; to protect them, not only as equals before the law, but also in their health, their homes, their firesides, their liberties as men, as workers, as citizens; to overcome and conquer prejudices and antagonism; to secure to them the right to life, and the opportunity to maintain that life; the right to be full sharers in the abundance which is the result of their brain and brawn, and the civilization of which they are the founders and the mainstay. . . . The attainment of these is the glorious mission of the trade unions.'' His words ring as eloquently true in the dawn of the 21st century as they did in the waning of the 19th century. His words provide the blueprint by which labor leaders like George Tucker have always led, setting the economic and social achievements of the membership as a whole as their primary goal.

George Tucker completed high school at Toledo's Woodward High School and followed that with service in the United States Navy. After more than two decades ''in the trenches,'' he became the staff representative for AFSCME's Ohio Council 8 in 1984. In 1987 he took on the responsibilities of Regional Director, adding Executive Secretary in 2002. Other offices Mr. Tucker has held during his tenure with AFSCME Ohio Council 8 are Secretary-Treasurer and Regional Vice President. At the same time, he has served the Toledo Area AFL–CIO on its steering committee and executive board and as President. He also holds a position on the national AFL–CIO's advisory board. Mr. Tucker gives of his time and talents to the United Labor Committee, Northwest Ohio Center for Labor Management Cooperation, Toledo Labor Management Citizens Committee, and the Coalition of Black Trade Unionists. In all these pursuits, he has championed the causes of better wages, benefits, and working conditions for the thousands of workers whose lives he has touched.

Mr. Tucker has not limited his service to the union movement; he is also a community leader. He has ably and actively served on the boards of the local EMS, Toledo Lucas County Public Library, Ohio Public Employers Lawyers Association, the Private Industry Council, United Way, Lucas County Democratic Party, Toledo Port Council, and the Down River Inter-City Hockey Club in Detroit and the Greater Toledo Amateur Hockey Association. He is a member of American Legion Post 110, Destroyer Escort Sailors Association, Augsburg Lutheran Church, and the Placers Car Club.

Reviewing the exhaustive list of George Tucker's civic activities, it is clear his retirement is most deserved and maybe a little bit welcome. We wish him a most enjoyable journey on this new path in his life. We hope he is able to spend time with his wife and their children and grandchildren, and pursue golfing and the hobby of antique cars with the same vigor with which he has pursued his public life. Even though he may be officially retiring, we know we can continue to count on George Tucker's learned wisdom and personal counsel. Our community has been bettered immeasurably as a result of his dedication and good cheer. Onward, friend.

RECOGNIZING THE DEDICATION OF EPOCH BY THE DISTRICT OF COLUMBIA

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. NORTON. Mr. Speaker, I rise today to share with Congress that on Monday, April 19, 2004, District of Columbia Mayor Anthony A. Williams will publicly dedicate Epoch, a permanent monumental abstract steel sculpture by artist Albert Paley, which was recently installed in front of the PEPCO Headquarters at 9th and G Streets, NW. A poem by Dolores Kendrick, Poet Laureate of Washington, DC, is stamped into the metal structure of the sculpture. The genesis and placement of the text were determined through collaborative efforts between Ms. Kendrick and Mr. Paley. This project represents the second instance in which an African American woman has been honored by being prominently represented in a public artwork in the District of Columbia. The first African American woman was Mary McLeod Bethune, whose sculpture is in Lincoln Park.

Epoch will serve as a major landmark in the heart of newly re-developed and revitalized downtown Washington, DC. Its location marks a major intersection for pedestrian and vehicular travel within the dynamic 7th Street Arts District, an area that is emerging as a hot and stylish destination for entertainment, retail, and culture. Epoch is installed across the street from the Smithsonian Museum of American Art/Portrait Gallery, the Gallery Place Metro Station, and the Martin Luther King, Jr. Memorial Library, the main branch of the DC Public Library. This area also features the MCI Center Arena, the new Washington Convention Center, the City Museum of Washington, DC, the Washington Shakespeare Theatre, the Spy Museum, the National Mall, and a significant number of prominent art galleries, shops, and restaurants.

Epoch measures 25 feet high by 12 feet wide by 10 feet deep, approximately one and a half stories tall, and is painted in a vibrant multicolored palette featuring blue, yellow, purple and red-orange. The design of the sculpture was recommended by a special selection committee for the project that included community representatives and was approved by Commissioners of the D.C. Commission on the Arts and Humanities (appointed by the Mayor of the District of Columbia) and the Commission of Fine Arts (appointed by the President of the U.S.A.).

TRIBUTE TO CHARLES MARSHALL

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HINOJOSA. Mr. Speaker, I rise today to honor a friend and constituent, a beloved citizen of Aransas Pass, Texas, an established entrepreneur, and a compassionate neighbor—Mr. Charles Marshall. He has served his town, its needy and especially, its children, for nearly half of a century.

I can think of no one more deserving of recognition for empowering a community with the best educational opportunities that can be bestowed upon its youngest citizens. It is the personal values he has held throughout his years of public service which enhance the contributions and unshakeable faith he has for the people of Aransas Pass.

Charlie Marshall was born July 7, 1923 in Skidmore, Texas. He attended public school in Raymondville and later graduated from Southwest Texas State University in San Marcos. He served his country in the Navy during World War II, serving for 3 years on a backup troop transport in an operating room. After returning from the war, he threw himself into civilian life and enrolled in Landig Mortuary College in Houston, Texas—eventually rising to valedictorian and class president.

He moved to Aransas Pass in 1949 and went to work for Cage Funeral Home. In 1953, it became Cage-Marshall Funeral Homes. Thirty-five years later, in 1998, the Charlie Marshall Funeral Home and Crematory of Aransas Pass was officially dedicated. Charlie's professional commitment was recognized

by the State of Texas. He was appointed to the Texas State Board of Morticians by Governors Price Daniels, John Connally, Preston Smith and Dolph Briscoe.

Charlie knew Aransas Pass was a great place to live and that the area would flourish if it had a solid educational hub. So in May 1959, he ran and was elected to the school board. This position enabled him to use his ability to inspire, attract and engage students and parents to work together to support academic excellence, and enhance pride in their community. Mr. Marshall continues today to visit the school campuses and talk to the students. He attends the Panther Sports events and supports many school activities that provide young people a chance to represent their school and community.

In addition to his exemplary service to his profession and the local educational community, Charlie has also served in civic, charitable and social organizations which propel the community and its citizens to prosperity.

These organizations include the Veterans of Foreign Wars, where he received the Good Citizenship Award, and the Aransas Pass Chamber of Commerce, where he has served for many years as an officer. He is credited as the founder and early organizer of the Shrimporee Festival, which continues to benefit San Patricio County. He was a distinguished director of the Overbid Property Trust, whose proceeds built the Aransas Pass Public Library. He was awarded the Aransas Pass Citizen of the Year Award 1972, and the coveted Murl Smith Award in 1981. Mr. Marshall was one of the founders of the Aransas Pass Associated Charities, which later grew into the Christian Service Center, serving thousands of needy families and children.

The citizens of Aransas Pass honored Mr. Marshall by naming an elementary school in recognition of his many community and educational contributions. It is my pleasure to pay homage to Charlie Marshall on the House Floor for his tireless efforts and 45 years of stellar leadership in education. I must also commend Charlie's late wife Gayle, his daughter, Marty, and son, Bill, who not only supported his service to Aransas Pass, but have shared his compassion and commitment.

I ask my Congressional Colleagues to join me in commending Mr. Charles Marshall for his exceptional career and contributions to the great State of Texas and our Nation.

INTRODUCTION OF THE INTELLIGENCE TRANSFORMATION ACT OF 2004

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. HARMAN. Mr. Speaker, today my colleagues and I on the House Permanent Select Committee on Intelligence are initiating a call to action.

The problems plaguing American intelligence are too grave, and the potential damage to U.S. national security, force protection in Iraq, Afghanistan and elsewhere, too important to justify delay.

These problems require urgent attention from the President—who has the power to fix some identified problems with our intelligence now—and from Congress, which built our Intelligence Community five decades ago to fight an enemy that no longer exists.

But those of us in Congress must also do our part.

That is why we are introducing a major legislative proposal—the Intelligence Transformation Act of 2004 (H.R. 4104)—a set of critical and urgent reforms for the Intelligence Community.

The highlight of this proposal is the creation of a Director of National Intelligence (a ''DNI''), who has budgetary and statutory authority over the entire Intelligence Community. This is not a new idea. And it is not a Democratic idea. It was one of reforms recommended by the bipartisan, bicameral 9/11 Joint Congressional Inquiry.

But our legislation does more. We are also proposing ''jointness'' in collection, analysis and dissemination of intelligence. We believe that one of the major deficiencies in our Intelligence Community is the fact that there are fifteen intelligence agencies—operating with different rules, cultures, and databases—that do not work as one, integrated Intelligence Community.

We also believe that our Intelligence Community must leverage the power of information technology to help our intelligence professionals share data in real-time. The United States has the best IT capabilities in the world, but we have scarcely touched that potential to help the IC do its job.

Finally, the Act would create a new WMD Proliferation Threat Integration Center (PROTIC) to provide integrated tasking of collection and analysis on the WMD proliferation threat.

At a time when much of Washington is fingerpointing, we hope this legislation today will add some light to the heat surrounding the subject of intelligence failures.

We had hoped to produce a bipartisan bill—and we believe that it will ultimately be a bipartisan bill because it is good policy and because of its bipartisan parentage. We shared our legislative ideas with the majority on our Committee, but we did not want the legislative year to pass while awaiting their response.

The terrorists and the enemies of the United States will not wait until after November to plot their attacks—nor will they check our party registration before they launch those attacks against us. We cannot afford to wait. This task is urgent. We must act now.

HONORING LARRY LATTMAN, NAPA COUNTY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize my good friend Larry Lattman. Mr. Lattman's outstanding contributions and dedication to our country are truly appreciated.

A highly regarded member of the community, Larry Lattman was born in Los Angeles, California. After graduating from high school he enlisted in the U.S. Marine Corps where he served with tremendous honor and valiance in the Korean War.

Larry Lattman is a member of the Marine Corps League, AMVETS, Jewish War Veterans, the Veterans of Foreign Wars; he has a seat on the California Veterans Board and is a member of the National Legislative Committee of the American Legion. He served two terms with distinction as Chairperson of the Allied Council of the Veterans Home in Yountville. As Chair of the Allied Council Mr. Lattman appeared before California State Senate and Assembly Committees, speaking on the behalf of veterans more than 100 times.

Mr. Lattman's many trips to the legislature helped the Home receive needed funds for projects such as construction of new water and electric systems, improving the recreation building, cemetery renovations, and the purchase of a new x-ray machine as well as a whole host of other improvements.

In spite of severe physical limitations and major disabilities, he has distinguished himself as a selfless crusader on behalf of other veterans. He has demonstrated with distinction the creed, ''Veterans Helping Veterans.''

Larry Lattman is being recognized this year for his outstanding contributions as a veteran's advocate by the Veterans Home during Yountville's Founders Day Celebration. He is being inducted into the Yountville Veteran Home's hall of fame, their highest honor.

Mr. Speaker, it is appropriate at this time that we recognize Larry Lattman for his contributions and service to the people of our country.

A TRIBUTE TO SOUTH MOUNTAIN HIGH SCHOOL

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. PASTOR. Mr. Speaker, I rise before you today to proudly pay tribute to South Mountain High School, in Phoenix, Arizona, which celebrates its 50th anniversary this year.

This distinguished school in the Phoenix Unified High School District first opened its doors in February of 1954. For the last five decades it has proudly served the educational needs of the students in south Phoenix and has become one of the most dynamic schools in the district, offering five magnet programs: aviation and aerospace education, law-related studies, performing arts (drama, music, and dance), visual arts (drawing, painting, ceramics, sculpture, computer art and photography), and communication art (print, radio, television and film).

From its student body to its administrative team, SMHS's history of success is lengthy. Accommodating up to 3,000 students at times, the school has been able to maintain one of the highest graduation and attendance rates in the district. In addition, throughout the years students at SMHS have consistently improved their test scores in every category.

The administrative staff at SMHS is also a reason to boast. Of the seven National Board Certified Teachers in the district, four teach at South Mountain. The school has produced the District Teacher of the Year for the past two years, and Assistant Principal Robert Estrada was named 2002 Arizona Class 5–A Athletic Director of the Year. Furthermore, the Administrative team at South Mountain has the longest tenure of any team in the district. Patricia Tobin, in her sixth year, has the second longest tenure as a current principle at a Phoenix Union school.

South Mountain High School's mission is ''to create a community of learners.'' I am proud to say that SMHS has more than accomplished this mission and continues to produce tomorrow's leaders who proudly represent the home of the Jaguars.

Mr. Speaker, as you can surmise, South Mountain is a landmark in Phoenix with a successful past and a promising future that has served the needs of its diverse, dynamic and growing community. It has improved student achievement as well as effectively used human and fiscal resources. It continues to raise academic achievement and serves as a model high school for the nation. Therefore, I am pleased to pay tribute to South Mountain High School in Phoenix, Arizona, and I know my colleagues will join me in congratulating the student body, faculty, staff, administrators and alumni.

TRIBUTE TO HAZARD BULLDOGS BASKETBALL TEAM

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to pay tribute to the players and coaches of the 2004 Hazard Bulldogs basketball team.

On February 8, 2004, the Hazard High School Bulldogs defeated Bishop Brossart High School by a score of 43–38 to win the Kentucky All ''A'' State Tournament. Under the leadership of Coach Kevin Spurlock, the Bulldogs finished the season with a record of 20–4. This is a remarkable accomplishment that merits recognition.

With 49 years since their last championship title, the Bulldogs' recent victory has been a long time in coming, and one that was attained through hard work and determination. During the entire championship game the Bulldogs fought ferociously, tying at the half and gaining a four-point lead after the third quarter. Smart, calculated plays during the final minutes pushed the Bulldogs over Bishop Brossart and secured a safe five-point win.

In Kentucky, basketball is something of an institution. It embodies a tremendous spirit of teamwork and dedication, and the Bulldogs have shown that they possess both characteristics. The Bluegrass State is widely known for producing great basketball teams, and the Hazard Bulldogs are no exception. Winning the state tournament marks a tremendous milestone in their journey for excellence, and I am proud of their accomplishment.

Mr. Speaker, I want to congratulate the Bulldogs for their tremendous success, not only in tournament play but also throughout the entire season. Through their hard work, determination, and skill they have made Eastern Kentucky very proud. I ask each of my colleagues to join me in honoring Hazard High School, Coach Kevin Spurlock, all of the assistant coaches, and each and every talented player on the 2004 Championship Bulldog team: Hank Gabbard, Stephen Sizemore, Parker Carter, Eric Mullins, Robert Lyttle, J.J. Hously, Lamar Williams, Jon Francis, Chase Patrick, Durell Olinger, Justin Wallace, Chuckie Osteen, Jon Walker, Tyler Bailey, and Justin Hicks.

REMEMBERING MELINDA MONTGOMERY STRONG

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HALL. Mr. Speaker, earlier this month, Dr. Barbara Montgomery, noted educator, world traveler and lecturer, and leader in the local, State, and national Democratic Party, suffered the loss of her second child, Melinda Montgomery Strong. Melinda passed away in Watsonville, California on February 4th. Melinda's twin, Melody Montgomery Law, and her father, James Kenneth Montgomery, predeceased her.

As a special tribute, and following a traditional Indian farewell, Chief Tecumseh of the Shawnee Nation was quoted at Melinda's final rites. It is a beautiful and appropriate guideline for all of us—and especially for the beautiful Melinda Montgomery Strong:

> So live your life that the fear of death can never enter your heart. Trouble no one about their religion; respect others in their view, and demand that they respect yours. Love your life, perfect your life, beautify all things in your life. Seek to make your life long and its purpose in the service of your people. Prepare a noble death song for the day when you go over the great divide. Always give a word or a sign of salute when meeting or passing a friend, even a stranger, when in a lonely place. Show respect to all people and grovel to none. When you arise in the morning give thanks for the food and for the joy of living. Sing your death song and die like a hero going home.

As a longtime friend and admirer of Dr. Montgomery, I ask that Congress adjourn today in memory of this beautiful life—and that we collectively send our condolences and our prayers to Dr. Barbara Montgomery.

HONORING THE MEMORY OF MRS. FANNIE BELLE CALLAHAN

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BONNER. Mr. Speaker, Mobile County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor her and pay tribute to her memory.

Fannie Belle Callahan was a devoted mother, grandmother, and friend to the Mobile community throughout her entire life. At the time of her passing on March 15, 2004, she had devoted 94 years to the care of her children, her family, and her city.

Raised with her three siblings in the small community of Crichton, Alabama, Mrs. Callahan was required at an early age to go to work to help support her family following the death of her father. By the age of 17, she had already worked as a telephone operator, a cashier at Mobile's Saenger Theater, and a night clerk at the Battle House Hotel. Following her marriage to Herbert Callahan, she moved to East St. Louis, Illinois, but returned to Mobile 3 years later when he obtained a job with the GM&O Railroad.

Widowed at the time of her husband's death in 1950, Mrs. Callahan was once again required to go to work to support her large family of nine children. Although she retired in 1965 after many years of employment with the Mobile District Office of the U.S. Army Corps of Engineers, she was not one to sit idly by and watch life go on in the world around her. She became actively involved in the political campaigns of her sons Sonny and George, and following Sonny's election to the U.S. House of Representatives in 1984 volunteered her time as the receptionist in his Mobile district office. Mrs. Callahan quickly became the center of her son's office ''family,'' and for the remainder of her life was always referred to affectionately as ''Mom Callahan.''

Throughout her 94 years, Fannie Belle Callahan taught many valuable lessons to her family and friends, and everyone who came in contact with her took away very fond memories of a charming southern lady who could make anyone to whom she was speaking feel they were the most important person at that time. In an article which appeared in the Mobile Register in 2000, Mrs. Callahan reflected on her long and rewarding life and spoke about how her years of hard work were rewarded with the successes her children enjoyed.

Many of her children were also interviewed and offered their perspectives on the lessons they had learned from the matriarch of a family made up of 94 men, women, and children. Perhaps her son, former Rep. Sonny Callahan, best summed up her long life and what she passed on to her children when he said, ''She taught us responsibility. With nine kids, there had to be some degree of responsibility. She taught us to respect people and work hard.''

Mr. Speaker, I ask my colleagues to join me in remembering a lovely woman who deeply loved, encouraged, and respected her many family and friends and the entire Mobile community. ''Mom Callahan'' will be deeply missed by her family—her sons, Sonny Callahan, George Callahan, Charles Callahan, and Terrance Callahan; her daughters, Patsy Dempster, Madeline Martin, Margaret Ann Athey, Mary Jane Emick, and Rose Callahan; and her 32 grandchildren, 56 great-grandchildren, and 13 great-greatgrandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

CONGRATULATING MS. PAULINE MORGAN AND MS. VANESSA DATES

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. VISCLOSKY. Mr. Speaker, is my distinguished honor and privilege to congratulate two residents of Northwest Indiana who have committed their careers to serving the United Steelworkers of America (USWA). Combined, Ms. Pauline Morgan and Ms. Vanessa Dates served the hard-working men and women of Northwest Indiana for over 71 years. Their efforts will be celebrated at a retirement reception on Friday, April 2, 2004.

Pauline Morgan began her career November 1, 1963, as a secretary in the District 31 office in East Chicago, Indiana. In 1973, she

became secretary to the Assistant Director of District 31 and became the Executive Secretary to the former District Director Jack Parton from 1986 to 1989. Pauline ended her career working out of the Gary, Indiana District 7 office from 1998 until the present. She ends her career with over 40 years of service to the USWA membership.

Outside of her duties at work, Pauline remains committed to improving her community through service. She serves the Tabernacle Missionary Baptist Church as a greeter and anniversary chairperson, is a member of USWA Local 3657; the Steelworkers of Active Retirees, the Foundation of East Chicago Board and the Twin City Education Foundation Parental subcommittee. She has also served as a public relations representative for the East Chicago National Association for the Advancement of Colored People and the United Citizens Organization.

Ventress Dates, who is retiring from the District 7 office after over 31 years of service began her career on June 16, 1972, in the former District 31 office in Harvey, Illinois. From there she worked in the Sub District 3 office in Chicago, Illinois for several years before transferring to the former District 31 office in East Chicago, Indiana. The office later relocated to its present location in Gary, Indiana. Ventress also held the position as the Executive Secretary to the former District 7 Director Jack Parton.

Ventress is affiliated with the Bethlehem Temple Missionary Baptist Church in Harvey, Illinois. She currently serves in the capacity of choir director, member and vocal instructor, a praise and worship team leader and an adult Sunday school instructor. She is a soloist, an evangelist, seminar, and workshop facilitator. Ventress is experienced in nursing home and youth ministry and belongs to the Wayman AME church ministry in Chicago, Illinois. She is affiliated with various women's groups, as well as her local Poet's Society. She is also an author and songwriter.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating Pauline Morgan and Ventress Dates for their combined seven decades of service to the USWA. Their commitment to the hard-working men and women of Northwest Indiana helped the steel industry form the backbone of our economy for many years. Their efforts will surely be missed, and I am proud to represent them in Congress.

CONGRATULATING THE BOROUGH OF HUGHESTOWN ON ITS 125TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. KANJORSKI. Mr. Speaker, I rise today and ask you to join me in congratulating the Borough of Hughestown in Luzerne County, PA on its 125th anniversary. The community will celebrate on Saturday evening with an anniversary celebration at Convention Hall in Pittston Township.

Hughestown was organized as a Borough on April 8, 1879. The Borough became well-known throughout the Commonwealth as part of the Pennsylvania Coal Company's famous #9 Mines and Breaker, which employed most of the Borough's residents.

Hughestown residents suffered several major tragedies in and around the mines. The Borough also lost its firehouse, elementary school and high school to fire.

Despite the adversity, the Borough flourished. The past 125 years have brought many changes to the Borough community, and today Hughestown is home to about 30 small businesses and is looking forward to the development of new townhouses.

In addition, Hughestown is proud to have its native son State Rep. Thomas N. Tigue residing in the Borough.

Avoca, Dupont, Duryea, Pittston and Pittston Township border Hughestown. The Borough's geographic size—four square miles—makes it one of the smallest municipalities in the county. The population of the Borough is now 1,560. The Borough definitely represents the old adage that "Good things come in small packages."

I would like to congratulate the leadership of the Borough, including Mayor Paul Hindmarsh and Council Members Jerry Chilipko, Barbara Gatto, Vince Mammarella, Paul Murphy, Wayne Quick Jr., Sam Sanguedolce and Ed Strubeck. I would also like to recognize Police Chief Steve Golya, Fire Chief Jamie Merlino and Leonard Copp and Chris Ribaudo of the Street Department.

I would also take this opportunity to pay tribute to the leadership of the very first Borough Officers: Jacob B. Shmaltz, Charles Matthewson, John W. Williams, John B. Clark, George Gill, Cuthbert Snowden, Thomas Snowden, D.D. Moser, John Tishler, Aaron Oliver, John M. Mosier, Ernest Shmaltz and James Delaney.

Mr. Speaker, today I ask you and my esteemed colleagues to please join me in congratulating the Borough on their very special anniversary.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SLOVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. HASTINGS of Florida. Madam Speaker, I rise today to welcome the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization. This is a truly historic occasion which transforms the strategic map of Europe, and strengthens the Atlantic Alliance.

In my first term in Congress, I cosponsored H. R. 4210, the NATO Participation Act of 1994. I believed then, as I continue to believe now, that NATO should be inclusive to all European nations that share our belief in democracy and the rule of law. Therefore, I am delighted to welcome the new member states to NATO.

NATO was established in 1949 for the purpose of countering the threat of Communist expansion. While that threat is now securely in the history books, the world has been forced to face new, and different dangers. Throughout the myriad of changes in international relations since NATO was first founded, the salience of a strong alliance among friendly nations remains.

As is necessary with all longstanding organizations, NATO is changing with the times. It remains the world's most powerful regional defense alliance precisely because of its ability to adapt to new conditions. NATO continues to safeguard its member states through political and military means. However, over the past 15 years, the Organization has come to play a growing role in peacekeeping and crisis management.

Originally, NATO consisted of 12 member countries. Over the years the Organization has expanded twice. Once in 1952, to include Greece and Turkey, and a second time in 1955 to include West Germany. The simultaneous accession of seven states is the largest expansion in the history of the Organization. I, for one, hope that it will not take another 50 years before we see another round of NATO expansion.

The accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to NATO cements the increasingly strong relationship between the United States and those countries. The strengthening of the Atlantic Alliance is of benefit to all parties. Moreover, Congress looks forward to the opportunity to work closely together with the new countries for shared goals.

As the Vice-President of the Organization for Security and Cooperation in Europe's Parliamentary Assembly, I have followed closely the progress of the new NATO member states. In the past, I have had the pleasure of visiting Romania and Slovakia. Later this month, I plan to visit the Baltic region and learn more about our newest alliance partners.

In conclusion, let me again state my wholehearted support for H. Res. 558, welcoming the accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to the North Atlantic Treaty Organization. I reiterate my hope that we will soon have occasion to celebrate the accession of more states into the Atlantic Alliance.

REGARDING VIOLENCE AGAINST WOMEN IN COMMEMORATION OF INTERNATIONAL WOMEN'S DAY MARCH 15, 2004

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. MILLENDER-McDONALD. Mr. Speaker, as we commemorate Women's History Month, it is of critical importance to note that the incidence of violence against women is still too high around the globe. Many women in the United States and in other nations live in terror, are afraid to speak up to protect their health and wellbeing, and are unable to shield their children from the effects of domestic violence.

The impact of violence against women of all social and economic classes worldwide is chilling. According to Amnesty International, 120 million women and girls are subjected to female circumcision annually, and over 700,000 women in the United States are

raped each year. Further, the World Bank reports that at least one in five women and girls have been sexually violated or beaten at some point in their lives. Violence against women is one of the world's most pervasive and yet least addressed human rights abuse issues. Women worldwide expend their energy, compromise their health and sacrifice their self-esteem due to the impact of domestic violence on their lives.

In 1993, the United Nations Declaration on the Elimination of Violence Against Women, Article 1 defined violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life." Given this definition, and the evidence that women are more likely than men to be attacked by an intimate partner or family member to whom they are emotionally tied and economically dependent upon, it is incumbent upon those of us who are elected leaders to ensure the physical, emotional and financial stability of women everywhere.

The threat of violence extends to pregnant women, and is compounded in the treatment of mother-to-child transmission of HIV. As reported by the Center for Health and Gender Equity, a study of pregnant women in six African nations showed that the women's fear of rejection and domestic violence was responsible for their refusal to take AZT to prevent mother-to-child transmission of HIV. The women surveyed declined to inform their families and friends about their HIV status because they feared being assaulted.

Around the world, too few women fail to seek adequate medical care, nor are they willing to share pertinent information about their experiences of domestic violence with healthcare providers for fear of retaliation from male partners or family members. We must work together on behalf of women everywhere to create an atmosphere free of the threat of violence where women can seek the care they need to safeguard their health and that of their children.

COMMEMORATING THE STEINBRENNER INSTITUTE FOR ENVIRONMENTAL EDUCATION AND RESEARCH

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. HART. Mr. Speaker, it is my distinct privilege to take this time to commemorate the Steinbrenner Institute for Environmental Education and Research, a recently formulated institute at Carnegie Mellon University, which aims to improve the lives of Western Pennsylvanians through an ambitious long-term strategic plan to change the way society views environmental education. I am honored to extend my praise on behalf of this innovative and widely respected institute.

The Steinbrenner Institute for Environmental Education and Research initial focus will center itself around two environmental themes—the creation of energy and the preservation of the environment. Their efforts will be directed towards improvements in electricity and energy for transportation and urban infrastructure in both developed and developing regions. The Institute will use non-traditional education and traditional research methods and results, to change the way society perceives and responds to environmental concerns.

The Steinbrenner Institute for Environmental Education and Research was made possible by a generous donation from Carnegie Mellon University Trustee, W. Lowell Steinbrenner. Mr. Steinbrenner and his wife, Jan, have pledged $4 million last year for the creation of the Steinbrenner Institute. Along with continued support from within Carnegie Mellon University, the Steinbrenner Institute for Environmental Education and Research should prove to be one of the most valuable environmental institutions throughout all of Pennsylvania.

I ask that all of my colleagues to join me in honoring this innovative and valuable institution. Through meaningful education and research the Steinbrenner Institute for Environmental Education and Research will aid in the solution of countless environmental concerns in Western Pennsylvania for years to come.

INTRODUCING THE CLEAN CRUISE SHIP ACT OF 2004

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. FARR. Mr. Speaker, many Americans enjoy taking cruises, in large part because they get to see some of the nation's most beautiful marine ecosystems. Because I want to see these beautiful marine ecosystems protected for future generations to enjoy, I am introducing The Clean Cruise Ship Act of 2004.

The Cruise Ship Industry has experienced much success over the past few years. In fact, the industry has grown at about an average of 10 percent over the past seven years, including an almost 17 percent increase in 2000. Unfortunately, as it grows, its potential to negatively affect the marine environment grows as well. Over a week's time, a single 3,000 passenger cruise ship, according to EPA and industry data, generates a tremendous amount of waste: Over 200,000 gallons of black water (raw sewage) are created. Approximately 1 million gallons of gray water (runoff from showers, sinks and dishwashers) are produced. More than 35,000 gallons of oily bilge water (oil and chemicals from engine maintenance that collect in the bottom of ships and are toxic to marine life) are generated. Isn't it reasonable to think that these ships should be subject to the same wastewater regulations as those governing municipalities of comparable size? I think so.

While many cruise ship companies have environmental policies in place, many are voluntary with no monitoring or enforcement provisions. Unfortunately, I am all too familiar with the down-side to voluntary agreements, as a cruise ship illegally discharged—breaking its voluntary agreement—into the Monterey Bay National Marine Sanctuary in 2002. Simply put, voluntary agreements between cruise lines and states aren't enough to ensure protection of our oceans. The public deserves more than industry's claims of environmental performance. We need a federal law and we need it now. It's time we strengthen the environmental regulations and in so doing, bring these floating cities in line with current pollution treatment standards. The Clean Cruise Ship Act of 2004 is the answer.

The legislation that I am introducing today, which has bipartisan support and is endorsed by over 30 local and national groups, plugs existing loopholes in federal laws, requires ships to treat their wastewater wherever they operate, and authorizes broadened enforcement authority. Several states including California, Alaska, Hawaii, Maine, and Washington are currently considering legislation to better regulate various cruise ship wastes—similar to the legislation I am introducing today. In fact, I am proud to report that California is leading the country in protecting its coastal waters from cruise ship pollution. Introduction of the Clean Cruise Ship Act of 2004 is one of the ways that I am working to provide all states the kinds of ocean and coastal protections that Californians benefit from. Enactment of this bill will protect California's tourism industry by making sure that the beaches and oceans, two of the attractions that make California the most visited state in our country, will be protected from cruise ship pollution. Simply put, this legislation ensures two things: (1) a sustainable future for our oceans, and (2) a sustainable future for the cruise and tourism industry.

This legislation promotes the public interest for all Americans. The public deserves clean water—both in our inland waterways and in our oceans. The Clean Cruise Ship Act of 2004, through its discharge standards, will give the public what it deserves.

In closing, Mr. Speaker, I urge all of my colleagues to support this critically important legislation.

PAYING TRIBUTE TO ALLEN LEE BELL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute today to the life and memory of Allen Bell of Glenwood Springs, Colorado, who passed away recently at the age of sixty-one. A well-known radio broadcaster in Glenwood Springs, Allen touched the lives of many in his community. As his family and Glenwood Springs community mourn his passing, I believe it is appropriate to recognize the life of this colorful man, and his many contributions to his community and state.

Allen grew up in California, and served in the Air Force where he developed a love for radio and aviation. For thirty-five years Allen enjoyed a professional broadcasting career, spending twenty-six of those years in Glenwood Springs as president and general manager of KMTS/KGLN radio stations. He built and maintained the microwave station on Red Mountain, was a member of the Ham Radio Club of Glenwood Springs, and enjoyed building model planes and rockets. An active member in the community, Allen always was willing to volunteer his time to community service projects.

Mr. Speaker, we are all terribly saddened by Allen Bell's passing, but can be comforted in

knowing that he brought much joy to his Glenwood Springs community. I would like to extend my heartfelt sorrow to his wife Connie, his mother Nella and stepfather Hal, his son Christopher, and his brother Mark during this difficult time of bereavement.

TRIBUTE TO CLAUD CASH

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BERRY. Mr. Speaker, public officials are held to a higher standard. We are held to a higher standard because we have been selected by our neighbors and our communities to serve their interests.

Claud Cash was an elected official who exceeded the high standards his constituents laid before him. His death took a pillar of the community from us; he was a leader in the state of Arkansas and an example of how to serve those we represent.

Mr. Cash served as past presidents of the Trumann Lions Club and the MidSouth Farm Equipment Dealers Association and on the Boards of Directors for Liberty Bank and St. Bernard's Foundation Board. He was a member of the First Baptist Church in Jonesboro, AR, the University Heights Lions Club and Trumann Masonic Lodge #693.

As a public servant, Mr. Cash served two terms in the Arkansas House of Representatives where he became the first freshman representative to be elected to the Joint Budget Committee. He later served one term in the Arkansas Senate. Throughout his public service, Mr. Cash had a reputation for bipartisan leadership, an unwavering dedication to his constituents and a sharp, legislative mind.

His business dealings were honorable and he was trusted by friends and competitors alike. His word was his bond as was the golden rule.

As we recall Mr. Cash's exceptional career, we find his accomplishments as an elected official pale only in comparison to his strong devotion to his family and his community. On behalf of the Congress, I extend sympathies to his family, and gratitude for all he did to make the world a better place.

INTRODUCTION OF THE NO OIL PRODUCING AND EXPORTING CARTELS (''NOPEC'') ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CONYERS. Mr. Speaker, today I am introducing the "No Oil Producing and Exporting Cartels (NOPEC)" Act of 2004, legislation that subjects a group of competing oil producers, like the OPEC nations, to U.S. antitrust law when they act together to restrict supply or set prices. I am joined by Representatives LOFGREN and MCINTYRE.

In recent days, American consumers have paid exorbitant prices at the pump, as gas prices have hit their highest levels since the first Gulf War. Since January, oil prices have climbed more than fifteen percent, driving gasoline prices in the United States to record levels while producing budget surpluses in nations like Saudi Arabia.

The group of eleven nations comprising OPEC are a classic definition of a cartel, and they hold all the cards when it comes to oil and gas prices. OPEC accounts for more than a third of global oil production, and OPEC's oil exports represent about 55 percent of the oil traded internationally. This makes OPEC's influence on the oil market dominant, especially when it decides to reduce or increase its levels of production.

And this is exactly what OPEC has decided to do again. Just today OPEC announced that it will cut its production target by 4 percent—or by 1 million barrels per day—starting in April. This move will undoubtedly drive our oil and gasoline prices through the roof.

The OPEC nations have for years conspired to drive up prices of imported crude oil, gouging American consumers. Their price-fixing and supply-limiting conspiracy is a clear violation of U.S. antitrust laws, yet we have no recourse for action against these nations. The international oil cartel continues to avoid accountability, shielding itself behind the veil of sovereign immunity by claiming that its actions are "governmental activity"—which is protected under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. § 1602 et seq.—rather than "commercial activity."

This legislation, the "No Oil Producing and Exporting Cartels Act" ("NOPEC"), is simple and effective. It exempts OPEC and other nations from the provisions of FSIA to the extent those governments are engaged in price-fixing and other anticompetitive activities with regard to pricing, production and distribution of petroleum products. It makes clear that the so-called "Act of State" doctrine does not prevent courts from ruling on antitrust charges brought against foreign governments and that foreign governments are "persons" subject to suit under the antitrust laws. It authorizes lawsuits in U.S. Federal court against oil cartel members by the Justice Department and the Federal Trade Commission.

We do not have to stand by and watch OPEC dictate the price of our gas without any recourse; we can do something to combat this conspiracy among oil-rich nations. I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

PAYING TRIBUTE TO ALAMOSA HIGH SCHOOL ADVANCED PLACEMENT AMERICAN GOVERNMENT STUDENTS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a truly talented class of students from Alamosa, Colorado. The students from teacher Buckley Bangert's Advanced Placement American Government class recently competed in an annual competition that teaches high school students about the Constitution. These motivated students have taken an active interest in our country's political process, and I would like to join my colleagues here today in recognizing their tremendous achievements before this body of Congress.

Alamosa High School Advanced Placement Government students studied for months to prepare for their roles as constitutional expert witnesses in simulated congressional hearings. Students addressed issues such as the development and expansion of the Bill of Rights, and the historical and philosophical ideas that underlie the Constitution. The students placed first in the district competition, and tied for fourth place at the State competition. The Alamosa students' prowess and extensive knowledge attracted the attention of the State judges, who extolled the team for achieving one of the highest scores for a first time attempt at the State level.

Mr. Speaker, it is a privilege to honor the students from Alamosa High School for their remarkable achievements in the constitutional competition. The dedication of the students and their teacher, Buckley Bangert, are certainly commendable, and it is with great pleasure I recognize them today before this body of Congress and this nation. I wish them all the best in their future endeavors.

TRIBUTE TO DOYLE AND RAYE ROGERS

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BERRY. Mr. Speaker, today more than ever, we must recognize commitments made by Americans who realize the best way to grow an economy is through continued investment infrastructure. I rise today to pay tribute to a great business and civic leader and a great Arkansan; I am honored to recognize Doyle Rogers in the Congress.

In a day and age when the presiding belief is in order to grow up and succeed you must escape Rural America, Doyle Rogers and his family lived in Batesville, Arkansas for more than 50 years, proving success comes with hard work, not a change of zip code.

His commitment to local business development is unparalleled. Mr. Rogers has started many businesses in Batesville—including the one which bares his name, the Doyle Rogers Company, a commercial real estate development firm. It was with that company in 1982 he developed and opened the Excelsior Hotel, now the Peabody Hotel, and the adjoining Statehouse Convention Center in Little Rock.

The opening of the Peabody—one of the finest hotels in the country—would suffice as anyone's crowning achievement, but Mr. Rogers did so much more. He bought Metropolitan National Bank, headquartered in Little Rock, in 1983. Today, it is Central Arkansas' largest independently-owned bank employing more than 350 people. In 1985, he developed the 25-story Rogers Building, now the Stephens Building, in downtown Little Rock.

He holds honorary doctorates from Lyon College in Batesville and Philander Smith College in Little Rock. He is a former member of the Board of Trustees of Hendrix College and has served on the Advisory Board of the School of Business at the University of Arkansas. He has served as the President of the Batesville Chamber of Commerce.

In 2001, he was named Business and Professional Person of the Year by the Rotary Club in Little Rock and was presented the William F. Rector Memorial Award by Fifty For

the Future, a group of business and professional leaders in Greater Little Rock.

Doyle Rogers and his wife Josephine Raye Rogers have proved like-minded people tend to attract each other. In 2001, the White River Medical Center in Batesville received a unique Valentine's Day gift when Doyle Rogers and his wife Raye announced a gift of $1 million to the hospital. It is the largest gift in the hospital's 25-year history. The gift was used as seed money for the Josephine Raye Rogers Center for Women and Imaging.

Raye, as she's known to her friends, complements Doyle well, proving her commitment to the community is as strong as her love for her husband. The Rogers' are truly a perfect match—and a shining example of the compassion our country occasionally lacks.

Mr. Rogers knows the people of Rural America will move this country ahead. He is a great business man, an impassioned community leader and a devoted family man. On behalf of the Congress, I extend a deep sense of appreciation for all he did to drive Arkansas and this nation forward.

INTRODUCING THE DOMESTIC VIOLENCE CONNECTIONS CAMPAIGN ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CONYERS. Mr. Speaker, today I am introducing the "Domestic Violence Connections Campaign Act" of 2004, legislation that ensures that the National Domestic Violence Hotline continues to provide the essential services it has been providing since it was created in 1996. I am joined by Representative HART.

The Hotline was created by the Violence Against Women Act and answered its first call on February 21, 1996. By August 2003 it answered its one millionth call, an increase of approximately 133 percent. This is due in large part to public awareness of domestic violence and public promotion of the Hotline. Today, on average the Hotline receives almost 16,000 calls a month.

The Hotline is primarily funded by federal dollars that come from annual federal spending bills. However, as the Hotline's call volume continues to increase exponentially, funding has failed to keep pace. To keep up, the Hotline needs new equipment, new connection capability, and new data protection technology. Because its system is so outdated, over 26,000 calls last year went unanswered due to long hold times or busy signals.

The Connection Campaign is a combination of public and private efforts to bring the Hotline up to speed. It teams up private telecommunication and technology companies with the federal government to solve the Hotline's crisis and guarantee that the Hotline can answer every call. Under the Connection Campaign, companies like Microsoft, Sony, BellSouth, Verizon Wireless, IBM, Dell and others, may donate hardware and software such as cell phones, home computers, mapping software, flat-screened monitors, and telephone airtime to the Hotline.

On the public side of the partnership, Representative HART and I are joining Senator BIDEN in introducing legislation to bridge the digital divide. Our bill, the Domestic Violence Connections Campaign Act of 2004, has three components:

It mandates that federal appropriations to the Hotline include technology training for Hotline advocates so that every new telephone, computer, and database will be used to its fullest capacity.

It provides a new research grant program to be used to review and analyze data generated by the Hotline. Administered by the Attorney General, the grant program will study trends, gaps in service and geographical areas of need. The findings of this research will be reported to Congress within 3 years of its enactment.

It provides a grant program for the Hotline to increase public awareness about the Hotline's services and domestic violence generally.

The Connections Campaign and this legislation are important next steps in our fight to defeat domestic violence and assist victims. I am hopeful that Congress can move quickly to enact this worthwhile and timely legislation.

PAYING TRIBUTE TO PHYLLIS TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute and thank Phyllis Taylor for her leadership and contributions to Aspen, Colorado, as principal of Aspen Middle School. I would also like to pay tribute to her excellent 40-year career in education and service to her Aspen community. As Phyllis celebrates her retirement, let it be known that the citizens of Colorado and I are eternally grateful for the outstanding work she has done in her 40-year career as an educator in Aspen.

Phyllis Taylor will leave Aspen Middle School at the end of this school year after a 2-year tenure, in which she helped to maintain the high level of achievement of the Aspen School District. The school routinely ranks in the top tier of Colorado school systems for academic performance. In fact, last fall Aspen Middle School was awarded the John Irwin Schools of Excellence Award, which is issued to schools that perform in the top 8 percent of Colorado public schools. This was the first time the school had received this award. As she retires to spend more time with her family, Phyllis Taylor's skills as an educator will surely be missed.

Mr. Speaker, I am honored to bring the service of Phyllis Taylor to the attention of this body of Congress and this Nation, and to congratulate her on an outstanding career as an educator in Colorado. I would like to wish her the best in retirement and sincerely thank her for her service.

PFC LEROY SANDOVAL JR.

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GREEN of Texas. Mr. Speaker, I rise today to extend my deepest sympathies to the family and friends of Pfc. Leroy Sandoval Jr., who died while bravely serving our country in Iraq.

Pfc. Sandoval was from Houston, Texas and graduated in 2000 from Harvest Christian Academy. He joined the Marines on May 19, 2003 and attended basic training at the Marine Corps Recruit Depot, San Diego. Pfc. Sandoval was assigned to the 2nd Battalion, 1st Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, in Camp Pendleton, California.

On March 26, 2004, less than 2 weeks after arriving in Iraq, Pfc. Sandoval suffered a fatal bullet wound in a gunfight between the 600 Marines stationed in Fallujah, Iraq, and rebel insurgents.

I know his parents, family and friends are devastated by this loss, but Pfc. Sandoval's family can be proud knowing that he died a hero while serving his country.

His loss will be felt by all of Houston, our state, and our Nation, and I ask that you remember the family in your thoughts and prayers.

TRIBUTE TO MR. CHESTER MILAM

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. KNOLLENBERG. Mr. Speaker, I rise today to pay tribute to Mr. Chester Milam, a notable citizen of Knoxville, Tennessee as well as a distinguished man in my home area of Oakland County, Michigan. Mr. Milam has owned and maintained Wendell's Barber Shop in Lathrup Village for the past 47 years and has recently announced he's retiring.

Mr. Milam has committed professionally to serve a loyal group of Oakland county customers, including me, for 37 years. He has played a significant role in our community, serving politicians, civic leaders, sports figures from the Detroit Red Wings, the Lions, and the Tigers, and not to mention people from every level of the community.

For the last nine years, Mr. Milam has driven 1,200 miles round trip, returning to Michigan from his home in Tennessee, one week per month to continue the loyal service to his community. Not only has he taken great pride in his business, he has taken great pride in his customers, providing his own personal touch and great stories.

Mr. Speaker, I want to congratulate Mr. Chester Milam on his retirement and his many years of dedication to serving the people of Oakland County, Michigan and extend our best wishes.

PAYING TRIBUTE TO JANET IRVINE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Grand Junction, Colorado resident Janet Irvine for her tireless efforts to maintain the morale of our troops overseas, and to better her Grand Junction community. Through the volunteer organization AdoptaPlatoon, she sends her homemade cookies to soldiers overseas, and keeps a regular correspondence with many of them.

Janet began her efforts to help our troops in 1999, when she joined AdoptaPlatoon, a volunteer group that links citizens to soldiers and platoons in need of support, and began sending her homemade cookies to small groups of soldiers. Over time, more and more troops from different platoons heard about Janet's delicious cookies, and now she regularly keeps seventy-five to one hundred-fifty troops supplied with cookies.

Recently, the availability of email to troops has increased the frequency with which Janet can correspond with them. In response to her dedication, a platoon stationed in Kandahar, Afghanistan flew the flag over Fort Apache in her honor on March 12, 2003. Janet works to encourage others to serve the troops by talking to classes at area schools.

Mr. Speaker, I am honored to pay tribute to the selfless dedication and commitment Janet Irvine has demonstrated to our troops before this body of Congress and this nation. Her efforts to brighten the lives of our troops overseas are truly remarkable. I sincerely thank her for her efforts and wish her the best in her future endeavors.

RECOGNITION OF THE DAVILA FAMILY

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GONZALEZ. Mr. Speaker, I rise today in recognition of the Davila Family, a family that has contributed to the San Antonio community for 100 years. I would like to take this opportunity to acknowledge the significant impact that this family has made on San Antonio for a century.

In 1904, the Davila Family opened its first business, a small grocery store, in San Antonio's Westside. This laid the foundation for a long and fruitful relationship with the community. Frank Davila Sr. and his wife, Mary Louise, opened this store at the corner of El Paso and Colorado Streets, the heart of the Westside.

Over time, this little community grocery store grew and evolved with the city. The family-owned operation grew into four grocery stores and the very popular Davila's and The Derby Drive-Ins. This expansion blossomed under the skillful guidance of Rodolfo Davila Sr. and his wife Delia.

With each new generation of Davilas, the family enterprise has continued to find new ways to serve the community. In 1955, Rodolfo Davila Jr. opened the Davila Pharmacy four blocks from the original Davila Food Store. Now, the pharmacy is run by the fourth generation of the Davila Family, Rudy III and Rosette. They have become a vital component of the Westside by providing important healthcare services to their neighbors.

I am proud to celebrate the on-going tradition of the Davila Family and I value the impact that they have had on individual San Antonians' lives for a century. I wish them many blessings for continued success and strength as our beautiful city continues to grow and change. There is no doubt that the Davila Family will continue to thrive and evolve along with San Antonio, maintaining a legacy that will be remembered and appreciated for generations.

INTRODUCTION OF THE MIGRATORY BIRD TREATY REFORM ACT OF 2004: MARCH 31, 2004

HON. WAYNE T. GILCHREST

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GILCHREST. Mr. Speaker, today I am introducing legislation to reform the Migratory Bird Treaty Act (MBTA) to clarify that human introduced exotic avian species are not covered by the provisions of this landmark law.

The United States is currently a party to four international treaties to protect and conserve populations of migratory birds. Two years after the signing of the first treaty with Great Britain, Congress enacted the Migratory Bird Treaty Act of 1918. This act is our domestic implementing law and it statutorily commits this Nation to the proper management of certain families and species of birds.

After reviewing these treaties, it is clear that the list of covered species is not exhaustive, there is an inconsistency between migratory and nonmigratory birds and no distinction is made between exotic and native species.

Despite this fact, for over 80 years, there has never been a debate over whether exotic species should be protected under this act. Federal wildlife authorities have consistently treated exotic birds as falling outside of the provisions of the MBTA.

However, three years ago, a U.S. District Court of Appeals Judge, in the Hill v. Norton case turned this policy on its head by ruling that exotic mute swans, which are native to Europe and Asia, are covered because they are in the same avian family as native tundra and trumpeter swans.

As a result, neither the States nor the U.S. Fish and Wildlife Service can effectively manage mute swans. This species contributes to the degradation of Chesapeake Bay habitats by consuming large amounts of submerged aquatic vegetation and has destroyed nests and young of Maryland-stated listed native colonial waterbirds: least terns and black skimmers. The population of exotic mute swans has dramatically increased in the Chesapeake Bay from five birds that escaped captivity in 1962 to more than 3,600 today. There are more than 14,000 mute swans living in the Atlantic flyway.

As a result of this Federal court decision, an argument can now be made to apply the MBTA provisions to other introduced, feral populations of exotic birds, such as, Eurasian collared doves, house sparrows, English starlings, Muscovy ducks, pigeons and a host of other species. These species were introduced by humans after the enactment of the 1918 Act and to varying degrees they are extremely destructive to the ecosystems in which they reside. Pigeons, or rock doves, are alone responsible for up to $1.1 billion annually in damages to private and public property. They are the single most destructive bird in the United States.

On December 16th of last year, my Subcommittee on Fisheries Conservation, Wildlife and Oceans conducted an oversight hearing on exotic bird species and the Migratory Bird Treaty Act. At that hearing, a diverse group of witnesses testified that Congress must reform the 1918 statute. For instance, the U.S. Fish and Wildlife Service testified that "affording the protection of the MBTA to introduced birds that are not native to the United States is ecologically unsound, contrary to the stated purposes of the MBTA and contrary to efforts by the Federal government to control invasive species".

It is my firm belief that it makes absolutely no sense to spend millions of dollars trying to control nonnative invasive species like the snakehead, brown tree snake, nutria, mitten crab, asian carp and zebra mussels, while at the same time expending precious resources to achieve the same conservation standards afforded native species under the MBTA for introduced avian species. States are ready to work with Federal and local governments to control populations of exotic birds. Following this hearing, the International Association of Fish and Wildlife Agencies, which represents all 50 States, submitted a statement indicating that "The Association would strongly support congressional intervention to clarify that certain exotic species of birds are not covered under the Migratory Bird Treaty Act".

Exotic, invasive species are having a huge impact on this Nation's native wildlife and fisheries, economic interests, infrastructure and human health. In fact, it has been estimated they are costing our economy about $100 billion each year.

Mr. Speaker, I have carefully read the testimony and concluded that we can not idly sit by and allow exotic species to undermine the fundamental core of the Migratory Bird Treaty Act which is to conserve native species. My bill is a simple common sense solution. It will restore a nearly century-old policy that reserves the application of the MBTA to native species. It will again allow Federal and State wildlife biologists to effectively manage exotic species at levels that do not conflict with the Federal and State obligations to conserve native species and habitats.

My bill has been endorsed by a number of governmental, conservation and environmental groups including the International Association of Fish and Wildlife Agencies, the American Bird Conservancy, the Izaak Walton League, the Maryland Ornithological Society, Environmental Defense, the Nature Conservancy and the National Wildlife Federation. I urge my colleagues to join with me in support of the Migratory Bird Treaty Reform Act of 2004.

PAYING TRIBUTE TO JOHN BURRITT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to John Burritt of Redlands Mesa, Colorado for his remarkable achievements as an American pioneer in the biathlon and his work with the youth in his community. His 14th place finish in the 20-kilometer biathlon at the 1960 Winter Olympics was the highest American finish to that date in the typically European dominated sport, and has since been matched only twice. It is John's commitment to excellence which enabled him to compete in his sport at the international level, and to help shape the history of American athletics.

John came to the sport of biathlon, a sport that combines cross-country skiing and shooting over often rugged, grueling terrain, through a somewhat unorthodox path. Although he grew up enjoying cross-country skiing and hunting on his family's Redlands Mesa farm, he did not come to the biathlon until his days at Western State College in Gunnison, Colorado. John began practicing with the cross-country skiing team to improve his conditioning, and in 1956, at the invitation of a US Army colonel, he competed in the first biathlon race ever staged in the United States at Camp Hale.

John continued his training after college while he served his country in the U.S. Army, which allowed him to compete at the international level, specifically on the US team at the 1959 World Championships in Courmayem, Italy. After finishing his military career, John qualified for a place on the 1960 Olympic team, where he finished 14th in the 20 kilometer biathlon at Squaw Valley. Since his retirement from competition in 1964, John has continued to stay active in cross-country skiing, spending this past winter teaching the sport to local children.

Mr. Speaker, I am honored to pay tribute to the achievements of John Burritt in front of this body of Congress and this nation, and to thank him for his contributions to the great tradition of athletics in Colorado and the United States. His efforts to instill the love of cross-country skiing in the youth of his community are commendable, and I sincerely thank him for his contributions to the sport. I wish him the best in his future endeavors.

IN RECOGNITION OF KEVIN BAKER

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. BLUNT. Mr. Speaker, I rise today to honor a man who has distinguished himself as a dedicated and dynamic educator. Kevin Baker of Springfield, Missouri, is not only an eighth grade social studies teacher and basketball coach, but an innovator and motivator. For the past 20 years, Baker has found ingenious ways to recreate American history for his students at Pershing Middle School while motivating them to become responsible, caring individuals. Baker's tireless efforts to help his students meet their full potential helps build active and responsible citizens with unwavering values and discipline.

Kevin Baker is perceived by the students and staff of Pershing Middle School as the most patriotic person they have ever met. Everyday he arrives at school adorned in red, white and blue attire and drives a vehicle covered with U.S. flags. But Baker's patriotism is not simply for show. His love for this country is demonstrated each day as he shares his passion for American history. Baker pushes his students to excel academically and socially, and commands respect by his unfailing integrity and enthusiasm. His positive attitude is contagious.

Learning social studies is ''fun'' in Kevin Baker's classroom. Every year Baker takes the eighth grade students at Pershing on a field trip to Wilson's Creek National Battlefield. For weeks beforehand, Baker drills his students, transforming them into a well-trained army that marches with wooden muskets to noted battlefield locations. In addition to his efforts to bring the Civil War to life, Baker also organizes and chaperones over 150 students on a trip to Washington, D.C. during Spring Break. This annual trip, which Baker initiated during his first year at Pershing, has long since become an institution. This year will mark his 20th student trip to our Nation's Capital.

Kevin Baker not only encourages his students, but also other teachers. His professionalism and expertise as a master educator in social studies is regarded highly by his community. Baker spends his summers planning and writing new Power Point presentations to complement the district's social studies curriculum, and his peers often ask him to share these presentations, as well as other classroom teaching techniques and tools, at district professional development meetings.

Kim Finch, the principal at Pershing Middle School, praises Kevin Baker as a bright, inquisitive and multi-talented teacher who enables his students to blossom academically. Finch also commends Baker as a positive role model for both students and staff, practicing daily in his own life what he teaches in the classroom.

Springfield and Pershing Middle School are lucky to call Kevin Baker one of their own. He is a valuable and cherished member of our community and nation.

TRIBUTE TO GEORGE GUYANTE, CITY MANAGER, CITY OF CORONA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Corona, California are exceptional. Corona has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent and make their communities a better place to live and work. George Guyante is one of these individuals. On Wednesday, April 1, 2004, he will be honored at a retirement reception.

George has called many places ''home'' during his life, having grown up in a military family. He followed in his father's footsteps and joined the Army and later attended Cal Poly San Luis Obispo. After receiving his degree in city and regional planning he obtained a job as a planning technician for the City of Corona in 1976.

In 1978, George started the city's Redevelopment Agency which later encompassed an economic development division as well. During his time he helped create Team Corona, a marketing and retention program designed to attract businesses and create jobs through the agency. Under his leadership Corona experienced and managed a period of high growth. The city grew from 27,000 to 140,000 during his tenure and continues to experience booming housing and commercial markets.

In May 2001, after serving as the interim city manager since November 2000, the City Council appointed George city manager after considering 44 other applicants. Under his guidance the city has worked to improve transportation, provide ample park areas for residents, provide affordable housing to low-income residents, and help the homeless.

George's tireless passion for community service has contributed immensely to the betterment of the community of Corona, California. He has been the heart and soul of many community projects and events and I am proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

PAYING TRIBUTE TO DAVID McDONNALL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life and memory of David McDonnall, an extraordinary American who was one of four Baptist missionaries killed in Iraq on March 15 by unknown assailants. His wife of less than one year, Carrie Taylor McDonnall, was also seriously wounded in the attack. While we mourn the loss of David and his fellow missionaries, I think it is appropriate to call the attention of this body of Congress and this nation the sacrifices David made for his country and the people of Iraq.

David grew up in Lamar, Colorado, and graduated from Lamar High School in 1993. Motivated by a desire to serve those in need and help rebuild the country, David and Carrie traveled to Iraq this last November, even though they knew there was a possibility they could be harmed. Their selfless efforts while in Iraq included distributing food, organizing relief projects, and renovating schools. When David and his group were attacked, they were searching for a suitable sight for a water purification project for the Iraqi people in Mosul.

Mr. Speaker, it is an honor to rise before this body of Congress and pay tribute to the life and memory of David McDonnall. His personal sacrifice is a testament to the love he had for his fellow man, and will not go in vain as others continue his noble work in Iraq. My thoughts are with his loved ones during this difficult time of bereavement.

PERSONAL EXPLANATION

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. OSE. Mr. Speaker, on Monday, March 29, 2004, I missed Rollcall votes 94 and 95. Had I been here, I would have voted ''aye'' on Rollcall 94; and ''aye'' on Rollcall 95.

INTRODUCING THE ''AFGHAN WOMEN SECURITY AND FREEDOM ACT OF 2004''

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mrs. MALONEY. Mr. Speaker, today I, along with my colleagues Representative TOM DAVIS (R–VA) and Representative CORRINE BROWN (D–FL), introduce the ''Afghan Women Security and Freedom Act of 2004'' which would authorize $300 million each year from FY2005 through FY2007 for programs in Afghanistan that benefit women and girls. The funding would be directed toward legal assistance for women, enforcing provisions of the Afghan constitution pertaining to women's rights, encouraging the registration of women voters, and providing equipment to reduce infant and maternal mortality, among other provisions. This legislation was introduced earlier this year in the Senate by Senator BARBARA BOXER (D–CA).

Women's rights in Afghanistan have fluctuated greatly over the years. Women have bravely fought the forces of extremism at various points in the country's turbulent history. At one time, women were scientists and university professors. They led corporations and nonprofit organizations in local communities.

While the new Afghan constitution guarantees equality for Afghan women, throughout Afghanistan, women continue to face intimidation, discrimination, and violence. The United States has an obligation to ensure that women and girls have the opportunities that they were denied under the Taliban and that the gains that have been made are not lost in the coming months and years. It is imperative that we provide the support needed to ensure that the rights of women are protected in the new Afghanistan.

PAYING TRIBUTE TO THELMA STARNER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, it is my pleasure to rise today to honor Thelma Starner for her selfless dedication to the community of Delta, Colorado, and congratulate her on being recognized by the Delta City Chamber as their Humanitarian of the Year. The award is presented to an individual who has shown an outstanding commitment to the Delta community, and Thelma could not be a more worthy recipient. It is a privilege to pay tribute to Thelma for her well-deserved award, and her ongoing efforts to better her community today.

Thelma owned and operated Delta Sand & Gravel for twenty-five years. As an active member in her community, she dedicates her time to a vast array of civic functions. Thelma has served as president of the Delta Chamber, Western Colorado Community Foundation, and Altrusa International of Delta; and is current president of the hospital's board of directors and of the board of Tri-County Resource Center. Thelma also was a founding board member of West Central Housing Development Organization and Delta Area Development Inc. Her enthusiasm for taking part in these organizations comes from the joy she receives in giving back to the community she loves.

Mr. Speaker, it is my privilege to recognize Thelma before this body of Congress and this nation for the recognition she received by the Delta City Chamber as their Humanitarian of the Year. She has done much to improve her community, and I wish her all the best in her future endeavors.

INTRODUCING THE AMERICAN JUSTICE FOR AMERICAN CITIZENS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. PAUL. Mr. Speaker, I rise to introduce the American Justice for American Citizens Act, which exercises Congress's Constitutional authority to regulate the federal judiciary to ensure that federal judges base their decisions solely on American Constitutional, statutory, and traditional common law. Federal judges increasing practice of ''transjudicialism'' makes this act necessary. Transjudicialism is a new legal theory that encourages judges to disregard American law, including the United States Constitution, and base their decisions on foreign law. For example, Supreme Court justices recently used international law to justify upholding race-based college admissions and overturning all state sodomy laws.

In an October 28, 2003 speech before the Southern Center for International Studies in Atlanta, Georgia, Justice O'Connor stated: ''[i]n ruling that consensual homosexual activity in one's home is constitutionally protected, the Supreme Court relied in part on a series of decisions from the European Court of Human Rights. I suspect that with time, we will rely increasingly on international and foreign law in resolving what now appear to be domestic issues, as we both appreciate more fully the ways in which domestic issues have an international dimension, and recognize the rich resources available to us in the decisions of foreign courts.''

This statement should send chills down the back of every supporter of Constitutional government. After all, the legal systems of many of the foreign countries that provide Justice O'Connor with ''rich resources'' for her decisions do not respect the same concepts of due process, federalism, and even the presumption of innocence that are fundamental to the American legal system. Thus, harmonizing American law with foreign law could undermine individual rights and limited, decentralized government.

There has also been speculation that transjudicialism could be used to conform American law to treaties, such as the UN Convention on the Rights of the Child, that the Senate has not ratified. Mr. Speaker, some of these treaties have not been ratified because of concerns regarding their effects on traditional American legal, political, and social institutions. Judges should not be allowed to implement what could be major changes in American society, short-circuit the democratic process, and usurp the Constitutional role of the Senate to approve treaties, by using unratifed treaties as the bases of their decisions.

All federal judges, including Supreme Court justices, take an oath to obey and uphold the Constitution. The Constitution was ordained and ratified by the people of the United States to provide a charter of governance in accord with fixed and enduring principles, not to empower federal judges to impose the transnational legal elites' latest theories on the American people.

Mr. Speaker, the drafters of the Constitution gave Congress the power to regulate the jurisdiction of federal courts precisely so we could intervene when the federal judiciary betrays its responsibility to uphold the Constitution and American law. Congress has a duty to use this power to ensure that judges base their decisions solely on American law.

Therefore, Mr. Speaker, I urge my colleagues to do their Constitutional duty to ensure that American citizens have American justice by cosponsoring the American Justice for American Citizens Act.

SENATOR BYRD CASTS HIS 17,000TH VOTE IN CONGRESS

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. RAHALL. Mr. Speaker, on January 8, 1959, ROBERT C. BYRD, my friend and mentor, cast his first vote in the U.S. House of Representative. Today, he cast his 17,000th vote in the U.S. Senate. I was with him on the Senate floor for this historic occasion.

This is a singular achievement. One that reveals not only the dedication of the Senior Senator from my home State of West Virginia, but also his willingness to put into action the words he so eloquently articulates on the floor on the U.S. Senate.

Though many will say, and I agree, that there is not a better speaker today than Senator BYRD, he is not a man of talk, he is a man of action, as this milestone indicates.

With each vote, Senator BYRD sets a new mark of public service achievement, but as Senator BYRD said himself, ''It isn't necessarily the quantity of the votes that count. It is the quality of the vote.''

And, if a Senator were to cast but a lone vote in a senatorial tenure as short as a moment, the words of ROBERT C. BYRD on the floor of the U.S. Senate will still ring out loudly, clearly, and forthrightly to generations with time, ''(w)e are, at one and the same time, the sons of sires who sleep in calm assurance that we will not betray the trust that they confided to our hands; and the sires of sons who wait confident, in the beyond, that we will not cheat them of their birthright.''

Indeed, we honor cherish and learn from those generations before us and we must always live, work, and strive on behalf of those generations yet unborn.

I agree with Senator BYRD. It is the quality of the vote, and I would also add another. With Senator BYRD, it is the quality of the man.

With his steadfast service to the people of West Virginia, and his dogged defense of the U.S. Constitution, Senator BYRD's quality shines through like the brightest of beacons on the darkest of nights.

They say that records are made to be broken, but I believe this record will never be broken, just as nothing will ever break Senator BYRD's spirit and his love for his State.

Senator BYRD continues to be my mentor and most importantly my friend, and I would like to offer my heart felt congratulations to Senator BYRD for this remarkable achievement.

PAYING TRIBUTE TO CHRIS JOUFLAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. MCINNIS. Mr. Speaker, it is a privilege to rise today and pay tribute to Chris Jouflas of Grand Junction, Colorado, for his dedication to his community, state, and nation. Chris has spent his life as a sheep rancher in the mountains and valleys of Colorado and Utah, and has done much to better his Colorado community.

Chris' father immigrated to the United States in 1907, and was one of the first Greek immigrants to arrive on the Western Slope. He started the family ranching business in 1910, and it soon grew to thousands of acres for ranching and grazing in Colorado and Utah. Soon after marrying his wife Connie in 1953, Chris took over the family ranching business and successfully guided it until 1992. The family still owns a 2000-acre ranch near Wolcott, Colorado, where Chris' oldest daughter and family live, and Chris stays actively involved with the ranching community.

For anyone who has skied the beautiful slopes in Vail, Colorado, they probably have Chris, and the Greek liqueur Ouzo, to thank in part. In the 1960s, and then again in the 1970s, Chris sold parts of his sheep herding land to Vail Associates in deals brokered by Chris's favorite bargaining tool, Ouzo. These legendary deals allowed for some of Vail's most well known runs to be created, and a ski run has since been named after the Greek liqueur.

Mr. Speaker, it is with a great deal of satisfaction that I rise and pay tribute to Chris Jouflas before this body of Congress and this nation today. It is clear that he has spent his life dedicated to the Colorado ranching community and the State of Colorado. It is my pleasure to honor Chris here today, and wish him the best in his future endeavors.

TRIBUTE TO CESAR CHAVEZ

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to pay tribute to Cesar Chavez, a man who bravely fought against labor injustices and paved the way for the many rights enjoyed by this nation's workers.

Mr. Chavez grew up on the fruit and vegetable fields and learned first hand the plight of labor workers and the terrible conditions they endured.

Chavez rose from those fields and became the head of the United Farm Workers of America. When the UFW began their strikes in the 1960's in protest of the treatment of farm workers, Chavez led the successful cause with support from unions, church groups and students.

After the strikes were over, Chavez maintained the fight to ensure greater minority rights by fighting for greater educational and political opportunities.

One can not deny the great impact Chavez had on the millions of labor workers in this country. His bravery and determination proved that blue-collar workers are an invaluable part of the American economy.

MEDICAL MALPRACTICE RELIEF ACT OF 2004

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. SANDLIN. Mr. Speaker, the root causes of the crisis in our Nation's medical malpractice insurance system are numerous and complex. Unfortunately, while Congress debates the various approaches to reform, doctors, hospitals, and other healthcare providers face the harsh reality of skyrocketing premiums today.

Ensuring that Americans continue to have access to doctors of all specialties while Congress finds a comprehensive solution to this crisis is crucial. A temporary, but immediate malpractice premium tax credit would provide much-needed relief to healthcare providers who want to continue offering care, but are struggling to pay their malpractice premiums.

Therefore, Mr. Speaker, I am pleased to join today with 30 of my colleagues in introducing the Medical Malpractice Relief Act of 2004, which would allow doctors, hospitals and nursing homes to claim a tax credit for a percentage of the malpractice premiums they are paying and will pay during tax years 2004 and 2005.

Doctors who specialize in an area with increased risk of complications would be eligible for a tax credit equivalent to 20 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated doctor, i.e. same specialty and geographic area.

High-risk doctors include those in all surgical specialties and subspecialties, emergency medicine, obstetrics or anesthesiology; or who do interventional work that is reflected in their malpractice premiums.

Doctors who practice in lower risk specialties, such as general medicine, allergy, dermatology and pathology would be eligible for a tax credit equivalent to 10 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated doctor, i.e. same specialty and geographic area.

For-profit hospitals and nursing homes would be eligible for a tax credit equivalent to 15 percent of their total malpractice premium. The credit could be taken for premiums up to twice the average for a similarly situated hospital.

As many American hospitals and nursing homes are nonprofit institutions that do not pay taxes, this legislation would establish a 2-year grant program in the Health Resources Services Administration at the Department of Health and Human Services.

Nonprofit hospitals would be eligible for grants up to 15 percent of their malpractice premiums. The maximum allowable grant would be for premiums up to twice the average malpractice premium among similarly situated hospitals.

Mr. Speaker, medical providers across the country are facing a crisis, and they need our help now. Accordingly, I urge my colleagues in the People's House to act now to provide physicians, hospitals, and nursing homes the relief they need, so that they can turn their full attention to their genuine calling—caring for our Nation's health. I hope the House will take up this carefully targeted piece of legislation soon and provide our Nation's health care providers the relief they need.

RECOGNIZING RICHARD F. FURIA

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. GERLACH. Mr. Speaker, I rise today to recognize Richard F. Furia, the 2004 Man of the Year of the Ivy Ridge Lodge 251, Grand Lodge of Pennsylvania, of the Order of Sons of Italy in America, for his dedication to the people of the greater Philadelphia area and for his work in the Italian-American community.

A resident of Lower Merion Township, Montgomery County, Rick Furia has practiced as an attorney in Southeastern Pennsylvania since 1971. He succeeded his father, the late U.S. Magistrate Edward W. Furia, Sr., into the profession and has served as a leader in many professional, fraternal and community organizations. Currently, he serves on the Philadelphia Bar Association's Board of Governors, Executive Board of Volunteers for the Indigent Program (VIP) and is Co-Chair of their Solo and Small Firm Committee. Rick is also a member of the Philadelphia Bar Foundation's Hamilton Circle, the charitable wing of the Association. He is an active member of the Philadelphia, Pennsylvania and American Trial Lawyers Associations and the American Bar Association. He is also a member of several other local organizations and institutions, including the Executive Board of the Lawyers Club of Philadelphia, the Pennsylvania Defense Institute, Russell Conwell Society of Temple University School of Law, the Amici Society—Center for Italian Studies of the University of Pennsylvania and the Opera Company of Philadelphia's Bravi Circle Advisory Board.

As a proud member of the Italian-American community, Mr. Furia has served on many committees and organizations to which he has so tirelessly volunteered time and support. He has not only played an active part in the rejuvenation of Ivy Ridge Lodge 251, but he has held national and state offices within the Order of Sons of Italy in America, including President of the Pennsylvania Commission for Social Justice (CSJ), the anti-defamation arm of the OSIA. The CSJ was founded to fight the stereotyping of Italian-Americans by the entertainment, advertising, and news industries. Rick is past Chancellor of the Justinian Society of Italian-American Lawyers and has served as a board member since 1984; and as board member of the Justinian Foundation since 1996. Additionally, with the Order of Sons of Italy in America, Rick served as National Orator, Chairman of the By-Law Committee, National Secretary for the Commission for Social Justice, and Ivy Ridge Orator for more than a decade. He is also a member of the National-Italian American Foundation, Counsel of 1000.

Richard Furia is an active member of the community in supporting the arts, education and culture. He is an active member of The Pennsylvania Society, Barnes Society of the Barnes Foundation, Free Library of Philadelphia, Pennsylvania Horticultural Society, Philadelphia Museum of Art, and the Union League. He was honored with the Millay Club Alumni Achiever Award from the Southeast Catholic/Bishop Neumann/Saint John Neumann High School Alumni Association in 2000.

Mr. Speaker, I ask my colleagues to join me today in recognizing Richard F. Furia for all his years of exemplary service to the Order of Sons of Italy in America, his community and the Commonwealth of Pennsylvania.

TRIBUTE TO WILLIAM ''TOM'' WISEMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to the life of William Thomas ''Tom'' Wiseman of Ignacio, Colorado; an extraordinary American who recently passed away at the age of seventy-three. Tom was an active member of the Ignacio community as the owner of Wiseman Hardware and Lumber Company, and was involved in numerous community organizations.

Tom graduated from Durango High School in 1948, and subsequently from Denver University in 1952. Upon returning to Ignacio, he joined his father at Wiseman Hardware and Lumber Company. In 1968, Tom purchased the hardware business from his father, which he operated until his retirement in 1992.

Tom generously gave his time and energy to his community, serving on the Ignacio Town Board, the Ignacio School Improvement Committee, and the Presbyterian Church Session. In addition, he was active with the La Plata County Republican Party, worked with the Ignacio Community Historical Society, and was a member of the Durango Masonic Lodge. Above all Tom loved spending time with his devoted family, including his wife Paula, whom he leaves behind.

Mr. Speaker, it is an honor to rise before this body of Congress and pay tribute to the life and memory of William Thomas Wiseman. He dedicated his life to his family and toward the betterment of his Ignacio community. My thoughts are with his loved ones during this difficult time of bereavement.

CELEBRATING CESAR CHAVEZ'S BIRTHDAY: A CHAMPION FOR WORKERS RIGHTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. RANGEL. Mr. Speaker, I rise today to celebrate Cesar Chavez's birthday. I would like to ask the members of the House to join in paying respect to a man who brought awareness of labor injustices perpetrated upon migrant workers to national light. Cesar Chavez worked tirelessly to improve the lives of America's farm workers by securing their rights to recognize and bargain collectively for fair working conditions. Chavez grew up in the fruit and vegetable fields and knew what it meant to work them from dawn to dusk. He knew the injustices that faced labor workers on a daily basis, and knew there had to be a change.

From those fields, Chavez rose to the head of the United Farm Workers of America, UFW, instilling in the UFW the principals of non-violence practiced by Gandhi and Dr. Martin Luther King, Jr. When the UFW began striking in the 1960s, to protest the treatment of farm workers, the strikers took a pledge of non-violence, determined not to detract from the message of improved labor conditions. Chavez led a successful 5-year strike-boycott. Through this boycott, Chavez was able to forge a national support coalition of unions, church groups, students, minorities, and consumers. By the end of the boycott everyone knew the chant that unified all groups, ''Sí se puede!''—yes we can. It was a chant of encouragement, pride and dignity.

Throughout his lifetime Mr. Chavez continued to speak out and helped communities to mobilize by assisting them with voter registration drives and insisting that minority communities had just as much a right to have equitable access to educational opportunities.

My constituents of the 15th Congressional District join millions of Americans in celebrating and recognizing Chavez's legacy on today his 70th birthday. This celebration should not be limited to today, it should continue and we, as members of Congress should ensure that in today's world, the rights of workers are still protected.

CARL LAMM, DISTINGUISHED NORTH CAROLINIAN

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. ETHERIDGE. Mr. Speaker, Carl Edward Lamm—a legendary pioneer in radio broadcasting will be honored on April 20 at the 2004 Distinguished Citizen Banquet of the Johnston Community College Foundation. Lamm is president and general manager of Radio Station WMPM in Smithfield, North Carolina.

Lamm, now in his 56th consecutive year as a full-time broadcaster, is sometimes referred to as the ''Voice of Eastern Carolina.'' His many awards have included induction into the North Carolina Broadcasters Hall of Fame and the awarding of the Order of the Long Leaf Pine, North Carolina's top citizen award, by Governor James B. Hunt. He is one of the finest examples of North Carolina values in action.

Lamm, born in Spring Hope, North Carolina, dreamed early on of a career in radio. As a 17-year-old, he did his first broadcasting on Radio Station WEED in Rocky Mount, North Carolina, took time out to join the Navy for World War II service, and returned in 1946 to finish high school. He then enrolled in the National Academy of Broadcasting in Washington, DC to pursue his dream of becoming a broadcaster. Within a year, he was hired at Radio Station WCEC in Rocky Mount. He followed that with a position at WCKB in Dunn, North Carolina. In 1958, he became a co-owner of and full-time broadcaster for WMPM in Smithfield, a career that continues to this day.

It has been a labor of love for his adopted community. A national expert on country music, Lamm has one of the most extensive collections of historic country music in the United States. His station is considered a leader in the presentation of old time country music, bluegrass, and southern gospel music. During his long career, he also emceed a program for Radio Station WSM in Nashville, TN, interviewing Hank Snow, a member of the County Music Hall of Fame.

On his Smithfield station, Lamm's interests have ranged far and wide. He was the 1971 Sportscaster of the Year for the Raleigh Hot Stove League. For 25 years, he hosted a program about North Carolina lawmakers, ''Legislative Report to the People.'' He covered the Smithfield tobacco market for 54 years and from 1993 to 2000 was the sales supervisor of the market. Lamm has interviewed more than 500 major league baseball players and country music entertainers. Those interviews include Ted Williams, Joe DiMaggio, Yogi Berra, Casey Stengel, Mickey Mantle, and Whitey Ford. Interviews with entertainers have included Hank Williams, Red Foley, Ernest Tubb, Roy Acuff, and Kitty Wells.

Lamm, is a former president of the Smithfield Rotary Club. He initiated the annual ''Rotary Radio Day'' in 1971 that continues to this day. That event, it is estimated, has raised more than $100,000 for the Smithfield Rotary Club's community projects. The club honored him with one of its first Paul Harris Fellowship Awards. In 2003, the club established the Carl and Margie Lamm Scholarship, which will be awarded annually to a graduating senior at Smithfield-Selma High School.

Lamm was the first to broadcast the death of legendary Johnson County movie star, Ava Gardner, and was the natural voice to emcee the opening of the Ava Gardner Museum when it opened its new quarters in October, 2000.

Lamm taught a Sunday School Class at Beulah Baptist Church in Four Oaks for 48 consecutive years and now occasionally teaches the Evander Simpson Sunday School Class at First Baptist Church in Smithfield where he and his family are members.

Truly, Carl Lamm has been a unique man in a unique time in Johnson County. Through the radio, he has recorded the county's comings and goings, the births and deaths, the struggles and the triumphs, and the dreams of tomorrow.

CONGRATULATIONS TO THE PEOPLE OF TAIWAN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 1, 2004

Mr. HINCHEY. Mr. Speaker, with 80.2% of voters participating in Taiwan's recent Presidential election, I congratulate the country's 23 million citizens for once again demonstrating the strength and vibrancy of their democracy.

The very close margin of victory calls for a recount, and impassioned protests are not unfamiliar to voters in our own country who experienced the aftermath of the 2000 Presidential election. We know that protection of free expression and other personal freedoms are signs of a healthy democracy.

As Taiwan's democratic society has grown strong, its citizens have prospered. The transformation of Taiwan from an impoverished backwater into an industrial powerhouse, and from a one party dictatorship into a multiparty democracy is among the most impressive economic and political accomplishments of our time.

I send my congratulations to the people of Taiwan on the completion of their third direct presidential election.

HONORING THE MEMORY OF MRS. FANNIE BELLE CALLAHAN

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BONNER. Mr. Speaker, Mobile County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor her and pay tribute to her memory.

Fannie Belle Callahan was a devoted mother, grandmother, and friend to the Mobile community throughout her entire life. At the time of her passing on March 15, 2004, she had devoted 94 years to the care of her children, her family, and her city.

Raised with her three siblings in the small community of Crichton, Alabama, Mrs. Callahan was required at an early age to go to work to help support her family following the death of her father. By the age of 17, she had already worked as a telephone operator, a cashier at Mobile's Saenger Theater, and a night clerk at the Battle House Hotel. Following her marriage to Herbert Callahan, she moved to East St. Louis, Illinois, but returned to Mobile three years later when he obtained a job with the GM&O Railroad.

Widowed at the time of her husband's death in 1950, Mrs. Callahan was once again required to go to work to support her large family of nine children. Although she retired in 1965 after many years of employment with the Mobile District Office of the U.S. Army Corps of Engineers, she was not one to sit idly by and watch life go on in the world around her. She became actively involved in the political campaigns of her sons Sonny and George, and following Sonny's election to the U.S. House of Representatives in 1984 volunteered her time as the receptionist in his Mobile district office. Mrs. Callahan quickly became the center of her son's office ''family,'' and for the remainder of her life was always referred to affectionately as ''Mom Callahan.''

Throughout her 94 years, Fannie Belle Callahan taught many valuable lessons to her family and friends, and everyone who came in contact with her took away very fond memories of a charming southern lady who could make anyone to whom she was speaking feel they were the most important person at that time. In an article which appeared in the Mobile Register in 2000, Mrs. Callahan reflected on her long and rewarding life and spoke about how her years of hard work were rewarded with the successes her children enjoyed.

Many of her children were also interviewed and offered their perspectives on the lessons they had learned from the matriarch of a family made up of 94 men, women, and children. Perhaps her son, former Rep. Sonny Callahan, best summed up her long life and what she passed on to her children when he said, ''She taught us responsibility. With nine kids, there had to be some degree of responsibility. She taught us to respect people and work hard.''

Mr. Speaker, I ask my colleagues to join me in remembering a lovely woman who deeply loved, encouraged, and respected her many family and friends and the entire Mobile community. ''Mom Callahan'' will be deeply missed by her family—her sons, Sonny Callahan, George Callahan, Charles Callahan, and Terrance Callahan; her daughters, Patsy Dempster, Madeline Martin, Margaret Ann Athey, Mary Jane Emick, and Rose Callahan; and her 32 grandchildren, 56 great-grandchildren, and 13 great-great-grandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

A RESOLUTION OF THE HOUSE TO REQUIRE A SIMPLIFICATION TITLE IN ANY TAX MEASURE

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOUGHTON. Mr. Speaker, today I am introducing a resolution to amend the rules of the House regarding legislative measures changing our tax laws. The proposed change would prevent the consideration of any tax measure unless it contained a title simplifying the Internal Revenue Code of 1986.

We are at a state where, I believe, tax simplification should be a top priority of our legislative efforts. In a word, the Code is a mess. The current size amounts to an incredible 9,490 pages. The Code has become too complex. Over the years it has become a destination for provisions that may be admirable, but should belong elsewhere. The inclusion of these provisions in the Code puts an extra burden on the Internal Revenue Service—one that it may not be particularly adept at handling. Many tax provisions simply are mind-numbing in their detail and burdensome in their compliance requirements. It is not a simple task, for more than a few citizens do their own returns. The tax preparation service has ballooned. Many are either disinclined or unable to deal with the tax process.

As you know, I'm not a tax lawyer. I'm merely an old glass man from Corning, New York. In talking to a member of the Ways and Means tax staff on April 15th several years ago, he told me he had just dropped his tax return in the mail, and was clearly sweating bullets. ''I just hope I got it right,'' he said. Strange. Here was a bright young tax lawyer—a government employee with what I would have guessed was a fairly straightforward tax return: deductions for mortgage interest, charitable contributions, and student loan interest. Even so, he was worried whether he had filled out his return correctly. My reaction at the time was: ''If he's nervous, what about the rest of us?''

Until we overhaul the system in a major way, whether that be a flat tax, VAT or some other approach, we should make it a priority to attack the present Code, reduce the complexity, and make it simpler for as many citizens as possible.

In recent years, I have introduced several tax simplification proposals (the current bill is H.R. 22) covering a variety of areas. We are currently reviewing those proposals to refine them, and then will reintroduce some of the proposals as stand-alone bills to focus better on the specific issues.

So, Mr. Speaker, in order to call attention to the simplification issue, the resolution I am introducing, as stated above, would require that tax legislation include a tax title in any tax measure for it to be considered by the House. The purpose is to focus attention on simplification each and every time we consider a tax measure, with the result that we accomplish some measure of simplification to the Internal Revenue Code.

I urge your support of this measure. It cannot hurt. It may just help in ways we are unable now to contemplate.

BRING CHARLES TAYLOR BEFORE THE SPECIAL COURT IN SIERRA LEONE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WOLF. Mr. Speaker, I want to share with our colleagues a letter to Secretary of State Colin Powell that 28 members of Congress have signed asking that the United States act swiftly to ensure that Charles Taylor, former president of Liberia and now a fugitive from justice, is held accountable for his heinous crimes and brought before the Special Court for Sierra Leone. There should be no safe harbor for tyrants like Charles Taylor.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 2004.

Hon. COLIN POWELL,
Secretary of State,
Washington DC.

DEAR SECRETARY POWELL: We are writing to express deep concern that Charles Taylor, former president of Liberia and now a fugitive from justice, has not been brought before the Special Court for Sierra Leone.

Charles Taylor faces 17 counts of war crimes, crimes against humanity, and violations of international humanitarian law. Charles Taylor's time is up. We are asking that you make a concerted effort to see that he is brought before the Special Court.

The despotic rule of Charles Taylor in Sierra Leone, while president of Liberia, represents his tyrannical influence in fueling Sierra Leone's ten-year civil war. He is accused of providing financial support, military training, and other support and encouragement to the Revolutionary United Front (RUF) to destabilize Sierra Leone in order to gain access to her diamond wealth.

Charles Taylor also organized and ordered widespread and systematic attacks to terrorize the civilian population in Sierra Leone. Disturbing examples include abductions, sexual slavery of women. and children, large scale physical violence and unlawful killings, notably hacking off of limbs, facial and bodily mutilations, body carvings, gang rapes, and hacking and burning to death those whom he felt did not sufficiently support the RUF.

As you know, the three-year mandate of the Special Court for Sierra Leone expires June 30, 2005. Since its inception, the Special Court has been collecting and analyzing evidence against Charles Taylor. Just last week, the Special Court courthouse officially opened its doors.

Time is of the essence. Charles Taylor needs to be brought to justice before the three-year mandate expires. It is intolerable that Charles Taylor is living with impunity in the lap of luxury in Nigeria, with just about anything he needs at his disposal, including a cell phone. There is growing evidence that Charles Taylor continues to meddle in the political affairs of Liberia. He has expressed a desire to return to Liberia. We must not be blind to the fact that he has not lost his thirst for the political power he once had before his exile.

We have no doubt that you find Charles Taylor's brutal cycle of violence as abhorrent as we do. We urge you to act swiftly to ensure that Charles Taylor is held accountable for his actions. There should be no safe harbor for tyrants like Charles Taylor. We must act now.

Sincerely,

Frank R. Wolf; Edward R. Royce; Joe Baca; Howard L. Berman; Robert A. Brady; John A. Culberson; Peter A. DeFazio; Jim DeMint; Vernon J. Ehlers; Lane Evans; Sam Farr; Trent Franks; Virgil H. Goode, Jr.; Michael M. Honda.

Patrick J. Kennedy; James R. Langevin; James P. McGovern; Bobby L. Rush; John Shimkus; Christopher H. Smith; Vic Snyder; Thomas G. Tancredo; Ellen O. Tauscher; Patrick J. Tiberi; James T. Walsh; Jerry Weller; Curt Weldon; Albert R. Wynn.

TRIBUTE TO VELMA M. WEBBER BOUCHARD ON HER INDUCTION INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STUPAK. Mr. Speaker, I rise today to celebrate the achievements of Velma M. Webber Bouchard, who will be honored for her service to the cause of American working men and women with induction into the Upper Peninsula Labor Hall of Fame at a ceremony in Marquette, Michigan on April 17th.

Velma, who grew up in Luce County, began her outstanding service to workers of the U.P. and the Democratic Party in 1975. That was the year when she started her job at the Newberry Board of Water and Light and joined Local 2530, Council 55 (now Council 25) of the American Federation of State, County and Municipal Employees (AFSCME).

Her service in AFSCME includes a long list of leadership positions. She served as Local President for two years; Secretary-Treasurer for four years; Recording Secretary for three years; Delegate to the Eastern U.P. Central Labor Council, AFL-CIO for seven years and Vice-Chair of the U.P. AFSCME Political Action Committee.

Velma also traveled extensively through the region teaching Labor History and representation skills to AFSCME members. She served her local union in AFSCME Council level governance functions, periodically serving as a delegate from her local to the Council 55, 11 and 25 Annual Conventions, as well as being a delegate to the Michigan State AFL-CIO Conventions.

As a trade union leader, Velma spent time working to make her union even more effective by serving on the U.P. AFSCME Community Services Committee and by serving on the Union Women/Minorities Leadership Training Program Board during the 1980s.

Beyond her union, Velma's involvement in political activities is also a reflection of her nonstop efforts to protect and represent Michigan workers. Since 1988, she has served as Chair of the Luce County Democratic Party and served as its Vice-Chair before then. Velma has also been an Officer-At-Large of the Michigan Democratic Party for four years; was elected as a delegate to the Democratic National Convention in 1992; and has served as an alternate delegate to the Michigan Democratic State Central Committee. During the Blanchard Administration, Governor Blanchard called upon Velma to take several appointments, including the Controlled Substance Advisory Committee and the International Trade Board.

Despite all of the time devoted to organized labor and politics, Velma still found time for civic duty. She is a lifetime member of American Legion Auxiliary Unit 74, serving as its President and District President. She has served as a member of the Michigan Selective Service Board No. 17 since 1985.

Velma retired from the Newberry Board of Water and Light in 1993 after 18 years. We cannot thank her enough for her endless energy and dedication fighting for the rights of Michigan workers.

I also want to acknowledge Joe King, Velma's good friend of many years.

Mr. Speaker, I ask you and my House colleagues to join me in acknowledging Velma Webber Bouchard's lifetime of contributions to organized labor and her community, and in celebrating the accomplishments that have earned her the distinction of becoming an honored member of the Upper Peninsula Labor Hall of Fame.

THANKING JAMES JOYCE OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to thank outgoing Chicago Fire Commissioner James Joyce for his 39 years of noble service to the department and to wish him well in his retirement.

Commissioner Joyce enjoyed a remarkable rise through the ranks of the Chicago Fire Department before being appointed to the top post by Mayor Richard M. Daley in 1999. During his more than four years as commissioner, Commissioner Joyce spearheaded important changes to the department, including building new firehouses, replacing and updating firehouse equipment, and improving coordination with suburban fire departments. His tenure as Commissioner was also noteworthy for the respect he garnered from rank and file firefighters throughout the department.

His steady leadership also was apparent after the Sept. 11 attacks, when Commissioner Joyce committed the department to aiding disaster prevention efforts and oversaw changes in policies and procedures to protect the people of Chicago.

Commissioner Joyce was born in 1942 and was educated at Chicago State University. He received his master's degree in public administration from Governor's State University.

Commissioner Joyce began his career within the Chicago Fire Department as a firefighter assigned to Truck 4 in Chinatown in 1965. After serving as engineer, lieutenant and captain he was promoted to battalion chief in 1979. Later his administrative posts included District Chief and Deputy Fire Commissioner.

The Joyce family's commitment to firefighting and to protecting the lives of Chicago's citizens began long before the Commissioner joined the force. Commissioner Joyce is a third-generation Chicago firefighter, whose maternal grandfather, father and brother all served. His grandfather gave the ultimate sacrifice, dying as a result of battling a 1934 blaze at the old Chicago Stockyards.

Commissioner Joyce and his wife Janet reside in St. John Fisher Parish on Chicago's South Side and are the parents of four children. I wish Commissioner Joyce the best as he begins his well-deserved retirement

Mr. Speaker, I join in all of Chicago in thanking James Joyce for his long record of achievement in serving our city. His dedication and passion will be missed.

TRIBUTE TO TOM CATLETT

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, our county courts are a key component of the example America sets for the rest of the world; but it is only as admirable as the men and women who serve within it. I am honored to rise today to pay tribute to a proud servant of the Monroe County Court, Tom Catlett, for the positive mark he has left on Monroe County and the courthouse he has dedicated his life to serving.

Mr. Catlett has served Monroe County for nearly 40 years, making him the longest serving county judge in Arkansas. Unfortunately for us, he has recently announced his intent to retire at the end of this year. This will end a journey which began on July 26, 1966 when Judge Catlett won the Democratic primary and was sworn in later the same year—he was 40 years old.

Since then, Judge Catlett has served 19 terms as county judge and has always called Monroe County home. He has shown the courthouse unmatched respect, specifically through a major renovation which raised the standard for beautifying county courthouses in Arkansas and across this country. It cannot be debated: Tom Catlett was a citizen who worked tirelessly for the growth and prosperity of Monroe County.

Perhaps his service is best summarized by a statement he recently made when he announced his retirement, ''I am sure that when I look back on my life, I will see the last 38 years as the happiest times of all.'' Judge Catlett is a man who took pride in his work and is honored to be in a position to help his county excel. Judge Catlett's thirst for improving his community remains unquenched and I expect even after his retirement this year, the name Tom Catlett will permeate the accomplishments of Monroe County for years to come.

On behalf of the Congress, I extend the utmost respect and deference for a man befitting such titles as county judge, community leader and example to us all. Tom Catlett is a roll model and I am honored to recognize him in this Congress.

IN RECOGNITION OF THE COMMUNITY OF STOCKTON, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to recognize the citizens of Stockton, Missouri, for their efforts in recovering from a tragedy. On the evening of Sunday, May 4, 2003, this small Missouri community was struck by a powerful tornado. It has taken months to restore what took minutes to destroy, but this community has shown strength and resolve in the face of great challenges.

The utter destruction visited upon Stockton is difficult to grasp unless seen. It is measured in terms of what is no longer there. The absence of businesses, homes, churches, even 100 year-old trees, act as a daily reminder of what happened. The Stockton town square was particularly hard hit. Like most town squares in small communities throughout Missouri, Stockton's was an important center of economic activity. Most of the buildings leveled in the downtown area were businesses. The local business owners took it upon themselves to form the Downtown Business District Committee. This committee, open to all business-owners, created a means of mutual support and a forum for discussion of common problems and issues. One important task was to set up guidelines for reconstruction of the town square. The first building on the square to reopen was the pharmacy of Ray Zumwalt. The rebuilding of the pharmacy, along with all of the other buildings in Stockton, did not happen overnight. It was a gradual process. But as bricks were laid and roofs repaired, the mending of the spirit of this town could be seen, not just in the buildings, but in the people as well. The return of hope to a community that has lost so much is a very important thing.

Today, the community of Stockton is busy preparing for a four-day event commemorating the one-year anniversary of the tornado. This event will serve as a reminder of that day, and as a celebration of all that has been accomplished in such a short period of time. Some questioned whether the town could survive. With this city-wide event, scheduled to take place May 1 through May 4, the people of Stockton will answer with a resounding ''yes''.

The following individuals deserve special recognition for their efforts to help the people of Stockton: Jerry Uhlmann, Charles May, Gayla Weber, Dick Hainje, Dennis Moffett, Dan Best, Brad Gair, Jonathan Hoyes, Fred May, Jeff Wall, Peggy Kenney, R. Bruce Martin, Kristi Perrin, Richard Barnes, Sheila Johnson, Cynthia Davies and Gale Roberts. These individuals from the Federal Emergency Management Agency, the State Emergency Management Agency and the Department of Natural Resources provided direction and support in the community's efforts to rebuild.

Mr. Speaker, there are days such as the May 4, 2003, when we are reminded of the awesome and unforgiving power of nature. In minutes, lives, families, and whole communities can be uprooted. The people of Stockton made the decision to rebuild, not retreat. It takes strength and courage to face the challenges posed by such a disaster. They have faced this time of trying with such great resolve, have overcome setbacks with such perseverance, they serve as an example to us all of what can be accomplished when the people of a community based on strong traditions of support, compassion, and dedication come together to help their neighbors. Stockton has a lesson to teach us all: the values of family, community, and helping those in need are still alive and well in this country. I am sure my fellow Members will join me in honoring the citizens of this outstanding community and thanking those who have done so much to help.

COMMENDING MIKE PACINI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today to honor Mike Pacini. Mike Pacini is currently a Boulder City Council Member and has sat on the council since 1997, when he was the youngest candidate elected to that position. In 2003 Mike Pacini was elected President of the Nevada League of Cities and received the Honor of Nevada's 2003–2004 Public Official of the Year. I urge the House to join with me in congratulating him on his recent honors.

CONGRATULATING PETTY OFFICER THIRD CLASS DAVID L. BROWN, UNITED STATES NAVY, ON THE OCCASION OF HIS RECEIPT OF THE PURPLE HEART

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to pay tribute to Petty Officer Third Class David L. Brown, former member of the United States Navy, on the occasion of his receipt of the Purple Heart.

This recognition—long overdue—was made last week as the result of injuries Petty Officer Brown received during the Vietnam Conflict in 1968.

On January 3, 1968, Petty Officer Brown, who served as an equipment operator in country for a total of 13 months, and his unit were involved in action with enemy combatants near Hue City during the Tet Offensive. During the engagement, a lieutenant positioned nearby was wounded by enemy fire. Petty Officer Brown rushed to his aid and while trying to drag this officer out of the line of fire to safety, he was hit in his hands by an enemy mortar round. He immediately received aid from a corpsman, but he and his unit continued to be pinned down by enemy fire for eight days. Petty Officer Brown was eventually evacuated from Hue City and continued his naval service, serving for a period of ten months aboard the *USS Ranger*.

Following his return to the United States, he served as a ship superintendent at Northrop Grumman Ship Systems' Ingalls Operation in Pascagoula, Mississippi, until his retirement. However, he never received the recognition he was due as a result of heroic services rendered during the Tet Offensive.

In an effort to determine his eligibility for the Purple Heart and other medals and decorations associated with the injuries he sustained in Hue City, Petty Officer Brown contacted my predecessor, former Congressman Sonny Callahan, and requested his assistance in contacting the appropriate officials on his behalf.

Over the next two years, Mrs. Kay Williams, a member of Congressman Callahan's district staff and now a member of my district staff, worked diligently with officials with the National Personnel Records Center, the Department of the Navy, and the National Archives and Records Administration on this issue.

Without question, Mrs. Williams tirelessly pursued every possible avenue in an attempt to secure this recognition for Petty Officer Brown, and in recent weeks was able to contact Mr. Glenn Morichika. Mr. Morichika, a resident of Honolulu, Hawaii, is the only surviving witness to the events of January 3, 1968. Thankfully, Mr. Morichika was able to provide an eyewitness testimony as to Petty Officer Brown's actions.

As a result of this testimony, and the tremendous efforts of Mrs. Williams, Petty Officer Brown was finally awarded the Purple Heart, the Combat Action Ribbon, and the Meritorious Unit Commendation. This recognition, while long overdue, is certainly well-deserved and is a testament to the dedication to duty and concern for his fellow troops that marked Petty Officer Brown's exemplary service in the United States Navy.

Mr. Speaker, sadly far too many veterans returned home from Vietnam without the recognition they were due. Unfortunately, in Petty Officer Brown's case, he not only demonstrated his willingness to fight for his country, but he returned home only to fight the bureaucracy of his country to get that to which he was always entitled. This is a sad but often-repeated story that thousands of veterans know all-too-well.

Fortunately, in this particular instance, there was a happy ending to this story. Therefore, today, I ask my colleagues on both sides of the aisle to join with me in recognizing David L. Brown for this accomplishment and for his many years of devoted service to his country. I know I join with his many family and friends in congratulating him on this achievement and in extending our heartfelt thanks for his outstanding service to the United States of America.

INTRODUCTION OF TAX SIMPLIFICATION LEGISLATIVE PROPOSALS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOUGHTON. Mr. Speaker, today I am introducing a package of nine separate proposals on tax simplification. Also, today I introduced a resolution of the House to require a simplification title in any tax measure under consideration.

As we approach the deadline of April 15, taxpayers once again come face-to-face with the task of voluntarily—and I emphasize voluntarily—complying with filing their individual tax returns. If our system becomes too complex for the ordinary citizen, then noncompliance will no doubt accelerate. Many Members, and taxpayers, believe that Congress will overhaul the entire system. I'm all for overhauling the tax system, but it will be a long process. In the meantime, I believe the ongoing simplification of the tax system should be a top priority of Congress.

This package of simplification bills highlights some of the areas of the Internal Revenue Code that cry out for change in order to reduce complexity and make our citizens' task of voluntarily complying with our tax laws a less daunting challenge. Some have a cost attached, such as the AMT repeal, while others are revenue neutral. The proposals are as follows:

Alternative Minimum Tax Repeal Act of 2004. The repeal of AMT for individuals is at the top of about everybody's list of must-do tax legislation. However, the revenue lost is substantial. The bill would substantially slow the growth in the number of taxpayers subject to AMT over the next 10 years, by adjusting the AMT exemption, and finally repealing the provision effective after 2013.

Child Definition Simplification Act of 2004. The proposal would address a challenging problem that faces taxpayers every year—the multiple definitions of a qualifying child for different tax purposes. The proposal would provide a uniform definition of a child based on residence, relationship and age of the child.

Filing Status Simplification Act of 2004. The Head of Household filing status has long been a leading source of taxpayer confusion and mistakes during the filing season. To address this problem, the proposal would change "Head of Household" to "Single Parent or Guardian" filing status, a term that is less likely to cause a mistake in filing status.

Home Mortgage Tax Simplification Act of 2004. Under the proposal, points paid on a home mortgaging refinancing would be fully deductible in the year in which the expense is incurred. The current law generally requires that the refinancing points be amortized over the stated life of the loan.

Taxation of Minor Children Simplification Act of 2004. The proposal would eliminate the current restrictions on adding a minor child's income to the parent's return. A parent could freely elect to include the income of a child under 14 on his or her own tax return. This does not change the ability of the child to file a separate return, if that is preferable.

Education Tax Credit Simplification Act of 2004. The proposal would merge the HOPE and Lifetime Learning Credits, which serve nearly identical purposes but have different rules. The proposal would provide a credit for one-half of the first $3,000 of post-secondary education expenses. The credit would apply on a per-child basis and would not be limited to the first two years of post-secondary education.

Small Business Tax Modernization Act of 2004. The proposal would combine the benefits of Subchapter S (S corporations) and Subchapter K (Partnerships) of the Internal Revenue Code in a single, unified passthrough entity regime based on Subchapter K. There are presently two separate, fully-articulated passthrough entity regimes—an expensive and unnecessarily complicated system. The goal of the legislation is to establish a single passthrough entity regime that preserves the major benefits of Subchapters S and K.

Personal Holding Company Tax Repeal Act of 2004. The proposal would repeal the Personal Holding Company tax, which is outdated and has been eclipsed by subsequent changes to the tax code.

Small Business Law Tax Conformity Act of 2004. The proposal would make technical changes necessary to update the Internal Revenue Code to take into account changes that have occurred in state business law. The proposal would define earnings from selfemployment to exclude the portion of a partner's distributive share that is attributable to capital.

If these simplification proposals—which affect millions of taxpayers—are enacted this year, filing tax returns next year will be simpler and less time consuming. I urge my colleagues to support these provisions.

STOP THE KILLING IN SUDAN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WOLF. Mr. Speaker, Raphaél Lemkin in his book Axis Rule in Occupied Europe coined the word "genocide." Greek word "genos" (race), Latin word "cide" (killing). Genocide means "the deliberate and systematic destruction of a racial, political, or cultural group."

It has been said the way we behave is really an indicator of what we truly believe, and belief drives behavior. It will be 59 years this April that Dietrich Bonhoeffer was marched from his prison cell at the Flossenburg concentration camp in Germany and was hung. Bonhoeffer was a Protestant minister who opposed Hitler. He refused to keep silent about the discrimination and persecution of Jews. He spoke out repeatedly and fearlessly until the Nazis executed him.

"Never again"—words that were uttered, beliefs that were expressed by many in the West after the full-scale horror of the Holocaust became known. And yet, genocide has happened again and again this century, while world leaders and governments have been slow or hesitant to respond.

This is the theme of the excellent book on genocide in the 20th century—A Problem from Hell, by Harvard University instructor Samantha Power. More than ever, Ms. Power's book reminds all of us, especially those in public service, of the unique power and responsibility of our voice in confronting evil and our moral responsibility to speak out.

Is genocide happening again? As the world waits and watches, the people of the Darfur region in Sudan are being wiped out. This crisis began in February 2003 when two rebel groups in Darfur state began to fight government security forces. In early February 2004, the government launched a major military offensive against the rebel forces. The result has been brutal attacks by ground and air forces against innocent civilians and undefended villages. Thousands have been killed. Millions more remain beyond the reach of aid.

The United Nations resident coordinator to Sudan recently described the situation in Darfur as the world's greatest humanitarian crisis and possibly its greatest humanitarian catastrophe. Richard S. Williamson, the U.S. representative to the Commission on Human Rights, said on March 25: "the U.S. views with grave concern the deepening crisis in the Darfur region of western Sudan. A lack of civil order and the refusal of local as well as national authorities to permit unrestricted access for humanitarian workers have put as many as one million people at imminent risk of life and livelihood."

Below is the text of H. Con. Res. 403, a sense of Congress resolution I introduced April 1, condemning the Government of the Republic of the Sudan for its reported involvement in the attacks against innocent civilians and calls on the president to direct the United States representative to the United Nations to seek an official investigation by the UN to determine if crimes against humanity have been committed. I fear it is happening again and it is only going to get worse.

I urge the House to pass this resolution and go on the record to speak out against what is happening in Darfur.

HOUSE CONCURRENT RESOLUTION 403

Whereas, since early 2003 a conflict between forces of the Government of the Republic of the Sudan and rebel forces in the impoverished Darfur region of western Sudan has resulted in attacks by Sudanese Government ground and air forces against innocent civilians and undefended villages in the region;

Whereas, Sudanese Government forces have also engaged in the use of rape as a weapon of war, the abduction of children, the destruction of food and water sources, and the deliberate and systematic manipulation

and denial of humanitarian assistance for the people of the Darfur region;

Whereas, United Nations officials and nongovernmental organizations have indicated that the humanitarian situation in the Darfur region is extremely urgent, particularly in light of restrictions by the Government of Sudan on the delivery of humanitarian assistance for the people of the region;

Whereas, on December 18, 2003, United Nations Undersecretary General for Humanitarian Affairs, Jan Egeland, declared that the Darfur region was probably ''the world's worst humanitarian catastrophe'';

Whereas, on February 17, 2004, Amnesty International reported that the organization ''continues to receive details of horrifying attacks against civilians in villages by gov ernment warplanes, soldiers and pro-government militia'';

Whereas, on February 18, 2004, United Nations Special Envoy for Humanitarian Affairs in Sudan, Tom Eric Vraalsen, declared following a trip to the Darfur region that ''aid workers are unable to reach the vast majority [of the displaced]'';

Whereas, Doctors Without Borders, the Nobel Peace Prizewinning medical humanitarian relief organization and one of the few aid groups on the ground in the Darfur region, reported that the region is the scene of ''catastrophic mortality rates''; and

Whereas, nearly 3,000,000 people affected by the conflict in the Darfur region have remained beyond the reach of aid agencies trying to provide essential humanitarian assistance and United Nations aid agencies estimate that they have been able to reach only 15 percent of people in need and that more than 700,000 people have been internally displaced in the past year: Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That Congress—

(1) strongly condemns the Government of the Republic of the Sudan for its attacks against innocent civilians in the impoverished Darfur region of western Sudan and demands that the Government of Sudan immediately cease these attacks;

(2) calls on the international community to strongly condemn the Government of Sudan for these attacks and to demand that they cease;

(3) urges the Government of Sudan to allow the delivery of humanitarian assistance for the people in the Darfur region; and

(4) urges the President to direct the United States representative to the United Nations to seek an official investigation by the United Nations to determine if crimes against humanity have been committed by the Government of Sudan in the Darfur region.

TRIBUTE TO JON G. ''JACK'' LASALLE ON HIS INDUCTION INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STUPAK. Mr. Speaker, I rise today to honor the lifetime of achievements of my longtime friend Jon G. ''Jack'' LaSalle, who will be inducted into the Upper Peninsula Labor Hall of Fame at a ceremony in Marquette, Michigan on April 17th, 2004. Jack's decades of service to further the best interests of Michigan workers have more than earned him this great honor.

A native of Nahma Michigan, Jack is a 1971 graduate of Northern Michigan University. In June of that year, Jack began his apprenticeship as an Ironworker and became indentured and an apprentice member of Local 783, International Association of Bridge, Structural, Reinforcing and Ornamental Iron Workers, AFL–CIO. In 1975, he graduated from Apprentice School and became a Journeyman Iron Worker.

In 1973, with his local and International Union's support, Jack studied Industrial Relations at the University of Minnesota. During that time, Jack was the first and only apprentice of Local 783 to serve the local union as a member of the Bargaining Committee. After returning to the U.P. in 1974, Jack worked his trade until taking a Staff Representative position in 1975 with Council 55 (now Council 25), of the American Federation of State, County and Municipal Employees (AFSCME). In 1978, Jack took a position with the Michigan State AFL–CIO's Labor Employment and Development Program servicing the U.P. During his time at the state AFL–CIO, Jack took the lead in organizing the Eastern U.P. Central Labor Council and the Dickinson-Iron Counties Central Labor Council.

Jack was elected to office in the Marquette County Labor Council, AFL–CIO as Financial Secretary-Treasurer in 1976 and served for several terms. He also served seven years as President of the Labor Council and is currently its Recording Secretary.

Since the mid–1970's, Jack has also been very active in politics and worked on many campaigns, including being elected as a Morris Udall delegate to the 1976 Democratic National Convention and serving several terms on the Michigan Democratic Party's State Central Committee. He served 4 years as Chair of the 11th District Democratic Party and 3 years as Officer-At-Large of the Michigan Democratic Party. He also served as the Marquette County Field Coordinator for the Blanchard for Governor Campaign in 1982. Jack has been the Chair of the Marquette County Democratic Party since 2001.

Jack and Jeanne LaSalle have been active in every political campaign for the past 30 years. I am pleased and honored to have earned the support of the LaSalles in my own congressional campaigns.

In 1983, Jack was appointed by Governor James Blanchard to serve as Deputy Director of the newly opened Governor's Office for Job Training. In 1987, he was again appointed by Governor Blanchard to the Mackinac Bridge Authority and later became its Vice-Chair, serving on the Authority until 1994. Jack was also a State Board of Education appointee to the Michigan Occupational Information System (MOIS) Advisory Board in 1978, where he served for 13 years and as Chair for five years.

Instead of taking a much deserved break, Jack is currently serving his 19th year as a Field Representative for the Michigan State Building and Construction Trades Council, representing the U.P. and the Northern Lower Peninsula. In addition to being an active member of Ironworkers Local 8, Jack maintains memberships with the Industrial Workers of the World, the American Civil Liberties Union (since 1981) and many other political and progressive organizations championing the cause of workers.

I also want to recognize Jack's wife and partner, Jeanne, and all her sacrifice that allowed Jack to serve so many workers over the years.

Mr. Speaker, I ask you and my House colleagues to join me in acknowledging Jack LaSalle's lifetime of contributions to organized labor and his community, and in celebrating the accomplishments that have earned him the distinction of becoming an honored member of the Upper Peninsula Labor Hall of Fame.

CONGRATULATING WINONA ONGEMACH OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. EMANUEL. Mr. Speaker, I would like to extend my warmest birthday wishes to Mrs. Winona Ongemach of Chicago on the occasion of her 100th birthday on April 3.

Born in Cedar Rapids, Iowa as one of ten children, Mrs. Ongemach has lived in Chicago for the past 80 years. She has been an active and influential member of the Ravenswood community, faithfully attending Ravenswood Fellowship United Methodist Church for 60 years.

At a time in her life when many might expect her to slow down, Mrs. Ongemach remains a fixture at her church. She brings smiles to the faces of churchgoers by running pancake breakfasts, collecting soup can labels, and leaning on members who have missed Sunday church.

Mrs. Ongemach has brought her same spirit of community involvement to the Bethany Retirement Community, where she currently resides. There she reads novels, organizes monthly card parties and teaches residents card games.

Mrs. Ongemach was married in 1928 to her late husband, Rudolf. She worked for many years at Time, Inc. where she operated one of the first ever IBM computers. She also spent 27 years volunteering at Ravenswood Hospital where she knitted hats for newborn babies. An avid bowler, she participated in the Time, Inc. bowling league until she turned 90. Mrs. Ongemach also loves to travel and has visited many different islands on cruise ships.

I hope Mrs. Ongemash's many friends and acquaintances will use this milestone birthday as an opportunity to celebrate her life, her friendship and all she has meant to her community.

Mr. Speaker, I join with the residents of the Ravenswood community and the members of the Ravenswood Fellowship United Methodist Church in congratulating Mrs. Winona Ongemach on her 100th birthday. She has truly made a difference in her community and her life serves as a model that we should all strive to emulate.

TRIBUTE TO DONALD DUNN

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, I rise today to honor an American hero. Donald Dunn, chief

of Engineering and Construction Division with the Army Corps of Engineer in Little Rock, is currently in Iraq where he is helping bring oil production systems back online for the people of Iraq.

Mr. Dunn is currently serving as the Deputy for Program Management for Task Force Restore Iraqi Oil (RIO). Established in May 2003, RIO was staffed with personnel originally targeted for other positions in engineering and most had little or no background as project managers. Mr. Dunn is responsible for establishing, training and leading the Programs and Project Management team and developing a group of motivated men and women who are now getting the job done.

His dedication to this task, attention to the training and developmental needs of his staff, and his leadership have been exceptional. In addition, he gave considerable time and attention to locating and selecting the replacement program and project management personnel for future rotations.

Further, Mr. Dunn displayed ample flexibility and imagination when he retooled his staff to respond to unforeseen challenges, such as the requirement to provide approximately 400 megawatts of stand-alone power to critical oil infrastructure locations throughout Iraq. He worked tirelessly to build and improve vital relationships with contractor partners including the Coalition Provisional Authority.

Perhaps most significantly, Mr. Dunn has nurtured new relationships with Iraqi Ministry of Oil officials and local oil and gas company engineers and technicians. He has helped the people of Iraq in all his endeavors and contributed significantly to our ability to build lasting and effective relationships in the Middle East.

Recently, Mr. Dunn won an award from the Federal Executive Association for his hard work and dedication to service. His response was, ''I believe that no one exists in a vacuum, and that it takes the contributions of everyone to have a successful team.'' On behalf of the Congress, I commend Mr. Dunn for his commitment, for his intelligence and for his unwavering dedication to seeing our efforts in Iraq end in success.

CONGRATULATIONS TO THE STOCKTON LADY TIGERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the Stockton Lady Tigers basketball team. For the third time in 4 years, the Lady Tigers have taken state championship honors in their division.

The Lady Tigers won their first state championship 4 years ago when the current seniors were freshmen. The team has returned to the Missouri State High School Activities Association final four in Columbia, Missouri, every year since.

This year's championship game was particularly meaningful. It was the last time the team's seniors would play together. It also marked the end to an outstanding season in which the team lost only one game in a particularly challenging schedule. The team exceeded all expectations; a challenge not easily met when there is such a history of success.

Mr. Speaker, the Stockton Lady Tigers basketball team has proven itself to be worthy state champions. The young women have offered excitement and pride to the fans in their community and have earned respect and garnered praise from their opponents. I am sure my fellow Members will join me in congratulating them on their outstanding accomplishments and wish them continued success.

HONORING BILL FERRENCE

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today with great pleasure to pay tribute to Bill Ferrence as he celebrates his 30th Anniversary as manager of Boulder Dam Credit Union in Boulder City, Nevada. Bill came to Boulder City in 1974 and has been contributing to his local community ever since. When Bill first started at the Credit Union in 1974, he saw a challenge and tackled it. Using his ingenuity and his true belief in the ''Golden Rule,'' he was able to turn the small 3,000 member Credit Union into a thriving 20,000 member Credit Union with almost 90 percent of all residents located within the Boulder City limits holding a membership. He treats his customers and employees like he does his family; in fact, many of those that live and work with him consider him to be a member of their family.

I applaud him in his example to others of what hard work and dedication can achieve. He is an example to all as he has demonstrated that it requires caring and a desire to better oneself and one's surroundings to achieve true successes in life.

Mr. Speaker, I congratulate Bill Ferrence in his dedication and efforts. I wish him another thirty years of successes in his life and career and congratulate him on his wonderful achievements and dedication to the Boulder City residents and his example to fellow Nevadans.

REMEMBERING AND HONORING PFC SEAN SCHNEIDER OF JANESVILLE, WISCONSIN

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RYAN of Wisconsin. Mr. Speaker, this week our nation lost a man of honor, courage and kindness. Private First Class Sean Schneider was killed in Iraq on Monday when a bomb hit his convoy.

Sean grew up in Janesville, Wisconsin, and graduated from Craig High School—the same school I graduated from. Sean liked to hunt, canoe, and tinker with cars and motorcycles. His high school teachers talk about what a caring individual he was and how he was the kind of student you respected. At the same time, he was an independent young man who knew what he wanted to do with his life.

Sean joined the Army in 2002 with a strong desire to serve and protect his country. In doing so, he made that incredible commitment that our military men and women and our veterans throughout history have made: he was willing to make the ultimate sacrifice and put his life on the line to preserve our rights and freedoms.

It is because of Sean and people like him that our country remains free today. America owes him and his family a tremendous debt that can never be repaid. What we must do is commit to always remembering his life and the sacrifice he made on our behalf. And we must be grateful for every one of our veterans who has stood up, like Sean did, for our country and the cause of freedom.

Sean Schneider led an inspiring life and touched so many people's lives along the way. Our thoughts and prayers are with his many loved ones—especially his wife, his parents and his siblings—during this most difficult of times.

A TRIBUTE TO EMIL MARZULLO, SAN BERNARDINO COUNTY DIRECTOR OF SPECIAL DISTRICTS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LEWIS of California. Mr. Speaker, I would like today to pay tribute to Emil Marzullo, who is retiring as Director of the Special Districts Department for the County of San Bernardino, California, after 25 years of dedicated service to the people of California's Inland Empire.

The County of San Bernardino Special Districts Department manages dozens of local entities charged with providing a variety of vital public services ranging from fire protection and drinking water to parks and roadways. Mr. Marzullo took the helm of Special Districts in 1994 during very difficult economic times, when funding for these important services were increasingly scarce. Under his expert leadership the Department took on the responsibility of the County Franchise Authority and the restructuring of all water and sanitation districts and operations. These visionary reforms would come to be Mr. Marzullo's greatest accomplishments.

Mr. Marzullo was born in New Jersey and moved to California in 1965. He graduated from San Bernardino High School in 1971, received his B.A. in Geography and Environmental Studies from the University of California at Riverside in 1978, and a M.S. in Environmental Studies and Public Administration from California State University, Fullerton, in 1986. He began his county employment in January 1979 as an Environmental Specialist.

As an employee and later deputy director of the County Office of Community Development, Mr. Marzullo participated in or led the creation of more than 200 capital projects such as senior and community centers, playgrounds and parks, as well as water systems and fire safety facilities.

Serving as assistant director of special districts, he was instrumental in restructuring the Special Districts Department as well as the San Bernardino County Fire Department. In this capacity he trained the Board-governed commissions in the conduct of public meetings under the California Open Meetings Law and authored many of the related policies and board actions.

An esteemed member of the community, Mr. Marzullo served as a visiting professor at the Graduate School of Public Administration at California State University, San Bernardino, where he has lectured and led graduate seminars in Land Use Planning, Public Policy Analysis and Economic Development, and Local Development Finance. He also became a member of the Board of Directors and later the President of the Board for the Bethlehem House, a shelter and program for victims of domestic violence.

Mr. Speaker, for more than two decades, Emil Marzullo has served the people of San Bernardino County well in a variety of important capacities, and the county will benefit from his accomplishments for many generations to come. Please join me in thanking him for his dedicated public service, and wishing him well as he takes a well-deserved retirement.

TRIBUTE TO LARRY MCCOOL

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to an outstanding citizen; I am proud to recognize Larry Allen McCool in the Congress. His recent death was a great loss to his community, his family, his state and this nation.

Larry McCool was born in Kosciusko, Mississippi. He earned an education degree and taught history in a Jackson, MS, high school. When he wasn't teaching, he traveled around the country buying and selling unusual antiques and collectibles. Mr. McCool ended his teaching career in the early 1970s to pursue his own dreams and opened a shop in Jackson where he realized his potential in appraising antiques.

A four-time president of the Mississippi Auctioneers Association and president of the National Auctioneer's Association (NAA), Mr. McCool was a self-taught auctioneer who became one of the industry's foremost authorities on the appraisal and sale of antiques, fine arts and antebellum real estate. He continually pushed NAA to improve educational programs, increase its membership and revenues, and, most importantly, widen the charities NAA supported.

Despite his drive and dedication to auctioneering, Mr. McCool will be most remembered for his passion for charity auctions. On the day of his passing, he had planned to conduct an auction for a children's cancer fund, one of the many charities for which he raised hundreds of thousands of dollars for more than 25 years. Mr. McCool was named honorary chairman for the Hinds County chapter of the American Cancer Society, worked for the American Heart Association and volunteered his time to numerous charitable groups over the years.

On behalf of Congress, I extend my deepest sympathies to Mr. McCool's family and gratitude for the countless hours he spent serving others. He leaves a legacy of accomplishment in the industry as well as inspiring memories for those who knew him.

HONORING THE DEPARTMENT OF MISSOURI VETERANS OF FOREIGN WARS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SKELTON. Mr. Speaker, let me take this means to honor the efforts of the Department of Missouri Veterans of Foreign Wars. In March 2003, this group launched the "Hidden Heroes" project to provide direct support to the families of deployed Missouri National Guardsmen and Reservists.

The "Hidden Heroes" program has made a real difference. In the first year of the program, families have been guests at dinners, banquets, and picnics. At the Christmas parties for the Air Force Reserve 442nd Whiteman Air Force Base and the Army National Guard 1139th MPs, hundreds of toys were provided to the children of those serving. The Department of Missouri Veterans of Foreign Wars has also provided concert and sporting event tickets to family members. The efforts have helped to lift the spirits of these families.

The "Hidden Heroes" program has also helped to provide these families with food and other household products. When National Guard and Reserve members are deployed, their family incomes often fall by fifty percent or more. The Armories across Missouri participating in this pantry program are alleviating some of the financial strain experienced by these families that have already given so much.

Mr. Speaker, the Department of Missouri Veterans of Foreign Wars have identified a need and are rallying resources to address it. I am sure my fellow Members will join me in thanking them for the service they continue to offer to this country.

INTRODUCTION OF THE SERVITUDE AND EMANCIPATION ARCHIVAL RESEARCH CLEARING HOUSE (SEARCH) ACT OF 2004

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CUMMINGS. Mr. Speaker, I rise to introduce the Servitude and Emancipation Archival Research Clearing House (SEARCH) Act of 2004, companion legislation to S. 1292 sponsored by Senator LANDRIEU. This bill would authorize the creation of a national database of servitude and emancipation records within the National Archives.

For most Americans, researching their genealogical history involves searching through municipal birth, death, and marriage records—most of which have been properly archived as public historical documents. However, African Americans in the United States face a unique challenge when conducting genealogical research.

Current records of emancipation and slavery are frequently inaccessible, poorly catalogued, and inadequately preserved from decay. Instead of looking up wills, land deeds, birth and death certificates, and other traditional genealogical research documents, African Americans must often try to identify the name of former slave owners, hoping that the owners kept records of pertinent information such as births and deaths.

Although some states and localities have undertaken efforts to collect these documents with varying degrees of success, there is no national effort to preserve these pieces of public and personal history or to make them readily and easily accessible to all Americans. While entities like Howard University and the Schomburg Center for Research in Black Culture Library have extensive African American archives, the SEARCH Act would create a centralized database for these historic records. This database would be administered by the Archivist of the United States as part of the National Archives.

Finally, the SEARCH Act would also authorize funding for States, colleges, and universities, to preserve, catalogue, as well as index servitude and emancipation records locally. It would make available up to $5 million for the National Historical Publications and Records Commission to establish and maintain the national database, as well as $5 million in grants for States and academic institutions to conserve local records of servitude and emancipation.

I believe that this legislation will be a very important step in resurrecting the rich history of African Americans and the vital role that they played in building America. I urge my colleagues to cosponsor the SEARCH Act as not only a means by which their constituents can trace their lineage, but also as a means by which we can preserve historically comprehensive and accurate information for generations to come.

IN MEMORY OF ELIEZER SCHWARTZ

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in memory of Eliezer Schwartz, and in anticipation of the Elie Schwartz Memorial Baldwin Classic Basketball game being held in his honor on Sunday, April 11.

I never had the opportunity to meet Elie, but the number of relatives, friends, and community members who will attend the basketball game represent a testament to the special young man he was. The son of Rabbi Gershon Schwartz and Dr. Shuly Rubin Schwartz, Elie was raised with a strong, unequivocal connection to the Jewish community. From his involvement in United Synagogue Youth, to his dedication to Israel, to his education at Brandeis University, Elie was a favorite among both his peers and adults.

Ten years ago, Elie was the driving force behind the Baldwin Classic, a 3–on–3 basketball tournament that became an annual event. It is quite appropriate that this year's game, the first since Elie's passing in November, be held in his honor, and the proceeds benefit the newly established Eliezer Schwartz Memorial Scholarship Fund of the METNY Region of USY.

Mr. Speaker, the contributions Elie made to our community in his short lifetime will not be forgotten. I know this year's Baldwin Classic

will be a very special day, and I applaud those working hard to keep Elie's ideals and goals instilled in their minds and hearts.

IN HONOR OF TOM ADAMS' FORTY YEARS OF TEACHING AT ST. MARK'S SCHOOL OF TEXAS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. SESSIONS. Mr. Speaker, I rise today to honor a teaching legend at St. Mark's School of Texas. I am proud to represent St. Mark's in Congress. I am very familiar with the high excellence of education that St. Mark's provides to young men as my oldest son currently attends St. Mark's, and one of my staffers is also an alumnus of the school.

St. Mark's would not be nearly as successful an institution if it weren't for the scholarly teaching of Thomas S. Adams. Tom Adams is celebrating his 40th year of teaching at St. Mark's, and I honor him for his four decades of service to the school and the countless young men that have benefited from his teaching and insight.

Tom Adams currently serves as the Cecil and Ida Green Master Teaching Chair in History. He has held this position since 1980, and he has served as the Senior Master of the faculty from 1997–2002. Tom currently teaches U.S. History, Art History, and Modern World History.

In addition to his distinguished teaching in the classroom, Tom has coached the St. Mark's baseball team to twelve Southwest Preparatory Conference (SPC) Championships. In addition to his success with the baseball team, Coach Adams led the St. Mark's basketball team to six SPC Championships.

Tom Adams was appointed to the St. Mark's faculty on July 1, 1961 after receiving his B.A. from Princeton University and his M.A. from Harvard University. Adams is a lasting icon at St. Mark's, and I admire him for continuing to teach even after reaching his 40-year milestone. I wish Tom Adams, and the St. Mark's community all the best.

LEGISLATION TO MAKE BONUS DEPRECIATION A PERMANENT PART OF OUR TAX CODE

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. WELLER. Mr. Speaker, today, Congressmen NEAL, UPTON, ENGLISH, TIAHRT and I have introduced legislation to make bonus depreciation a permanent part of our tax code. I appreciate the opportunity to make a statement on this important legislation.

As you know, the issue of bonus depreciation has been an important one over the past 2 years. On March 9, 2002, President Bush signed the Job Creation and Worker Assistance Act of 2002 into law. This law allows businesses to accelerate the depreciation of equipment they purchase between September 11, 2001 and December 31, 2004. All equipment with a depreciable life of 20 years and under qualifies for the bonus depreciation treatment. Originally they were entitled to get a bonus of 30 percent in the first year. Before this law, a $1000 computer would be depreciated equally over 5 years. $200 each year. With this change, businesses get $175 in the first year, plus a 30 percent bonus. So, they depreciate $475 in the first year and the remaining $520 over the next 4 years ($175 each year for 4 years).

H.R. 2, the 2003 tax cut law, included a provision to increase bonus depreciation to 50 percent through December 31, 2004. This provision became law in June 2003. This has helped stimulate the economy and create new jobs for Americans that are out of work.

Just today, the U.S. Department of Labor released statistics that prove that bonus depreciation and other tax cuts are working. Bonus depreciation is helping to bring jobs back to the U.S. economy and put American workers back to work. The Labor Department announcement indicates that the U.S. economy created 308,000 new jobs in March, this is the fastest monthly job growth since April 2000. The latest data show that more than 500,000 new jobs have been created in the first three months of 2004.

In another example, the General Aviation Manufacturers Association recently told me that in the first 5 months after enactment of the bonus depreciation provision sales of general aviation airplanes increased 45 percent.

Mr. Speaker, bonus depreciation and the other tax cuts are working. Our economy is rebounding. We need to make bonus depreciation and the other tax cuts permanent in our tax code. When making business decisions, companies need to know for sure that they can rely on these tax provisions.

I ask my colleagues to join me in cosponsoring this important legislation.

COMMENDING SEAN BUTLER

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I rise today to acknowledge the achievement of an outstanding young man, Sean Butler. Through hard work and dedication he has achieved his goal, a goal that few young men have the courage, dedication, and character to achieve.

Sean's dedication has given him the title of Eagle Scout within the Boy Scouts of America. This program has long been recognized as a program that builds strong minds upon sound morals. Achieving an Eagle Scout status shows that this young man has participated in projects and activities that will help him become a strong man in life. It has shown him how to set reasonable and accomplishable goals, a value that will put him considerably ahead of his peers.

The Boy Scouts of America is a great building block for our youth and it is quite an achievement, with so many other activities available, for young men to receive their Eagle Scout Award. It is my hope that he will hold this award as a special honor; to always remember the principles and teachings he has learned, and to use this award as a tool in his future.

THE GREATER TEXARKANA PEOPLES' CLINIC

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. ROSS. Mr. Speaker, it is with great pleasure that I congratulate The Greater Texarkana Peoples' Clinic on its grand opening. The clinic, whose motto is Good Health for All, was established to provide free, quality health care to qualifying residents in the greater Texarkana area, which includes Miller (Arkansas) and Bowie (Texas) Counties, who do not have access to basic medical services. The First United Methodist Church at 401 N. Stateline, Texarkana, Texas has offered its facilities as a site for the clinic.

Statistics from the Kaiser Family Foundation indicate that sixteen percent of Arkansans are uninsured and twenty-five percent of Texans are uninsured. In The Greater Texarkana Peoples' Clinic's medical service area, forty-one percent of their service area population is uninsured. Instead of waiting for a government fix, the people saw a need and set about solving that need. Thanks in part to Chaplain Jim Rowland, president of the Greater Texarkana Ministerial Alliance, Dr. Tim Reynolds, medical director, and Dr. D. Jack Smith, clinic board member, a non-judgmental, compassionate environment in which to serve those individuals and families largely rejected by mainstream society has been created. The Greater Texarkana Peoples' Clinic is truly the result of a collaborative community effort. Medical professionals throughout the Texarkana area along with numerous volunteers are generously giving their expertise, time and financial support to make this initiative an overwhelming success.

I join with the leadership of Texarkana, Arkansas and Texarkana, Texas in thanking and congratulating all that were involved in bringing The Greater Texarkana Peoples' Clinic to a reality. The clinic and its services will prove to be an asset for years to come.

HONORING NATALIE STERN, 2004 CHERRY BLOSSOM PRINCESS

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. HOLT. Mr. Speaker, it is with great pleasure that I rise to recognize Ms. Natalie Stern, who will be representing New Jersey as our princess in the 2004 Cherry Blossom Princess Program.

Since 1948, state societies have selected accomplished female students to represent their states in the Cherry Blossom Princess Program. During the week-long program, the princesses participate in a number of events that provide them with an opportunity to share the culture and unique traditions of their state. The program culminates with a princess being crowned as the United States Cherry Blossom Queen, who will travel to Japan as a representative of the United States. During her two weeks in Japan, the U.S. Cherry Blossom Queen participates in events across the country and meets with Japanese dignitaries.

I am pleased that the New Jersey State Society picked Natalie Stern to represent our state in the festival. Ms. Stern is a shining example of the best New Jersey has to offer. She is a native of Pennington, New Jersey. She attended Stuart Country Day School in Princeton. Natalie continued her education at Indiana University and graduated in 2003 with two bachelor degrees. In addition to her studies at Indiana University, Natalie served as an intern at the White House as well as a fellow at the International Television and Radio Society in New York City.

I would like to extend my congratulations to Natalie and all of the other young women who have been selected to participate in the festival and I wish them all continued success in the future.

IN HONOR OF PETER TROXELL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Peter Troxell who passed away March 17, 2004 after a prolonged battle with cancer. Earlier this year I rose to congratulate him on his retirement and I am saddened to hear of this great man's passing. He is survived by his wife, Diana, children Adriana, Lyle, and Marina, and six grandchildren.

Although Peter was best known for his role as station manager of KUSP, which he assumed in 1993, he has been a leader in our community since the 1960s. He was one of the founders of the Mountain Community Theatre in Ben Lomond, helped establish the San Lorenzo Valley Children's Center, and managed Oganookie, a local band from Santa Cruz's hippie days.

His leadership skills were put to the test when he became the station manager of KUSP. The station was facing hard times internally and out, and might not have survived without Peter's tireless dedication. It is a testament to his skills as a businessman that we have KUSP in Santa Cruz today. But even with these new responsibilities, Peter never forgot his love of the arts. Even those who have never met Peter will recognize him as the host of the weekly shows ''State of the Arts'' and ''In the Green Room.''

Mr. Speaker, I rise once more to applaud Peter Troxell's many accomplishments. He was a remarkable figure in our community, and his memory will live on in the many people whose lives he has touched. I join the County of Santa Cruz, and friends and family in honoring this truly admirable man and all of his lifelong achievements.

WEST VIRGINIA QUARTER: NEW RIVER GORGE BRIDGE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RAHALL. Mr. Speaker, my home State of West Virginia chose a representation of the New River Gorge Bridge to decorate the new West Virginia commemorative quarter to be issued next year by the U.S. Department of the Treasury.

The New River Gorge Bridge resides close to my home in Southern West Virginia. It symbolizes West Virginia's beauty, ingenuity, hard work, and our peoples' determination to do what many deem the impossible.

Until recently, the New River Gorge Bridge was the longest single arch bridge in the world. Today, it is only surpassed by the Lupu Bridge recently built in Shanghai, China, but it is not surpassed in the eyes and hearts of West Virginians and those who look upon it.

The New River Gorge is the sun around which West Virginia's ever-expanding numbers of tourism initiatives revolve. It is the Grand Canyon of the east—one of America's oldest and most spectacular natural wonders. More Americans—indeed, more people from all around the world—discover our New River Gorge every year.

I have spent a career protecting the New River Gorge. The bridge and the river are not only nationally acclaimed recreation destinations; they also generate jobs and contribute greatly to Southern West Virginia's economy.

Construction began on the New River Gorge Bridge in June of 1974, and was opened for the public's use on October 22, 1977. The enormous undertaking, and breathtaking result reduced a forty-minute drive down windy mountain roads to a one-minute trip over one of the world's greatest tourist attractions.

On the third Saturday of each October the New River Gorge Bridge is open to pedestrians, where hundreds of thousands of people get to walk the span of the bridge and enjoy a number of events, arts, and crafts. Some brave outdoor enthusiasts also use this day to parachute from the center of the bridge to the river basin 876 feet below. This day is referred to as ''Bridge Day,'' and it is a day that brings people from all over the world to Southern West Virginia.

The New River Gorge Bridge represents what is best about West Virginia, our breathtaking natural beauty, and our people's skill and ingenuity. It is fitting that the New River Gorge Bridge was chosen to represent my home State in the commemorative coin series, and it is truly ''Wild and Wonderful'' news.

MS. ROBIN EVANS: A FOND FAREWELL FROM CAPITOL HILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BEREUTER. Mr. Speaker, this Member would ask his colleagues join in commending and congratulating a long-time employee in this Member's personal office, Ms. Robin Evans, who is retiring next week after almost 23 years of congressional service. This Member hired Robin on February 1, 1982, and she has worked for this Member continually since that time with the exception of a 9-month period when Robin tried working for the other body, but she saw the light and returned to the House and this Member's office as our Office Manager.

Robin is one of those exceptionally outstanding employees who does her work exceptionally well and in a very professional manner. She is one of the most organized, conscientious, and capable people that this Member has had the pleasure to work with in his many years of congressional service. Robin will be greatly missed not only by this Member and this Member's staff, but also by the many people on Capitol Hill and in my constituency in Nebraska who have worked with her throughout these many years.

Please join this Member in wishing Robin all the best as she returns to her home area on Maryland's Eastern Shore and embarks upon a new career with the Morgan Stanley office in Salisbury, MD.

IN HONOR OF THE 40TH ANNIVERSARY OF RESTON, VIRGINIA AND THE 90TH BIRTHDAY OF ITS FOUNDER, ROBERT E. SIMON, JR.

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MORAN of Virginia. Mr. Speaker, Mr. TOM DAVIS of Virginia and I rise today to commemorate the 40 anniversary of Reston, Virginia and the 90th birthday of its legendary founder, Robert E. Simon, Jr.

Bob Simon grew up in New York immersed in his family's thriving real estate business, Hercer Corp. He attended Harvard University, and upon the passing of his father in 1935, took over the family business. While running Hercer Corp., Simon escaped the city by residing in Syosset, a suburb of Long Island. There he grew to value a lifestyle in which one could live, work, and play in the same desirable community.

In 1961, an offer for 6,750 lush acres 18 miles west of Washington, DC, caught Simon's attention. He inspected the land, instantly fell in love, and invested in the rolling green hills of Fairfax County. Simon sought to create a community to embody his ideals; he envisioned a well-rounded, self-sufficient community that respected the dignity of the individual and preserved the land's natural beauty.

He launched his development project at a time when the Commonwealth of Virginia still was segregated; nonetheless, Simon bravely fought for a community in which people of all backgrounds could live peacefully together. He put Dr. Martin Luther King's principles to practice and always will be remembered for his commitment to integration. Many investors turned away from Simon's concept, yet Gulf Oil accepted, providing critical resources and support for the project.

After securing funding, Simon worked closely with noted planners, architects, and environmentalists to transform his vision into a reality. Perhaps most notable was his innovative notion of clustered housing, leaving open land and improving the appearance and quality of the area. Simon's development team and those that succeeded them were able to realize his dream community, aptly naming it Reston, using the founder's initials and the English suffix for town. As Reston developed, numerous organizations such as the United States Geological Survey relocated to the area, bringing much needed employment and residents. In 1990, development began on the Reston Town Center, which produced a lasting, positive impact on the community.

Today, over 58,000 call 11.5 square mile Reston home. Reston has attracted national and worldwide recognition as one of the ''best places to live,'' truly surpassing all expectations. Forty years ago Simon had a dream, and it appears as though this dream has come true. As Simon intended, Reston has become a thriving residential, commercial, industrial, cultural, and civic center where urban seamlessly meets rural.

Mr. Speaker, in closing, we would like to congratulate Reston on 40 years of success and wish its residents the best of luck in the many years to come. We ask that our colleagues join us in applauding this notable accomplishment and in wishing Bob Simon a happy celebration of Reston's success and his 90th birthday.

MINIMUM TAX AND PRIVATE ACTIVITY BONDS INTRODUCTORY STATEMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. NEAL of Massachusetts. Mr. Speaker, I first introduced legislation to repeal the individual alternative minimum tax on April 14, 1999, and have been warning about the dangers of letting this problem fester ever since. While the broad problem has since become better known (albeit not addressed in any meaningful way), little attention has been paid to the plethora of nagging problems caused by the neglect of the Bush Administration of this issue—problems I have addressed one at a time in additional legislation over the years.

The latest example of the cost of this Administration's neglect is the impact the alternative minimum tax is having, and will have, on private activity bonds; as discussed in an insightful analysis by John Buckley (Minority Chief Tax Counsel, Committee on Ways and Means) published in BNA's The Daily Tax Report March 1st. As a leader, along with Rep. Amo Houghton, in expanding the use of private activity bonds for low and moderate income housing, I am particularly sensitive to the adverse affect the AMT is having on the market for housing bonds.

The failure of the Bush Administration to address the issue of the AMT meaningfully means that the number of families subject to the minimum tax is skyrocketing. Without further action by Congress, 78.6 percent of families with incomes between $75,000 and $100,000, and 95 percent of all families with incomes between $100,000 and $500,000, will pay the minimum tax in the future. While the impact of the alternative minimum tax has become widely known, few recognize its impact on private activity bonds. Approximately 75 percent of all tax-exempt bonds are held directly or indirectly by individual investors. These investors generally have annual incomes that in the future will, as indicated above, almost guarantee that they will pay the alternative minimum tax. As a result, the individual market for tax-exempt private activity bonds is quickly eroding and could disappear entirely in the future.

Already the financial markets have begun to recognize this serious problem. Not only have some mutual funds reportedly announced their intention of not investing in bonds subject to the AMT, but higher interest rates are being offered in connection with these bonds. In 2000, private activity bonds were issued at average interest rates of about 104 percent of the rate offered on tax-exempt general obligation bonds, presumably reflecting slightly greater risk. In 2003, the average interest rate had increased on tax-exempt bonds to about 110 percent of the rate offered on tax-exempt general obligation bonds.

Some will argue that this is a problem that can wait for another day since the number of individuals subject to the minimum tax will explode only in the future. They are wrong. Tax-exempt bonds quite often are issued for terms as long as 30 years. The fact that an exemption may have value today but not in five years, will affect the interest rate at which those obligations are currently being issued.

Mr. Speaker, this country is now being forced to face the consequences of the Bush tax cut agenda. The deficit has exploded while the Administration swats at flies in non-defense discretionary spending, the value of our currency is declining as investors both here and abroad lose faith in our fiscal policies, and the International Monetary Fund recently criticized the fiscal policies of the Bush Administration in terms that previously had been used only in the context of developing nations. We are again seeing growing income inequalities as the wages paid to average workers stagnate and jobs flee the country.

These are some of the economic issues that divide the two parties in Congress, and we can and will vigorously debate them in the future. However, I believe that we should attempt to take action on a bipartisan basis to limit the adverse and unintended impacts of the alternative minimum tax. The bill I am introducing today, along with my colleague from New York STEVE ISRAEL, simply removes tax-exempt interest on private activity bonds from the individual alternative minimum tax. While failure to act would mean that Congress does not place as much emphasis on providing decent housing for the less fortunate as it seems to, I am confident that that is not the case. However, I am worried that this problem, as other problems involving the minimum tax, will simply be band aided over until that mythical time in the future when we tackle the AMT problem as a whole.

TRIBUTE TO OMAR D. BLAIR

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. DEGETTE. Mr. Speaker, I would like to recognize the extraordinary life and accomplishments of a remarkable gentleman from the 1st Congressional District of Colorado. It is both fitting and proper that we recognize Omar D. Blair for his impressive record of civic leadership and invaluable service.

Many people have made notable contributions to our community, but few have left a legacy of progress as Omar Blair. He once mused that he wanted to be remembered as one who tried. I would submit that Omar Blair molded a life of enduring accomplishment and proved to be a powerful force in transforming our community. His is an indomitable spirit and our lives have been truly enriched by his presence among us.

Omar Blair demonstrated that he had steel at an early age. Upon his graduation from Albuquerque High School in 1936, the school board determined that the six black graduates had to sit behind their classmates and would not have a spotlight shone on them as they received their diplomas. But Omar was not intimidated. He walked with dignity up to the stage in darkness to get his diploma to the ovation of his classmates. Years later, he was awarded ''Outstanding Graduate of the Past 100 Years'' by the same people who would not allow him to sit with his classmates forty-three years earlier.

Omar attended the University of California at Los Angeles prior to entering the Army Air Corps during World War II. Captain Blair belonged to the all-black 332nd Fighter Squadron—the famed Tuskegee Airmen—where he developed a reputation for daring. His squadron had been called upon to escort bombers on a raid over Berlin, but their fighters needed bigger fuel tanks to go the distance and they were not available through normal channels. Captain Blair learned that the needed tanks were on an Army train coming from Naples. He organized a convoy, stopped the train and forcibly offloaded the tanks as they were critical to his squadron's mission. Captain Blair got the job done and the bombing raid went off without a hitch.

In 1951, Omar and his wife Jeweldine, came to Denver. He found work and started a family that grew to include three children. He also found time to get involved in public affairs and was elected to the Denver Board of Education in 1972. He served two terms and was voted the first African American to serve as president of the school board. He led our city through what was arguably the most tumultuous era for public education in Denver. The schools were under court order to desegregate and Mr. Blair and other board members became the driving force to implement the order through busing. But his tenure on the board was not about changing how kids got to school; it was about fundamental change and the quality of public education. For Omar Blair, integrating schools did not mean simply having students sit with one another. It meant integrating school resources, providing new textbooks, hiring more teachers and making sure schools were uniformly upgraded and maintained. In short, it meant equal education for all of our children.

Omar served as President of the Colorado Association of School Boards, Vice President of the National Caucus of Black School Board Members, and National President of the Council of Great City Schools. But his service was not limited to education. He served as a Commissioner of the Denver Urban Renewal Authority during the time when he and his colleagues initiated the 16th Street Mall Project. He was a founding member of the Greater Park Hill Sertoma Club and his work was recognized by Sertoma International. He served as President of the Owls Club of Denver and as a board member of the Denver Chamber of Commerce and the East Denver YMCA.

Omar was honored on numerous occasions and his accolades include: the American-Israel Friendship League's Partners in Education Award; the U.S. Department of Justice Award for Outstanding Community Service and an honorary ''Doctor of Public Service'' degree

from Metropolitan State College of Denver. His church, Shorter Community AME, dedicated its community room in his name and on April 26, 2003, the City and County of Denver named the Blair-Caldwell African American Research Library in recognition of his lifetime of service to our community. But accolades don't tell the whole story. Omar once made a poignant reference in an article that after 52 years of marriage to Jeweldine, ''You can put this in big bold letters—without her I would not be half the person I am and I know that.'' Not only was Omar Blair a man of accomplishment, he was a man who was well-grounded with a clear sense of what mattered.

Omar Blair was an unrelenting advocate for the causes that elevate the human condition. He burnished a reputation of being forthright, pragmatic, outspoken and ''taking on all comers.'' But ultimately, he was dedicated to our children—all of our children. He constantly reiterated that ''the kids are what it's all about'' and I believe his legacy to us is to never waver in our commitment to future generations.

Omar Blair lived a life of meaning and one that is rich in consequence. It is the character and deeds of Omar Blair, and all Americans like him, which distinguish us as a people. Truly, we are all diminished by the passing of this remarkable person. Please join me in paying tribute to the life of Omar D. Blair, a distinguished citizen. It is the values, leadership and commitment he exhibited during his life that serves to build a better future for all Americans.

HONORING ROSEMARIE FLORENCE FREENEY HARDING

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. LEE. Mr. Speaker, I rise today along with my colleague, LOIS CAPPS, to honor the legacy of Rosemarie Harding, a mother, counselor, social worker, and teacher. On March 1, 2004, Rose departed at the age of 73, surrounded by loved ones who prayed and sang her passage to the other side.

Rosemarie Florence Freeney Harding was born July 24, 1930 to Dock Freeney, Jr. and Ella Lee Harris Freeney. She was the youngest of nine siblings, a sweet and keenly intuitive child who was deeply loved. After graduating from high school, she spent two years at Chicago Teachers College. In 1955, Rose graduated from Goshen College in Indiana with a major in sociology.

After completing her bachelor's degree, Rose returned to Chicago and worked as a social worker and teacher, during which time she served Bethel Mennonite Church as a lay counselor. In 1959 she met Vincent Harding at a church conference. Rosemarie and Vincent married in 1960 and moved to Atlanta, Georgia in 1961 as representatives of the Mennonite Central Committee. There, they opened up their home as the South's first interracial voluntary service center, Mennonite House. This was an important gathering place for Civil Rights activists, who found respite, hospitality, encouragement and stimulating dialogue.

After her children were born, Rosemarie worked as a substitute teacher and helped found the city's first interracial preschool as well as the Martin Luther King, Jr. Community School, one of Atlanta's earliest independent black day schools. She also helped found the Guardians, an advocacy group dedicated to ensuring black parents a voice in the desegregation of Atlanta public schools. In 1974, Rosemarie and her family moved to Philadelphia where she continued her involvement in progressive political activism and helped raise several grandnieces and nephews. In 1978, she earned a masters degree in history and women's studies at Goddard College. Rosemarie also served in various volunteer capacities at the American Friends Service Committee and traveled to Brazil in 1980 to evaluate the organization's support for faith-based social justice initiatives.

From 1979 to 1981 Rosemarie worked at the Pendle Hill Quaker Study, where she and her husband developed a series of courses on spirituality and social justice. When the couple moved to Denver in 1981, Rosemarie continued to co-teach these courses with Vincent at the Iliff School of Theology. Increasingly, the couple traveled throughout the U.S. and internationally, conducting workshops, giving lectures, and sharing insights with educators, activists, religious leaders, and others. After receiving a masters degree in social work, Rosemarie worked for the Family Crisis Center in Denver. She treated colleagues and clients with great respect and often found gentle and creative ways to resolve even the most intransigent conflicts.

As the first member of her family to finish college, Rosemarie was a mentor and example to all of her nieces and nephews; always assisting and encouraging them. She helped with homework, shared her love for writing and reading, and provided opportunities for her younger relatives to travel and broaden their horizons. She was the mediator in the family—the one who, in the midst of tensions or arguments, could calm the storm. She didn't teach by dictate, but by example. She also loved to laugh and dance and was most happy when those around her were also enjoying themselves.

She leaves many to mourn her death and to celebrate her life: Vincent, her husband of 43 years; Rachel, her daughter; Jonathan, her son; her adopted son, Geshe Thupten Kunsang; her sisters Alma Campbell, Mildred Dozier and Sue Verrett; her nieces and nephews Louis, Maxine, Frank, Robert, Lottie, Carmen, Thomas, Francetta, Nataleen, Eileen, Anita, Tommy, Donna, Jimmy, James, Jean, Gloria, Phillip, Rose, JoAnn, Harvey, Walter, Felicia and Claude; and a host of other dearly beloved relatives and friends.

I take great pride in joining Rosemarie's family and colleagues to salute the extraordinary Rosemarie Harding. I want to thank her on behalf of the entire 9th Congressional District for her great heart and generous soul. She has been a friend who has shared her wisdom and has given me support.

STATE CHAMPIONS TIMES THREE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. COBLE. Mr. Speaker, while the nation focuses on the culmination of the NCAA men's basketball March Madness and the Final Four this weekend in San Antonio, Texas, the Sixth District of North Carolina is already basking in the glow as the home of three state high school basketball championship teams. Trinity High School in Randolph County, Thomasville High School in Davidson County, and Westchester Academy in Guilford County are the respective homes for high school basketball champions this season, and we are proud to acknowledge their tremendous seasons here.

Trinity High School completed a remarkable season on March 13 at the Dean Smith Center in Chapel Hill when it captured the North Carolina High School Athletic Association (NCHSAA) 3–A boys basketball championship with a win over Dudley High School of Greensboro. Led by state Coach of the Year Tim Kelly and state Player of the Year Josh King, the Bulldogs finished the year with a 31–1 record.

Despite that gaudy regular season record, many people did not give Trinity much of a chance going into the game against the Dudley Panthers. Coach Kelly told the Greensboro News & Record that a tough regular season schedule prepared his baby-faced warriors for the toughest battle of the year. ''We think we saw the right mix to get here,'' Coach Kelly told the newspaper. ''We didn't get a free pass. We didn't get to pass go and collect $200. We had to pay our way to get here and our kids were aggressive. We might look like choirboys when we walk into the building, but we're not. We're going to attack and be aggressive on both ends of the floor.''

When it was over, the Bulldogs celebrated a 73–64 win over the Panthers, led by King's 21 points, along with 18 from championship game MVP John McEachin. Coach Kelly will tell you, however, that it took a total team effort to beat a talented Dudley squad. ''I really feel like this team was destined to win tonight,'' the coach concluded. ''We wish (Dudley) luck next year with everything they have coming back. I'd hate to have to play them next year, but maybe we'll get that opportunity.''

So do all the Bulldogs fans, but before we look ahead to next season, let's take one more moment to savor this year's championship. Congratulations are in order to Coach Kelly and his assistants, Joey Freeman, Richard Brendle, Richard Austin, Lindy Hall, Brent McDowell, and Brian Nance. Again, led by Player of the Year King, and MVP McEachin, every member of the Bulldogs can take pride in the title quest. The other members of the championship team included J.B. McDowell, Jason Lewis, Spencer Smith, Jonathan Watts, Tim Kelly, Brian Downing, David Idol, Matt Watkins, Dane Young, Ben King, and Dustin Everette.

Assisting all season long were managers Kristy Craig, Jennifer Hiatt, Carson Wheeler, Jerome Porter, along with statisticians Ashley Gentry and Blair Farlow. To Principal Daryl Barnes, Athletic Director Doug Tuggle, the coaches, players, students, faculty, staff, family, and friends of the Trinity Bulldogs, we say congratulations for capturing the 3–A state boys basketball championship.

Speaking of threes, the girls basketball team at Thomasville High School is celebrating its third straight NCHSAA 1–A state championship. Also known as the Bulldogs, Thomasville defeated Farmville Central 67–48 on March 13 to win the crown at the Smith Center in Chapel Hill. It was the second year in a row that

Thomasville defeated Farmville Central in the title contest, but this year the squad was led by someone who wasn't even supposed to start the game. Charnette Davis was surprised by Head Coach Eric Rader when she was tapped to be in the starting lineup, and Charnette responded by scoring 18 points and pulling down 11 rebounds to be selected as the game's MVP. Charnette was also named as the MVP of the Western Regional final.

This third crown capped a remarkable 30–1 season, and Coach Rader told the High Point Enterprise that, in his mind, the final outcome was never in doubt. ''When you have the heart of a champion like these ladies do, they never lose,'' Rader told the newspaper. For the last three years, the Thomasville Bulldogs have not lost and can celebrate this ''three-peat'' with pride and honor. The citizens of the Sixth District congratulate Coach Rader and his assistants Sara Larrick, Holly Harvey and Kelvin Caraway. In addition to MVP Davis, every member of the Thomasville girls basketball team contributed to the third straight title, including Leah Harris, Impris Manning, Mary Allen, Brittanny Marsh, LaShonda Cosby, Wudi Alford (who was named Most Outstanding Player for her 18-point performance in the championship game), Brittany Sanders, Tameka Thomas, Erin Crowder, Kendra Rutledge, Sha Harris, and Jenny Burgess. Providing valuable assistance all season long were managers Byron Lattimore, Andrew Oakley, Clifton Carroll, along with statistician Shanterra Robinson and video coordinator Jonathan Caraway.

Again, we congratulate Principal Dick Gurley, Athletic Director Woody Huneycutt, the coaches, players, students, faculty, staff, family and friends of Thomasville High School on the winning of their third straight 1–A girls basketball championship.

In keeping with our theme of threes, another high school in our district won its third boys basketball championship in five years and its second in a row. On February 28, Westchester Academy of High Point won the North Carolina Independent Schools Athletic Association (NCISAA) 2–A title. The Wildcats defeated Carolina Day of Asheville 74–52 at Ravenscroft High School in Raleigh. Even though this was not the first title for Westchester, Head Coach Pat Kahny said this one was significant. ''This was special,'' Coach Kahny told the High Point Enterprise. ''There was a lot of pressure trying to repeat as the number one seed, and there was pressure because we played before the biggest crowd all year.''

The title contest culminated a tremendous 29–2 season for the Wildcats. Following two consecutive losses at a tournament in December, Westchester ran off 20 straight wins on its way to the championship. Leading the way to the title was Jacob Briles, who poured in 37 points in the championship game while Toby Grauel added 21. Coach Kahny, however, does not think the offensive firepower the determining factor in the outcome. ''Our defense in the second quarter was the key,'' Coach Kahny told the Enterprise. We forced a number of turnovers and got several easy baskets in transition. They (Carolina Day) have a very good offensive team. To hold them to 23 points in the first half was a tremendous effort.''

Coach Kahny and his assistants Ken Hyde and Adam Schwartz led that tremendous effort all season long. In addition to Briles and Grauel, the members of the winning squad included Britt Hutchens, Myles Pearl, Kemil Kepinski, Will Moore, Dexter Garner, Coleman Team, Jack Vance, Emir Dukic, Jack Tucker, Anthony Peters, Robert Byrd, and Tuck Tucker. Supporting the squad all season long were managers Candice Gilliland, Andrea McNamara, Kathryn Thompson, and Jeff Galloway along with publicist Lore Fariss.

Once more, we are pleased to congratulate Headmaster Tommy Hudgins, Athletic Director Kahny, the coaches, players, students, faculty, staff, family and friends of Westchester Academy for winning the NCISAA 2–A boys basketball championship.

On a final note, Mr. Speaker, I am proud to acknowledge that either current or former staffers of mine are graduates of Trinity, Thomasville and Westchester. It makes their state championships all the more sweet, and we offer our heartfelt thanks for making us proud.

HONORING JOAN KERSCHNER

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, I stand before you today to recognize the achievements of Joan Kerschner, director of the Henderson District Public Libraries in Henderson, Nevada. It is a great honor to publicly recognize the achievements and contributions of this exceptional woman.

Joan Kerschner has been a leader in the library sciences field for many years. In 1972 she graduated with a master's degree from Indiana University in Library Science. Since her first job as a librarian she has helped both the young and old, using her skills and knowledge to provide the vast amount of information that can be found within our libraries for research projects, practical questions, and personal knowledge seekers.

Since her graduation in 1972 she has served on many councils and committees to help promote and further the use of libraries and library services. She, along with myself, is a firm believer in promoting the use of available knowledge to all those that seek it. She discovered the advantages of seeking knowledge through her job, but wanted to help those around her to discover it as well.

Since Joan's arrival in Henderson, she has helped bring about the opening of the first new public library since 1989. In 2001 she received the Henderson Economic Development Award for Public Person of the year. She has been a member of the Education Committee of the Henderson Chamber of Commerce and the Issues Committee of Henderson Development Association. This past year she served as president of the Henderson Rotary.

Mr. Speaker, I commend Joan Kerschner on her achievements and her community contributions. I hope that all of my colleagues will support me in giving thanks to her for her contributions and example of what knowledge and information can accomplish for those that seek it in their lives.

THE VOIP REGULATORY FREEDOM ACT OF 2004

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PICKERING. Mr. Speaker, I rise today to introduce the ''VoIP Regulatory Freedom Act of 2004,'' in conjunction with my colleague in the United States Senate, Mr. SUNUNU, who will be introducing the companion version of this bill in that Chamber today.

This act will grant regulatory freedom to a new and exciting technology known as voiceover-Internet-protocol, or VoIP, by prohibiting the imposition of unnecessary federal, state and local regulation in order to allow this emerging technology to grow and develop. VoIP has flourished and prospered thus far because of the relatively hands-off approach taken by regulators and concomitantly the effectiveness and robust nature of the competitive marketplace. In order to ensure the continued success of this new technology, and the concurrent benefits which it delivers to the American consumer, we must prevent the wholesale or even piecemeal application of outdated regulations.

VoIP is the technology that allows voice communications to be converted into ''packets'' and transported with data over an IP network, such as the public internet or a privately managed IP network, to the desired location using IP addressing. The end result is a more innovative and technologically-advanced service to the consumer, while also the most efficient and cost-effective method by which to communicate.

Because VoIP is predominantly interstate in nature, the bill provides for a prohibition of state and local regulation and taxation of the application. This in no way implies that states and localities do not play a very important role in our federalist system as it relates to telecommunications policy. Rather, because of the unique attributes of this technology, including its mobility in some instances, a general inability to decipher the actual origination of calls in other instances, and the irrelevant treatment of area codes when assigning numbers, it would be deleterious to impose a patchwork of 50 different sets of regulatory regimes on such a nascent and far-reaching technology.

Having said all that, I do recognize that there are specific types of VoIP applications that have the capability to send calls to or receive calls from the public switched telephone network (''PSTN''), which I refer to as ''connected VoIP applications.'' By sending and receiving calls to the PSTN, providers of connected VoIP applications will have to assume some obligations, such as (1) some type of interprovider compensation; (2) contribution to the Universal Service Fund; (3) compliance with law enforcement access; and (4) industry consensus on social obligations such as 911 service, disability access, reliability and security.

First, in light of the capability to send calls to or receive calls from the PSTN, the bill recognizes an obligation on the part of providers of connected VoIP applications to compensate others for the use of their facilities and equipment on the PSTN through some sore of interprovider compensation, which will be determined by the Federal Communications Commission. When making this determination, the

FCC must take into account the differing geographic markets, especially the rural areas, which make up our country. The FCC will also be required to include a transition period, to allow the providers to adequately adjust to a new regime of compensation.

Second, by sending and receiving calls to the PSTN, providers of connected VoIP applications will be required to contribute to the overarching national goal of universal access to and affordable telephony for all Americans. When deciding upon the best methodology by which to assess such providers, the FCC will consider a variety of contribution methodologies. However, the main goal in applying USF to connected VoIP application providers is ensuring that the Fund is sustainable over the long term, and the FCC must seek to maximize to the greatest extent possible contributions into the Fund.

Under both scenarios, the bill will require the FCC to complete a rulemaking within 6 months to decide how such providers will meet their obligations. While this bill only addresses a small sliver of the overarching deficiencies associated with the universal service fund and the interprovider compensation regime, I intend to propose new legislation in the next few weeks that will tackle both issues head on and require a definitive conclusion to these perplexing problems.

Third, because of all the potential capabilities of this technology, we would be hard-pressed not to allow access by law enforcement. Especially in the day and age in which we live, including this time of war, we must always be thinking of our overall national security. Therefore, the bill would require the FCC to examine the technologically feasibility of requiring law enforcement access to such technology. If and when the FCC determines that it is technologically feasible and reasonable to do so, providers of connected VoIP applications will then be required to comply with law enforcement. While this may be somewhat burdensome on the industry, the value of our security far outweighs any burden which may be imposed. Security of our citizens will always be our number one priority.

In sum, the ''VoIP Regulatory Freedom Act of 2004'' bill will provide certainty in an area of the telecommunications industry that is significantly changing the way people communicate with one another. By establishing a new regime for this constantly-evolving technology, separate and apart from the outdated and archaic statutes and regulations applicable to traditional circuit-switched telephony, I believe we are laying the necessary groundwork for a new era of telecommunications.

Mr. Speaker, I look forward to working with you and other members of the House, as well as our colleagues in the Senate, to achieve a bipartisan consensus on this most important initiative.

CONGRESSIONAL HUMAN RIGHTS CAUCUS (CHRC) BRIEFING ON PROPOSED UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: STATEMENT BY CHRC CO-CHAIR, CONGRESSMAN TOM LANTOS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LANTOS. Mr. Speaker, on March 30th, the Congressional Human Rights Caucus held a groundbreaking Members Briefing entitled, ''International Disability Rights: The Proposed UN Convention.'' This discussion of the global situation of people with disabilities was intended to help establish disability rights issues as an integral part of the general human rights discourse. The briefing brought together the human rights community and the disability rights community, and it raised awareness in Congress of the need to protect disability rights under international law to the same extent as other human rights through a binding UN convention on the rights of people with disabilities.

The Caucus welcomed as expert witnesses Deputy Assistant Secretary of State Mark P. Lagon; the Permanent Representative of the Republic of Ecuador to the United Nations, Ambassador Luis Gallegos; the United Nations Director of the Division for Social Policy and Development in the Department of Economic and Social Affairs, Johan Schölvinck; the distinguished former Attorney General of the United States, former Under-Secretary General of the United Nations and former Governor of Pennsylvania, the Honorable Dick Thornburgh; the President of the National Organization on Disability (NOD), Alan A. Reich; Kathy Martinez, a member of the National Council on Disabilities (NCD); and a representative of the United States International Council on Disabilities (USCID) and Executive Director of Mental Disability Rights International, Eric Rosenthal. I intend to place their important statements in the CONGRESSIONAL RECORD, so that all of my colleagues may profit from their expertise, and I ask that my own statement at the briefing be placed at this point of the CONGRESSIONAL RECORD.

Good morning, ladies and gentlemen. I would like to welcome you to today's Congressional Human Rights Caucus Briefing on international disability rights and the proposed UN Convention.

I would like to thank the Co-Chair of the Bipartisan Disabilities Caucus, James Langevin, as well as my good friends Peter King, Betty McCollum, Jim Moran and Jim Cooper for attending this important briefing. We all owe a special thanks to our former colleague, the former Chairman of the House International Relations Committee, Benjamin Gilman, for his active participation in this briefing. His support for this noble cause is invaluable.

This is the first time that the Congressional Human Rights Caucus has held a briefing on international disability rights. While I am very pleased that the Caucus is holding this groundbreaking briefing today, the mere fact that this is the first of its kind highlights an important shortcoming of the work of the human rights community, which, so far, has largely been absent in its support for the disability community.

Ladies and gentlemen, an estimated 600 million people in the world have a disability of various types and degrees. The day-to-day life of 25 percent of the world's population is affected by disability—affecting entire families, not just individuals. 80 percent of the world's people with a disability live in developing countries, where only 1 percent to 2 percent have access to the necessary rehabilitation services. The majority of an estimated 150 million children with disabilities worldwide remain deprived of learning opportunities. Only 2 percent of children who have disabilities in developing countries are attending schools or have access to rehabilitation facilities.

These facts only begin to describe the global disparities in the living conditions of persons with disabilities. According to the recent State Department's Country Reports on Human Rights Practices, in the People's Republic of China, some protection laws were passed and attention to disability issues raised, particularly in light of the upcoming Special Olympics in 2007. However, a wide gap exists between protection laws and the practical implementation. Additionally, some remaining legal provisions outrightly contradict those protection laws. The Maternal and Child Health Care Law prohibits the marriage of persons with certain specified contagious diseases or certain acute mental illnesses. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. Doctors frequently force parents of children with disabilities to place those children in state-run institutions, which cannot provide adequate rehabilitation. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities live in extreme poverty. The Higher Education Law enables universities to legally exclude disabled candidates for higher education. Other countries also have codified laws to prevent discrimination against persons with disabilities, but fail to implement them. Traditional myths and misconceptions further compound harsh living conditions for people with disabilities. For example, in Zimbabwe according to traditional beliefs, persons with disabilities are considered bewitched, and reports of children with disabilities being hidden when visitors arrive are common.

In response to the existing global discrepancies, the UN set non-binding standards in 1993 through the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN res48/96). To further strengthen international standards, the General Assembly established an Ad Hoc Committee in 2001, which is charged with the drafting of a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The Ad Hoc Committee is chaired by Ambassador Luis Gallegos, whom we welcome today to this briefing. Currently, 27 countries and 12 representatives of NGOs participate in a working group, which is considering draft proposals for such a convention, and which reports to the Ad Hoc Committee.

Unfortunately, some critics have come forward and spoken out against this noble effort, characterizing it as either needless, naive, or too complex for an international solution. Arguments such as: ''Are we really going to tell the poorest countries of the world that they now have to build ramps for people in wheelchairs, when they barely can feed their citizens?'' do not only miss the purpose of a Convention, but also do not recognize the realities on the ground.

To address the latter point on the practical implications first, I am fully convinced that poor and developing countries can only move forward in their development if they include

people with disabilities. It is impossible to feed a starving population on the ground with food donations when, as I have mentioned earlier, a significant number of people in the developing world have a disability, and cannot even reach this food aid. International Donor countries could have hardly intended to provide food aid so we all can witness scenes on television reminiscent of Darwin's ''Survival of the Fittest,'' where only the strong survive. The same is true for any economic development. If significant numbers of people are excluded from any development and opportunities in a country, we can expect their dependence on international aid to continue. Furthermore, how can persons who are deaf or blind ever benefit from significant efforts in the global fight against HIV/AIDS, if they cannot be part of any education campaign, an issue recently addressed in a New York Times article from Sunday, March 28th? The United States can hardly change the infrastructure of a country over night. Nor can we do it alone, we need the international community and encourage all nations to move forward with our guidance and support.

Critics also miss the point of what the purpose of the proposed Convention really is. The most important role of the proposed convention is the elevation of disability rights to the highest level of international law. Only if we can establish an internationally verifiable consensus on what disability rights are and through what mechanisms they can be achieved, can we expect to make them part of a meaningful international dialogue. This is exactly the purpose of other UN human rights instruments the US has not only entered into, but helped bring into existence, most notably the Universal Declaration of Human Rights, which has become part of customary international law. This convention most certainly is not a ''silver bullet'' for all disability rights problems everywhere, nor does it change the situation in a country over night, only because it has become a party to this treaty. It also does not serve to ''threaten'' developing countries with the overnight implementation of unachievable goals and standards, but to offer an opportunity for a country to commit itself to a verifiable journey toward standards, which are the result of an international agreement. I think it behooves the United States to let other countries benefit from our expertise and the standards we have achieved, most notably in the Americans with Disabilities Act. We are undoubtedly the leading nation on disability rights, and we are the sole remaining superpower. This unique position realistically means that we can either provide active leadership toward passage of such a document, ensuring that it gains international credibility, or we can stand aside. Therefore, I was disappointed by the remarks of former Assistant Attorney General for Civil Rights, Ralph Boyd, before the Ad Hoc Committee on June 18, 2003. In his remarks, Assistant Attorney General Boyd, recognized that ''Unfortunately, persons with disabilities have too often been the targets of improper discrimination . . .'' and continues that: ''. . . the activism and attention of UN Member States brings hope that one day they will be seamlessly integrated into the societies in which they live.'' Interestingly enough, the U.S. does not seem to be one of those states infected with ''activism and attention,'' as he points out that—while the US has a lot of experience, and other countries are more than welcome to learn from us—we do so considering our ''comprehensive domestic laws protecting those with disabilities, not with the expectation that we will become party to any resulting legal instrument.''

We have invited the Department of Justice to participate in today's briefing, but the Department declined our invitation yesterday. I find it very curious that the Department of Justice speaks at the United Nations about these issues, but has nobody available to share their position with Members of Congress at this briefing today.

I, and all of my colleagues on the International Relations Committee, strongly disagreed with the position expressed by former Assistant Attorney General Boyd when we passed unanimously H. Con. Res. 169, a bill I have introduced in strong support of a UN Convention. I seriously hope that the Administration is reconsidering its position, and I call on the House Leadership to schedule my legislation as soon as possible, so that the Full House and the Senate can go on record in calling for an international convention before the next working group meeting in May. We also need to bring the complete resources of the U.S. Government to help in addressing the problems of people with disabilities abroad. That is why Frank Wolf and I introduced H.R. 1462, the International Disabilities and Victims of Civil Strife and Warfare Assistance Act, and we hope to see legislative action on that initiative soon.

We should be the engine of this effort, not the breaks.

Apart from our moral obligations as the richest and most powerful nation on this planet, the United States also stands to benefit directly from such efforts. First, only equal and full participation of all groups of society in all aspects of life can guarantee a stable country, and a strong democracy. I do not need to discuss this in great detail, as the spread of democracy around the globe has long been the foremost foreign policy goal of the United States. A leadership role in the field of international disability rights will significantly impact the positive perception of the United States globally. Second, in an increasingly global economy, American companies have to be global actors to be competitive. Maybe the critics of a strong US leadership role on this issue can explain to us how American citizens with disabilities will participate in those global opportunities, and the career chances they present, if persons with disabilities would not even be able to get to a branch office of their company in El Salvador, Rwanda, Vietnam or—let's say, Uzbekistan?

As you are aware, the US government recently made fundamental changes in the way we will consider foreign aid. The Millennium Challenge Act of 2003 (Pub. L. 108–199) established the Millennium Challenge Corporation (MCC), and clearly proscribes in Sec. 607(b)(1)(B) as one criteria for a country's eligibility for funds through the Millennium Challenge Account the '' respect [for] human and civil rights, including the rights of people with disabilities.'' According to our legislation, ''Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls.''

The legislative intent is clear, the implementation is not. According to the MCC's Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY 2004, the disability rights criteria will largely be determined by the findings of the State Department's Human Rights Report. Unfortunately, the Country Reports vary widely in comprehensiveness and quality on this issue, precisely because of the absence of recognized international standards, which we have for other human rights issues. Clearly, only global and enforceable disability rights standards which have become part of accepted international law by UN Member Countries through a UN Convention can provide us with appropriate reporting criteria, so that an objective determination can be made.

A GOOD WEEK FOR FEDERAL EMPLOYEES

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. VAN HOLLEN. Mr. Speaker, this week, two important pieces of legislation that will help Federal employees advanced in the House of Representatives. House Resolution 581, which expresses Congress's support for parity between military and civilian Federal employee pay raises, passed the House 2 days ago with strong bipartisan support. Yesterday, H.R. 3751, which requires the Administration to present options for expanding the Federal Employees Health Benefit Plan (FEHBP) to include greater access to dental, vision and hearing benefits, received a unanimous vote in the Government Reform Committee.

Congressional efforts to correct pay disparities have been frustrated by the budgetary priorities of the Bush Administration, which has for years shown that pay parity is not a priority. Indeed, the administration's 2005 budget includes a 3.5 percent pay increase for military personnel, but only a 1.5 percent increase for civilian employees. The strong bipartisan support for pay parity in the House, even in the face of presidential opposition, illustrates the commitment many members of Congress feel for ensuring that we acknowledge the service and sacrifice made by both military and civilian personnel.

This week's Government Reform Committee vote in support of H.R. 3751 is also an important step forward for federal employees. Dental and vision problems can often be as disruptive to the lives of federal employees and their families as other health concerns. Yet vision and dental needs are not covered by many federal benefit plans. Serious, developing dental and vision problems are not often obvious to the casual observer and can sometimes only be detected by a physician. Despite its potential impact on general health, dental and vision insurance, in most cases, must currently be assumed by the federal employee alone at great personal expense. H.R. 3751 requires the Office of Personnel Management to explore ways to make affordable vision, hearing and dental care available to all federal employees.

Federal employee jobs, services and benefits have been the subject of much congressional activity lately. At every turn, the Bush Administration has fought efforts to protect the rights of federal employees and opposed the principle of pay parity in annual compensation. Fortunately, thanks to the success of these two bills, there is good news for federal employees this week.

INTRODUCTION OF THE MASTER TEACHER ACT OF 2004

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CARDIN. Mr. Speaker, I rise today to introduce the Master Teacher Act of 2004.

Qualified, experienced, dedicated teachers are our most valuable resources for educating the nation's children. Under the No Child Left Behind Act (NCLBA), states are required to recruit highly qualified teachers, yet rural schools and schools in low-income areas often have difficulty attracting and retaining faculty. The Master Teacher Act of 2004 will help improve these schools' ability to attract the best teachers.

The real tragedy in our education system is that so many schools are failing to meet adequate yearly progress (AYP) performance standards. As currently designated by NCLBA, one hundred percent of our nation's public school students must meet AYP standards in reading, math, and science by the 2013–14 school year. This seems an insurmountable task for many underfunded school districts. In my home state of Maryland, more than one-third of public schools are now considered failing. This is not acceptable.

To improve educational achievement for all our students, we must ensure that underperforming public schools can attract and keep qualified teachers who will serve as a catalyst for change. The Master Teacher Act of 2004 will encourage teachers to work in those schools by offering tax incentives that will reward them financially for taking on such a challenge.

''Master teachers'' are defined as faculty who hold a master's degree, have at least five years teaching experience in a public elementary or secondary school, meet the ''highly qualified'' standard as defined by the NCLBA, and have obtained advanced certification in their state licensing system. My legislation would reward ''master teachers'' who agree to teach in an underperforming school by exempting 25 percent of their gross income from federal taxes. They would be eligible for this exemption for up to four years. For the purposes of this legislation, underperforming schools are those that fail to meet Adequate Yearly Progress (AYP) standards as defined by NCLBA.

Mr. Speaker, good teachers are essential to a successful education system. They are the profession responsible for educating all other professionals, and therefore they are essential to our success as a nation. I urge my colleagues to join me in supporting this legislation and giving all our children access to the best teachers possible.

PERSONAL EXPLANATION

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. McINTYRE. Mr. Speaker, on Monday, March 29, 2004, 1 was unavoidably absent for rollcall vote 94, on passage of H.R. 3917, and rollcall vote 95, on passage of H.R. 2584. Had I been present I would have voted ''yes'' on rollcall votes 94 and 95.

REAUTHORIZATION OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. STEARNS. Mr. Speaker, at the request of the Honorable Norman Mineta, Secretary of Transportation and distinguished former member of this House, I am pleased to introduce the Administration's requested legislation reauthorizing the National Highway Transportation Safety Administration. I include with this statement a copy of the letter transmitting this legislation to Speaker HASTERT by the Secretary.

I particularly want to commend the Administrator, Dr. Jeff Runge, for his fine leadership of the Agency.

I have concerns with some aspects of this proposal, but I believe it deserves a fair hearing.

I believe that provisions in the legislation facilitating the President's hydrogen initiative, provisions promoting international harmonization of safety standards, and provisions to encourage the development of crash avoidance technologies are particularly meritorious.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, March 12, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am pleased to transmit to you for introduction and referral to the appropriate committee a proposed bill: To authorize appropriations for the motor vehicle safety and information and cost savings programs of the National Highway Traffic Safety Administration for fiscal years 2005–2007, and for other purposes.

The bill includes two titles. Title I, ''Motor Vehicle Safety,'' contains an authorization of appropriations for the motor vehicle safety law (chapter 301 of title 49, United States Code) administered by the Department's National Highway Traffic Safety Administration (NHTSA) and seven additional sections that would amend that law. Title II, ''Motor Vehicle Information and Cost Savings,'' contains an authorization of appropriations for the motor vehicle information and cost savings law (part C of subchapter VI of title 49, United States Code) administered by NHTSA and five additional sections that would amend that law.

Highway and motor vehicle safety programs and enforcement have succeeded in reducing the highway fatality rate despite significant increases in the number of vehicles and the number of vehicle miles traveled. Our most recent data show a rate of 1.5 fatalities per 100 million miles traveled, nearly half the rate of 20 years ago. The bill's proposed authorizations would provide the resources needed to continue this record of success for fiscal years 2005–2007.

Title I (''Motor Vehicle Safety'') would authorize appropriations for NHTSA's motor vehicle safety programs of $125,221,000 in fiscal year 2005, and such sums as may be necessary in fiscal years 2006 and 2007.

Title II (''Motor Vehicle Information and Cost Savings'') would authorize appropriations for NHTSA's motor vehicle information and cost savings programs of $14,080,000 in fiscal year 2005, and such sums as may be necessary in fiscal years 2006 and 2007.

The bill contains a number of amendments to the motor vehicle safety and information and cost savings laws, including provisions to (i) authorize the Secretary to participate and cooperate in international activities that enhance motor vehicle and traffic safety, (ii) authorize $5 million a year to support the President's Hydrogen Fuel Initiative and the FreedomCAR Program by a safety research initiative for alternate fuel vehicles that includes risk-assessment studies of hydrogen-fueled and other alternatively fueled vehicles, the development of test and evaluation procedures and performance criteria to assess the likelihood of potential failures that could indicate unsafe conditions, and the development of suitable countermeasures; and (iii) authorize $10 million a year for research into vehicle-based driver-assistance technologies such as electronic stability control, telematics, radar braking and similar vehicle advances, and to develop safety standards and consumer education programs, to ensure that appropriate safety benefits are derived from these technologies. Additional details describing these and other amendments are provided in the enclosed analysis.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

NORMAN Y. MINETA.

HONORING KENNY TABB FOR HEROIC RESCUE

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to pay long overdue public tribute to a remarkable individual from my home state of Kentucky. Kenny Tabb, Hardin County Court Clerk and longtime community leader in Elizabethtown, KY, was nominated 46 years ago for a Young American Bravery National Medal following his rescue of an 11-year-old boy drowning in a swimming pool. Mr. Tabb never received word concerning the status of the 1958 award or appropriate recognition for his heroism.

On a summer day in 1958, Tabb, then 13, encountered a young mother screaming for help beside a hotel swimming pool. The woman's 11-year-old son, who could not swim, was struggling in the eight foot deep water, twice sinking below water. A young Kenny Tabb instinctively jumped into the pool, fully clothed, saving the boy from a near drowning.

On August 27, 1958, Representative Frank Chelf recommended to Attorney General William Rogers that a Young American Medal for Bravery be awarded to Kenny Tabb. The nomination was sent to a committee composed of F.B.I. Director J. Edgar Hoover, the Attorney General and the Solicitor General. President Dwight Eisenhower later awarded two youth medals to earlier nominees and no Federal recognition was made to honor Tabb for his valor.

Kenny Tabb demonstrated unusual courage and a selfless instinct to help others on that summer day in the prime of his youth. His action in saving a young life was an early indication of his character, qualities that have made

him a brilliant public servant in the 46 years that have followed. Prior to his present post as clerk, Mr. Tabb served as Magistrate on the Hardin County Fiscal Court, as Assistant Principal at East Hardin High School and Principal at Sonora Elementary.

Today, I would like to correct a four-decade old administrative oversight and finally recognize Mr. Tabb, before the entire U.S. House of Representatives, for his childhood heroism and for his dutiful service to the Elizabethtown, KY, community in the years since. His efforts, then and now, make him an outstanding American, worthy of our collective respect and honor.

CONSTITUTIONAL AMENDMENT ON CONGRESSIONAL SUCCESSION

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. ROHRABACHER. Mr. Speaker, I have just introduced a constitutional amendment on congressional succession. Much has been said over the last couple years about the need to make sure we have a functioning Congress that is perceived as legitimate in the case of a national disaster that kills or incapacitates a large proportion of Members of Congress. So far, none of the proposals that have been introduced have been able to appeal to a broad, bipartisan cross-section of Congress. I believe the constitutional amendment I have introduced today addresses the major criticisms that have been leveled against the ''continuity of Congress'' constitutional amendments that have been introduced so far.

Under my proposal, each general election candidate for the House or Senate would be authorized to publicly appoint, in ranked order, 3 to 5 potential temporary successors. The legitimacy of a successor designated in this way temporarily succeeding a deceased or incapacitated Representative or Senator is similar to that of a Vice President succeeding a deceased or incapacitated President—not separately elected, but chosen by the principal and known well in advance of the election.

The problem faced by other proposals of how to determine when sufficient members have died or been incapacitated to trigger emergency procedures is avoided in my proposal because no such determination is necessary. If a congressional continuity solution is good enough to use when 110 Representatives are killed or disabled, it should be good enough to use when 50 or 20 or even one Representative dies or becomes unable to discharge his or her duties. Continuity of Congress is certainly important, but so is continuity of representation. Death or incapacity of Representatives and Senators (as in the case of the late Senator Paul Wellstone) should not change the control of either House of Congress or the outcome of votes. Also, the legitimacy of a congressional succession plan is more likely to be accepted in a national emergency if it has previously worked in smaller tragedies.

To further legitimize temporary successors, my proposal would repeal the current power state governors have to appointment temporary Senators. Since the adoption of the 17th Amendment, the American people have expected that the members of both Houses of Congress should be democratically elected. When a more democratic solution is available, we don't need to perpetuate the practice of a governor of another party being able to change the composition and control of the Senate just because a Senator tragically dies or is incapacitated.

My proposal would allow governors to appoint temporary Senators and Representatives only if the elected Senator or Representative has not submitted a list of successors or if none of the listed successors is able to serve. This backup appointment authority provides an incentive for Senators and Representatives (and potential Senators and Representatives) to make sure their ''political will'' is in order, since otherwise their governor could appoint someone they may not like. The backup authority of course also provides a further assurance of congressional continuity.

Mr. Speaker, I believe that my congressional succession constitutional amendment would solve the continuity of Congress problem in a way that would appeal to both sides of the aisle. I ask my colleagues for their support.

WELCOMING THE ACCESSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SOLVENIA TO THE NORTH ATLANTIC TREATY ORGANIZATION

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 2004

Mr. PAUL. Madam Speaker, I rise in opposition to this resolution. I do so because further expansion of NATO, an outdated alliance, is not in our national interest and may well constitute a threat to our national security in the future.

More than 50 years ago the North Atlantic Treaty Organization was formed to defend Western Europe and the United States against attack from the communist nations of Eastern Europe. It was an alliance of sovereign nations bound together in common purpose—for mutual defense. The deterrence value of NATO helped kept the peace throughout the Cold War. In short, NATO achieved its stated mission. With the fall of the Soviet system and the accompanying disappearance of the threat of attack, in 1989–1991, NATO's reason to exist ceased. Unfortunately, as with most bureaucracies, the end of NATO's mission did not mean the end of NATO. Instead, heads of NATO member states gathered in 1999 desperately attempting to devise new missions for the outdated and adrift alliance. This is where NATO moved from being a defensive alliance respecting the sovereignty of its members to an offensive and interventionist organization, concerned now with ''economic, social and political difficulties . . . ethnic and religious rivalries, territorial disputes, inadequate or failed efforts at reform, the abuse of human rights, and the dissolution of states,'' in the words of the Washington 1999 Summit.

And we saw the fruits of this new NATO mission in the former Yugoslavia, where the US, through NATO, attacked a sovereign state that threatened neither the United States nor its own neighbors. In Yugoslavia, NATO abandoned the claim it once had to the moral high ground. The result of the illegal and immoral NATO intervention in the Balkans speaks for itself: NATO troops will occupy the Balkans for the foreseeable future. No peace has been attained, merely the cessation of hostilities and a permanent dependency on US foreign aid.

The further expansion of NATO is in reality a cover for increased US interventionism in Europe and beyond. It will be a conduit for more unconstitutional US foreign aid and US interference in the internal politics of member nations, especially the new members from the former East.

It will also mean more corporate welfare at home. As we know, NATO membership demands a minimum level of military spending of its member states. For NATO's new members, the burden of significantly increased military spending when there are no longer external threats is hard to meet. Unfortunately, this is where the US government steps in, offering aid and subsidized loans to these members so they can purchase more unneeded and unnecessary military equipment. In short, it is nothing more than corporate welfare for the US military industrial complex.

The expansion of NATO to these seven countries, we have heard, will open them up to the further expansion of US military bases, right up to the border of the former Soviet Union. Does no one worry that this continued provocation of Russia might have negative effects in the future? Is it necessary?

Further, this legislation encourages the accession of Albania, Macedonia, and Croatia—nations that not long ago were mired in civil and regional wars. The promise of US military assistance if any of these states are attacked is obviously a foolhardy one. What will the mutual defense obligations we are entering into mean if two Balkan NATO members begin hostilities against each other (again)?

In conclusion, we should not be wasting US tax money and taking on more military obligations expanding NATO. The alliance is a relic of the Cold War, a hold-over from another time, an anachronism. It should be disbanded, the sooner the better.

YOU CAN BE A PART OF BUILDING SAFETY WEEK

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MOORE. Mr. Speaker, I rise today in recognition of Building Safety Week, observed April 4–10. Building safety affects many aspects of American life. Because of building safety code enforcement, we enjoy the comfort of structures that are safe and sound. Building safety and fire prevention officials work with citizens to address building safety and fire prevention concerns everyday.

The dedicated members of the International Code Council, including building safety and fire prevention officials, architects, engineers, and others in the construction industry, develop and enforce the codes that safeguard Americans in the buildings where we live, work, play and learn. The International Codes, the most widely adopted building safety and

fire prevention codes in the nation, are used by most U.S. cities, counties and states.

Building safety codes provide safeguards to protect the public from natural disasters that can occur all across the country, such as snowstorms, hurricanes, tornadoes, wildland fires, and earthquakes. Building safety codes also work to minimize other potential building catastrophes.

Building Safety Week, sponsored by the International Code Council Foundation, is an opportunity to educate the public. It is a perfect time to increase public awareness of the role building safety and fire prevention officials, local and state building departments, and federal agencies play in the first line of defense to protect the public.

This year's theme, ''You Can Be a Part of Building Safety Week,'' encourages all Americans to raise our awareness of building safety, and to take appropriate steps to ensure that the places where we live, work, play and learn are safe. Countless lives have been saved because of the building safety codes adopted and enforced by local and state agencies.

This year, as we observe Building Safety Week, I ask all Americans to consider projects to improve building safety at home and in the community, and to recognize the local building safety and fire prevention officials and the important role that they play in public safety.

I am proud to have this opportunity to recognize building safety and fire prevention officials today and urge all people to participate in Building Safety Week activities and to commence efforts to improve building safety.

RECOGNIZING THE LATIN BUSINESS ASSOCIATION

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. SOLIS. Mr. Speaker, I rise today to recognize the Latin Business Association (LBA) for its 28 years of performing exceptional work in promoting business growth, advocacy and education for the Latino community.

Established in 1976 as a private nonprofit organization, the LBA is the nation's largest Latino business entity with an active membership of 1,200 and overall outreach to Latino business owners. LBA's membership and outreach efforts enable it to fulfill its mission of being the fastest and most effective leader of Latino business opportunities in the market place. In addition, the LBA helps Latino-owned businesses grow by providing business-training workshops and developing effective advocacy programs.

More than a leader in the business world, the LBA transcends political, cultural, and language barriers that impact our nation's economic balance. As a result of the LBA's hard work, Latino businesses, executives, and entrepreneurs are not only nationally recognized, but have the opportunity to influence the nation's economic public policy.

As the Latino population continues to grow, the development of new corporations and entrepreneurial businesses will jumpstart our economy. I believe the LBA will be at the forefront among strong and influential business organizations offering support and direction to the Latino business community.

Tonight's 28th Annual Sol Business Awards Gala is a testament to the emerging significance and influence of the Latino business community. I am proud to recognize the LBA, its Board of Directors, and its members for 28 years of successfully generating business opportunities, providing advocacy, and educating the Latino community for business growth. The LBA has distinguished itself as an exceptional leader in Latino business development and I wish it much longevity and prosperity.

COMMENDING MARK PEPLOWSKI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. PORTER. Mr. Speaker, it is my great honor that I stand before you today to recognize the achievements of a fine college professor, Mark Peplowski, in Henderson, NV. He has dedicated himself to the service of Henderson students through his loyalty to the Community College of Southern Nevada. Beginning with his appointment as an adjunct professor in 1976 he has been determined to make Henderson, NV a better place by dedicating his career to Community College of Southern Nevada.

During his career as an adjunct professor and a professor, he has created programs to bring his students into the political world by providing ways for them to travel to our Nation's Capitol to work and meet with the many leaders of our Nation. He has been there as a mentor and counselor to his students in helping them accomplish their career goals in politics.

Mark Peplowski has also had a long-term goal of creating a Grass Roots Institute of Politics at the Henderson campus to give students from all backgrounds a chance to participate in and understand the political process with the opportunity to get involved in government.

I commend Mark Peplowski for his dedication to his students and his loyalty to his country. He has demonstrated that he is an effective teacher and has continuously taught his students the meaning of good government through his example and dedication to learning.

SPIRITUAL LEADER, BLESSED PRESENCE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. KILDEE. Mr. Speaker, one of Michigan's finest citizens recently passed away. I have been searching for the right words to express my high esteem for Bishop Kenneth E. Untener. Having just read the editorial in the Saginaw News of Saginaw, Michigan, I feel that they have expressed well the love in which the Bishop was held by those whose lives he had touched.

Mr. Speaker, I ask that the Saginaw News editorial be reprinted in the CONGRESSIONAL RECORD.

[From the Saginaw News, Mar. 31, 2004]

SPIRITUAL LEADER, BLESSED PRESENCE

For the better part of a quarter century, Bishop Kenneth E. Untener served the Saginaw Diocese with humility, humor and unflinching devotion. His faith and commitment to God are unquestioned. Yet Untener's fidelity to the welfare of the region's people—people of all faiths, creeds and colors—was an equally profound reflection of his humanity and ability to lead.

His death this weekend of leukemia leaves a deep void in the Saginaw Valley, and not just among Catholics. The bishop's work to improve the community, to unite its interconnected and diverse components, was tireless. He was an inspiring presence within the region's religious and civic communities.

As former Saginaw Mayor Henry Marsh, his friend and compatriot in community affairs put it, Saginaw cannot replace him. His outreach brought hundreds of the region's leaders together via his monthly ''bishop's breakfast'' meetings. He was active in Saginaw County Vision 2020, Habitat for Humanity and myriad youth initiatives. He abolished perceived barriers among individuals and between groups.

There is no doubt Bishop Untener was taken, in the transitory, earthly way, too soon. It was only a few weeks ago that he announced his battle with cancer. He was 66.

The church, of course, will name a successor to lead the 140,000-member, 11-county Saginaw Diocese. The community will welcome the next bishop, and Untener's successor will embark on a path to leave his own mark.

Yet Untener's legacy will survive through his civic example and in his acclaimed religious writings. His ''Little Books'' are inspirational guides used by Catholics and non-Catholics alike. The level of praise from within the religious community, from clergy of all faiths, is a testament to Untener's bridge-building skills. His outreach sometimes rankled members of his own faith, as in his support for female priests, as contradictory to traditional church doctrine.

As a man living among us, however, Bishop Untener's humble march toward unity serves as an example we all would wisely strive to follow.

The community was blessed by Bishop Untener's presence for nearly a quarter century. The people he touched are forever changed; the community he served was changed for the better, too.

IN HONOR OF ALVIN ''SAM'' SHRADER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. GALLEGLY. Mr. Speaker, I rise to honor Alvin ''Sam'' Shrader's dedication to public service as the Breakfast Rotary Club of Camarillo recognizes him for 60 years of perfect Rotary Club attendance.

As my colleagues are aware, the object of Rotary is to encourage and foster the ideal of service in all aspects of one's life—business, personal and community. Alvin Shrader epitomizes that ideal.

Alvin Shrader and his wife, Avis (or Suzy as she's better known), will celebrate 70 years of marriage this June. They have three wonderful children, including my lovely wife, Janice. Alvin Shrader is as dedicated to his wife, children, eight grandchildren, 28 great-grandchildren

and great-great-grandchild (soon to be two) as he has been to the Rotary over many decades.

In true Rotary fashion, Alvin Shrader also kept the Rotary ideal alive in his business dealings. He became a chiropractor in the 1930s and helped change its image and acceptability as an active member and past treasurer of the California Chiropractic Association. He is also a lifelong gardener, tending to his vegetables with the same care that he tends to all life.

Rotary has been the social center of Alvin and Avis' life. Prior to joining Rotary in 1945, Alvin was a member of the 20–30 Club's Los Angeles Chapter, where he also marked perfect attendance. He is a former Rotary Club of Los Angeles Southwest president and Avis is a former Rotary Ann.

When on the road, Alvin Shrader makes it a point to make up meetings by visiting other Rotary Clubs. He has attended meetings at clubs in Florida; Salt Lake City; Crystal City, VA; Carson City; St. Louis; Puerto Rico and the Kingdom of Tonga. When he was recently hospitalized with a broken hip, his biggest concern was making up Rotary meetings.

Mr. Speaker, I am blessed to have Alvin and Avis as my in-laws. As patriarch and matriarch of the Shrader family, they set the standard for generations to follow. It is a high standard of love and dedication that any family would be proud to follow. I know my colleagues will join me in recognizing Alvin ''Sam'' Shrader for a lifetime of service to family, his profession and his community by upholding and living the Rotary ideal.

CONGRATULATING THE UNIVERSITY OF MINNESOTA-DULUTH MEN'S HOCKEY TEAM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. OBERSTAR. Mr. Speaker, I want to congratulate the University of Minnesota-Duluth men's hockey team on reaching the 2004 NCAA Men's Frozen Four Hockey Tournament. This moment has been 19 years in the making, since the last UMD men's hockey team reached the Frozen Four in 1985. This is the second time the UMD men's hockey team has reached the Frozen Four, and the third NCAA trip for the men's hockey team.

I want to acknowledge, in particular, the accomplishments of Head Coach and Hibbing, Minnesota native Scott Sandelin. Scott has been awarded the 2004 Western Collegiate College Association's Coach of the Year award. He is one of the most promising young coaches in college hockey and has only 4 years behind the bench as head coach. He is not only a great coach, but also a superb instructor who has taught his players a great understanding of the game. The team has demonstrated that understanding of the game with their impressive 28–12–4 record. It is clear that the lessons learned on the ice will serve these student-athletes well after graduation, which is the hallmark of college athletics.

I also want to congratulate University of Minnesota Duluth Senior, Junior Lessard, who became the seventh Bulldog to be named a Hobey Baker finalist. Mr. Lessard was selected as 2004 Western Collegiate Hockey Association Player of the Year and helped the Bulldogs advance to the Frozen Four for the first time in 19 years. He leads the nation in scoring with 61 points and 20 assists in league play.

I want to commend Coach Sandelin, Junior Lessard and the entire UMD hockey team for their outstanding season and to wish them success in the NCAA Frozen Four tournament.

IN HONOR OF ANTONIA HERNANDEZ

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to recognize and pay tribute to a great American and good friend, Antonia Hernandez, Former President and General Counsel of the Mexican American Legal Defense and Educational Fund (MALDEF). To me, Antonia is many things: a national leader on civil rights and public policy, a pioneer who has opened doors for countless underrepresented Americans in this country, and a wonderful friend and mentor who after 23 years with MALDEF, has embarked on another ambitious journey by leading one of this country's premiere charitable institutions, the California Community Foundation.

Born on May 30, 1948, Antonia was raised in Torreon, Coahuila, Mexico. At the age of eight, her parents, Manuel and Nicolasa Hernandez, emigrated, family and all, to the United States and settled in the Boyle Heights neighborhood of East Los Angeles. Growing up in the housing projects of East Los Angeles, Antonia learned her strong work ethic and core values from her parents. As the eldest of seven children (Maria, Guadalupe, Lisa, Mary Ann, Peter, and Manuel), Antonia demonstrated an incredible entrepreneurial spirit at an early age, going door-to-door in her housing project selling tamales to help support the family.

Antonia is a proud alumna of Garfield High School and East Los Angeles College. The first in her family to attend college, Antonia set her sights higher and went on to receive a Bachelor of Arts in history in 1970 and a Juris Doctorate in 1974 from the University of California, Los Angeles.

On October 8, 1977, Antonia married Michael Stern, and together they have become an indivisible team, blessed with a true partnership, friendship and love. Family has always been the top priority for these proud parents of three: Benjamin, Marisa, and Michael.

Antonia's illustrious career has taken her from the Los Angeles Center for Law and Justice to the Legal Aid Foundation, the United States Senate Judiciary Committee and of course MALDEF, where she quickly became an indispensable asset and emblematic of MALDEF's tenacity to prevail. Her collaborative style and incredible network of relationships have propelled MALDEF to the top of our nation's leading civil rights and public policy organizations. She served a remarkable and unprecedented 18 years as President and General Counsel of this preeminent organization. Under her guidance, MALDEF has gained long-term financial stability going from an organization that began in 1968 with a $2.2 million grant from the Ford Foundation to one that operates a $6.5 million annual budget and has offices in Los Angeles, Washington, D.C., Chicago, Houston, Atlanta, Sacramento and San Antonio.

What mark has this human being left on America? She heroically led the fight defeating the anti-immigrant Proposition 187 in the California courts in the 1990's. She courageously worked on the 1995 Edgewood case which held that the Texas legislature had the authority to require wealthier districts to share that wealth with less fortunate districts. Today, while still a work in progress, we are moving towards an educational system that provides a fair opportunity to all Texan children. And Latino families are forever indebted to Antonia for her instrumental role in pursuing accurate census counts in 1990 and 2000. Under her leadership, MALDEF took the lead in conducting nationwide census outreach campaigns and kept a vigilant watch over the complicated redistricting process so that Latinos would, for the first time, have a strong political voice throughout the country.

Antonia's years of demonstrated leadership led the California Community Foundation to name her as its new Chief Executive Officer and President. With this new position comes the opportunity to forge new paths and serve Californians in new ways.

Antonia's legal career has always embodied her passion for helping the Latino and other disenfranchised communities to ''make sure that everyone has a place at the table.'' One of her former colleagues best characterized Antonia as someone who can interact respectfully with the most modest, humble immigrants and then translate their needs into action. As Antonia closes one chapter of her distinguished career and begins another, I would like to say ''thank you'' on behalf of the countless people whose lives she has changed by opening doors, leading by example and always holding firm to her convictions. Her innumerable contributions will be felt and appreciated for generations to come.

Mr. Speaker, as family, friends, and colleagues gather to pay tribute to Antonia, it is with great admiration and pride that I ask my colleagues to join me today in saluting this truly remarkable example of the American dream. Fortunately for all of us Antonia has much vigor and fight reserved for her new calling at the helm of the California Community Foundation. Antonia, you have earned the luck that will be with you.

TRIBUTE TO ANN SUNSTEIN KHEEL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. RANGEL. Mr. Speaker, I rise today to honor Ann Sunstein Kheel who died in New York City on December 28 at the age of 88. Ms. Kheel was a woman as close to a saint as I have ever known. She dedicated her whole life to the fight for social and racial justice. Born in Pittsburgh in 1915, she went to Cornell University where she earned a degree

in General Studies in 1936. She lived in New York City ever since.

Ms. Kheel's goal was to make the American society "inclusive rather than exclusive." It was her motto "never to entertain except interracially" and not to support organizations which were not integrated. She remained truthful to these ideas throughout her life. She served on the board of the New York Urban League for more than thirty years and initiated its Federick Douglass Awards Dinner in 1966. For 25 years she was the chairwoman of this event, which honors leaders in the private and public sectors who try to eliminate race barriers and promote opportunities for the disadvantaged.

In the 1960s Ms. Kheel sponsored the purchase of books for students attending the Frederick Douglass Junior High School in Harlem who had completed research on individuals who had had a significant impact on African-American or Puerto-American history. In 1963 and 1964 she was a delegate to the President's Committee on Equal Employment Opportunities and, from 1971 to 1986, she served as a trustee of the Schomburg Center for Research in Black Culture. The NAACP awarded her with the Unity Award in 1971.

Ms. Kheel was also deeply involved in campaigns for environmental justice. She served as chairwoman of the New York State Parks, Recreation and Historic Preservation Commission from 1977 to 1986 and as trustee of the Rainforest Alliance. The promotion of better public education in New York City was another issue close to her heart.

Ms. Kheel ensured that her great contributions to the social life of New York City would not end with her death. In her last will, she asked her husband of 66 years, labor lawyer Theodore Kheel, to provide funding for charities. The Kheel family decided to create the Ann S. Kheel Charitable Trust and endowed it with $1 million. I am very honored that the Kheel family has asked me to chair this Trust which will provide funding for educational, civil rights and other organizations serving disadvantaged New York neighborhoods.

Ms. Kheel was an admirable woman and serves as a shining example in our society. Her death is a big loss for New York City, but she will always be remembered as a woman dedicated to achieving more social and racial equality in our society.

TRIBUTE TO CHRISTOPHER DARDEN AND WILLIAM SCHAUB

HON. ROBERT E. (BUD) CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Christopher Darden and William Schaub for receiving the 2003 Isaac M. Cline Award from the National Weather Service.

The Isaac M. Cline Award is presented each year to individuals and teams that have made significant contributions in support of National Weather Service strategic and operational plans. Mr. Darden and Mr. Schaub were awarded the Cline award for their work demonstrating exceptional metrological skill and professionalism on May 6, 2003.

Mr. Speaker, Mr. Darden and Mr. Schaub are lead forecasters at the NWS Weather Forecast Office in Huntsville, Alabama. On May 6th, North Alabama was experiencing extensive flash flooding and numerous reports of tornadoes throughout the region. Mr. Darden and Mr. Schaub issued a series of Tornado Warnings that had an average warning lead time of twenty-three minutes. In addition, they issued several Flash Flood Warnings with a lead time of up to forty-five minutes. Due to the timeliness and accuracy of these severe weather warnings, Mr. Darden and Mr. Schaub likely saved numerous lives.

Mr. Darden and Mr. Schaub are being recognized for efforts performed within mere months of the opening of the new Huntsville Weather Forecast Office. This is a testament to their knowledge and expertise that is critical to address the unique weather patterns and needs of North Alabama.

Mr. Speaker, the Isaac M. Cline Award is the highest honor the National Weather Service can bestow upon its employees. I rise today, to congratulate Christopher Darden and William Schaub on this honor.

HONORING MERLE KILGORE

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a great Tennesseean and a legend in country music. Merle Kilgore is a businessman who has bridged his early music experience with today's growing country music industry.

Merle began his career in Shreveport, Louisiana at the age of 14, carrying Hank Williams, Sr.'s guitar. Since then, Merle has risen as a leader in the country music industry. He co-wrote the "Ring of Fire" with June Carter-Cash, as recorded by Johnny Cash. That great hit sold more than sixteen million records. Merle didn't stop there; he continued to write hit after hit developing his catalog to over 300 songs. All together his song collection has sold close to fifty million records. Merle's first Top Ten record was self penned "Dear Mama," and he has accumulated several others since.

Merle moved to Nashville in 1962 and began his management career. Merle has been affiliated with Hank Williams, Jr. for more than thirty years. On April 7, 1986, Merle was named the Executive Vice President and head of management of Hank Williams, Jr. Enterprises.

In addition to managing Hank's career, Merle has served as Vice President of the Country Music Association and has served on the CMA Board of Directors since 1989. He has been President of both the Nashville Songwriter's Foundation, as well as the Nashville Songwriter's Association International. In 1987 he was named an honorary State Senator for Tennessee, and in 1998, Merle received the Legendary Songwriter's Award from the North American Country Music Association.

Merle is an accomplished singer, songwriter, and actor. He is a shining star in the nation's entertainment industry. However, Merle is definitely not just "resting on his laurels." For Singer-Songwriter-Manager Merle Kilgore, the best may be yet to come. Today I rise to recognize Merle and thank him for his dedication and his willingness to share his incredible talents with Tennesseeans and country music fans worldwide.

HONORING CESAR CHAVEZ ON THE ELEVENTH ANNIVERSARY OF HIS DEATH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I am proud to announce a celebration to honor Cesar Chavez on April 24, 2004, in Kansas City, Missouri. This celebration commemorates his legacy and the eleventh anniversary of his death, April 23, 1993.

Cesar has become a champion of working people everywhere. Born into Depression-era poverty in Arizona in 1927, he served in the United States Navy in the Second World War, and rose to become one of our greatest advocates of nonviolent change.

The farm workers who labored in the fields and yearned for respect and self-sufficiency pinned their hopes on this remarkable man, who, with faith and discipline, with soft-spoken humility and amazing inner strength, led a very courageous life. And in so doing, he brought dignity to the lives of so many others and provided inspiration for the rest of our Nation's history.

After achieving only an eighth-grade education, Cesar left school to work in the fields full-time to support his family. It was there that he noticed the labor contractors and the land owners exploited the workers. He tried reasoning with the farm owners about higher pay and better working conditions. But most of his fellow workers would not support him for fear of losing their jobs. Cesar's dream was to create an organization to protect and serve farm workers, whose struggles he shared. At the age of 35, he left his own well paid job to devote all his time to organizing the farm workers into a union. Cesar traveled from camp to camp recruiting workers, and the National Farm Workers Union was born.

With a strong leader to represent them, the workers began to demand their rights for fair pay and better working conditions. Without these rights, no one would work in the fields. In 1965, the grape growers didn't listen to the union's demands, and the farmhands wanted a strike. The workers left the fields, and the unharvested grapes began to rot on the vines. Union members, Cesar included, were jailed repeatedly. But public officials, religious leaders, and ordinary citizens from all across the United States flocked to California to march in support of the farm workers. In 1970, some grape growers signed agreements with the union. The union lifted the grape boycott, and its members began to pick grapes again. That same year, Cesar thought that even people who could not travel to California could show their support for his cause. Thus he appealed for a nationwide boycott of lettuce. People from all parts of the United States who sympathized with the cause of the farm workers refused to buy lettuce. Some even picketed in front of supermarkets.

By 1973, when Cesar inspired the people of Kansas City with his message of equality, justice and social change in an address at Penn

Valley Community College, the union had changed its name to the United Farm Workers of America. Relations with the grape growers had once again deteriorated, so a grape boycott was added to the boycott of lettuce. On several occasions, Cesar fasted to protest the violence that arose. Finally, by 1978, some of the workers' conditions were met, and the United Farm Workers lifted the boycotts on lettuce and grapes. This is just one example of how dedicated Cesar was to the union and the people who counted on him.

Up until the day he died, he was concerned as ever about dignity, justice, and fairness. He said, ''Fighting for social justice, it seems to me, is one of the profoundest ways in which man can say yes to man's dignity, and that really means sacrifice. There is no way on this earth in which you can say yes to man's dignity and know that you're going to be spared some sacrifice.''

Mr. Speaker, please join me in honoring a small man with a big dream, Cesar Chavez. Cesar Chavez is a dedicated and true American hero: A civil rights, Latino and labor leader, a community servant and a crusader for nonviolent social change.

THE CIGARETTE FIRE SAFETY ACT OF 2004

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 2, 2004

Mr. MARKEY. Mr. Speaker, today my friend, Congressman PETER KING and I rise to introduce on a bipartisan basis the Cigarette Fire Safety Act of 2004. This legislation will set a reasonable ignition standard for cigarettes and help to prevent an estimated 800 deaths, 2,200 injuries and nearly $560 million dollars in damages caused by cigarette ignited fires every year. We are joined today by 38 of our colleagues to begin what we hope is the last leg of a very long journey.

It is common knowledge that smoking is considered one of the nation's leading causes of preventable death, but it's less widely known that cigarettes are also the leading cause of fatal fires. Every year thousands of innocent people are killed, maimed or permanently disfigured by carelessly discarded cigarettes. The real tragedy is that many of these fires could be prevented by making a few small adjustments to the design of the cigarette at a cost of only pennies.

Over twenty years ago, our former colleague and friend, Joe Moakley, became involved with this issue when a family of seven perished in a fire ignited by a cigarette in his Congressional District. Five children—all under the age of ten—were burned to death along with their parents on Memorial Day Weekend in 1979.

Through Joe's relentless work on this issue, Congress passed two technical bills into law that laid the foundation for this legislation. The first bill, the Federal Cigarette Safety Act of 1984, formed a Technical Study Group, which established that it was, contrary to the tobacco industry's assertions, technically and economically feasible to manufacture a cigarette that is less likely to ignite a fire without increasing the risk of health consequences. The second bill, the Federal Safe Cigarette Act of 1990, established the methodology for testing the ignition propensity of cigarettes.

Recently we have made great steps forward in reducing risk of cigarette ignited fires. Phillip Morris has launched Merit cigarettes—their brand of less fire prone cigarettes. Merit cigarettes have proved that less fire prone cigarettes are both technically and commercially feasible.

Last year in a historic move, the state of New York passed the very first cigarette fire safety standard. By the end of this June, New York will require that all tobacco companies that sell cigarettes certify that no more than 25 percent of the cigarettes sold fail the ignition propensity test established by the American Society of Testing and Materials (''ASTM''). That means that cigarettes are far less likely to start a fire if they are left unattended. This law will make great strides towards preventing the all too frequent devastating cigarette ignited fires in New York.

Taking the lead from New York State and using their standard, two days ago Canada became the first nation to pass a cigarette fire safety standard.

However, New Yorkers and Canadians should not be the only ones who are protected from these little torches. Everyone in the United States deserves the same level of protection from fires caused by cigarettes. That is why today I am proposing a bill that requires that the CPSC adopt the New York cigarette fire safety standard as the national standard.

We can no longer tolerate losing one more innocent child or putting one more firefighter at risk in a fire that could have been prevented at the cost of pennies by making a couple simple changes to the construction of a cigarette. Together we can save thousands of lives and prevent the tremendous pain of thousands more burn victims. I urge you to support this bill.

Daily Digest

HIGHLIGHTS

The House passed H.R. 3550, Transportation Equity Act: A Legacy for Users.

The House agreed to the conference report on H.R. 3108, Pension Funding Equity Act of 2003.

The House agreed to H. Con. Res. 404, providing for an adjournment or recess of the two Houses.

Senate

Chamber Action

Routine Proceedings, pages S3599–S3622

Measures Introduced: Two resolutions were submitted, as follows: S. Res. 329–330. **Page S3605**

Measures Passed:

Ricin Claims Authorization: Senate agreed to S. Res. 329, authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of the discovery of lethal ricin powder in the Senate Complex. **Page S3610**

Standards Development Organization Advancement Act: Senate passed H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S3610–19**

McConnell (for Hatch/Leahy) Amendment No. 3010, in the nature of a substitute. **Page S3619**

Pregnancy and Trauma Care Access Protection Act: Senate began consideration of the motion to proceed to consideration of S. 2207, to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services. **Pages S3599–S3600**

A motion was entered to close further debate on the motion to proceed to consideration of the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur at 2:15 p.m., on Wednesday, April 7, 2004. **Pages S3599–S3600, S3609**

Subsequently, the motion to proceed was withdrawn. **Page S3600**

Additional Cosponsors: **Page S3605**

Statements on Introduced Bills/Resolutions: **Pages S3605–07**

Additional Statements: **Pages S3604–05**

Amendments Submitted: **Pages S3607–09**

Authority for Committees to Meet: **Page S3609**

Adjournment: Senate convened at 9 a.m., and adjourned at 11:24 a.m., until 1 p.m., on Monday, April 5, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3619.)

Committee Meetings

(Committees not listed did not meet)

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Emerging Threats and Capabilities concluded open and closed hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on the Department of Defense Counternarcotics Program, after receiving testimony from Thomas W. O'Connell, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; Rear Admiral Bruce W. Clingan, USN, Deputy Director of Operations, U.S. Central Command; and Brigadier General Benjamin R. Mixon, USA, Director for Operations, U.S. Southern Command.

House of Representatives

Chamber Action

Measures Introduced: 43 public bills, H.R. 4127–4169; and; 7 resolutions, H.J. Res. 92; H. Con. Res. 404–406, and H. Res. 595–597 were introduced. **Pages H2151–53**

Additional Cosponsors: **Pages H2154–55**

Reports Filed: Reports were filed today as follows:

H.R. 27, to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan, amended (H. Rept. 108–458);

H.R. 3818, to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, amended (H. Rept. 108–459);

H.R. 3266, to authorize the Secretary of Homeland Security to make grants to first responders, and for other purposes, amended (H. Rept. 108–460, Pt. 1); and

H.R. 3866, to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes, amended (H. Rept. 108–461, Pt. 1). **Page H2151**

Speaker: Read a letter from the Speaker wherein he appointed Representative Nethercutt to act as Speaker Pro Tempore for today. **Page H2065**

Transportation Equity Act—A Legacy for Users: The House passed H.R. 3550, to authorize funds for Federal-aid highways, highway safety programs, and transit programs by a yea-and-nay vote of 357 yeas to 65 nays, Roll No. 114. The bill was also considered on Thursday, April 1. **Pages H2066–H2122**

The amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, modified by the amendments printed in part A of H. Rept. 108–456 was considered as adopted and the bill as amended was considered as the original bill for the purpose of further amendment. **Page H2083**

Point of order sustained against the Davis of Tennessee motion to recommit the bill to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with amendments. **Pages H2083–H2121**

Rejected a second motion offered by Representative Davis of Tennessee to recommit the bill to the Committee on Transportation and Infrastructure with instructions to report the same back to the House promptly with amendments, by a recorded vote of 198 ayes to 225 noes, Roll No. 113. **Page H2121**

Agreed to:

Petri amendment (considered under a unanimous consent agreement) that makes technical changes to sections 3037(c) and 3038; and **Page H2066**

Kennedy of Minnesota amendment No. 22 printed in H. Rept. 108–456 that repeals the authority to indefinitely charge tolls on existing highway lanes, replacing it with language that allows tolls only on new voluntary-use lanes, with revenues dedicated to new highway capacity (agreed to by a recorded vote of 231 ayes to 193 noes, Roll No. 111). **Pages H2066–70, H2081–82**

Rejected:

Bradley amendment No. 20 printed in H. Rept. 108–456, that was debated on Thursday, April 1, that sought to increase the allowable weight of vehicles permitted to travel on interstate highways 93 and 89, in New Hampshire, from 80,000 to 99,000 pounds and instructs the New Hampshire Department of Transportation to conduct a study to discern the economic, safety and infrastructure impact to the exemption (rejected by a recorded vote of 90 ayes to 334 noes, Roll No. 110); and **Pages H2080–81**

Isakson amendment No. 23 printed in H. Rept. 108–456 that sought to include high priority projects and projects of national regional significance under the Minimum Guarantee, consistent with current law (rejected by a recorded vote of 170 ayes to 254 noes, Roll No. 112). **Pages H2070–76, H2082**

Agreed that the Clerk of the House be authorized to make technical and conforming changes to the bill. **Page H2122**

General debate on the bill proceeded according to a unanimous consent agreement reached on Tuesday, March 30 and it was agreed today that the period of further general debate contemplated in the previous order of the House be in order before the conclusion of the consideration of the bill for amendment. **Page H2076**

Further consideration of the bill proceeded according to H. Res. 593 which was agreed to on Thursday, April 1. **Pages H2076–77**

Pension Funding Equity Act of 2003: The House agreed to the conference report to accompany H.R. 1308, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and

other provisions, by a recorded vote of 336 ayes to 69 noes, Roll No. 117. **Pages H2123–32**

Rejected the Andrews motion to recommit the conference report to the committee of conference with instructions by a yea-and-nay vote of 195 yeas to 217 nays, Roll No. 116. **Pages H2131–32**

Spring District Work Period: The House agreed to H. Con. Res. 404, providing for a conditional adjournment of the House and a conditional recess or adjournment of the Senate, by a recorded vote of 211 ayes to 201 noes, Roll No. 115. **Pages H2122–23**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 4 p.m. on Tuesday, April 6, unless it sooner has received a message from the Senate transmitting its concurrence in H. Con. Res. 404, in which case the House shall stand adjourned pursuant to that concurrent resolution. **Pages H2132–33**

Late Report: Agreed that the Committee on the Judiciary have until midnight on Friday, April 2 to file a report on H.R. 3866.

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf or, if not available to perform this duty, Representative Tom Davis to act as Speaker pro tempore to sign enrolled bills and joint resolutions through April 20, 2004. **Page H2133**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, April 7. **Page H2133**

Senate Messages: Messages received from the Senate today appear on pages H2065 and H2132.

Senate Referral: S.J. Res. 28 was referred to the Committee on Armed Services. **Page H2149**

Quorum Calls—Votes: Two yea-and-nay votes and six recorded votes developed during the proceedings today and appear on pages H2081, H2081–82, H2082, H2121, H2121–22, H2123, H2131–32, and H2132. There were no quorum calls.

Adjournment: The House met at 9 a.m. and at 4:11 p.m., pursuant to the provisions of H. Con. Res. 404, the House stands adjourned until 4 p.m. on Tuesday, April 6, unless it sooner receives a message from the Senate transmitting its concurrence in H. Con. Res. 404, in which case the House shall stand adjourned until 2 p.m. on Tuesday, April 20.

Committee Meetings

SAFE DRINKING WATER ACT AMENDMENTS—REAUTHORIZE NEW YORK CITY WATERSHED PROTECTION PROGRAM

Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials approved for full Committee action H.R. 2771, to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

Prior to this action, the Subcommittee held a hearing on this measure. Testimony was heard from Representatives Towns and Kelly; Walter E. Mugdan, Director, Division of Environmental Planning and Protection, Region 2, EPA; Erin M. Crotty, Commissioner, Department of Environmental Conservation, State of New York; and a public witness.

SPECIAL PROGRAMS BUDGET

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Special Programs Budget. Testimony was heard from departmental witnesses.

Joint Meetings

EMPLOYMENT SITUATION

Joint Economic Committee: Committee concluded hearings to examine the employment-unemployment situation for March 2004, focusing on economic growth, business activity in the manufacturing and service industries, the Gross Domestic Product (GDP), job creation and loss, after receiving testimony from Kathleen P. Utgoff, Commissioner, Bureau of Labor Statistics, Department of Labor.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D342)*

H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder. Signed on April 1, 2004. (Public Law 108–212).

H.R. 3724, to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures. Signed on April 1, 2004. (Public Law 108–213).

S. 1881, to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee

and Modernization Act of 2002. Signed on April 1, 2004. (Public Law 108–214).

CONGRESSIONAL PROGRAM AHEAD

Week of April 5 through April 10, 2004

Senate Chamber

On *Monday*, at 1 p.m., Senate will be in a period of morning business.

On *Tuesday*, program has not been announced.

On *Wednesday*, Senate will resume consideration of the motion to proceed to consideration of S. 2207, Pregnancy and Trauma Care Protection Act; with a vote on the motion to invoke cloture thereon to occur at 2:15 p.m.

During the balance of the week, Senate may consider any other cleared legislative and executive business.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Appropriations: April 6, Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Veterans Affairs, 2 p.m., SD–192.

April 7, Subcommittee on Defense, to hold hearings to examine proposed budget estimates for fiscal year 2005 for National Guard and Reserve programs, 10 a.m., SD–192.

April 7, Subcommittee on Transportation, Treasury and General Government, to hold hearings to examine tax law enforcement and information technology challenges at the Internal Revenue Service, 10 a.m., SD–138.

April 7, Subcommittee on Military Construction, to hold hearings to examine proposed budget estimates for fiscal year 2005 for Army and Navy military construction programs, 2:30 p.m., SD–138.

April 7, Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for programs under its jurisdiction, 3:30 p.m., SD–192.

April 8, Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for Corporation for National and Community Service programs, 10 a.m., SD–628.

April 8, Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Office of the Architect of the Capitol and the Office of the Secretary of the Senate, 11 a.m., SD–138.

April 8, Subcommittee on Foreign Operations, to hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign operations, 2:30 p.m., SD–124.

Committee on Armed Services: April 7, Subcommittee on Strategic Forces, to hold hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on defense intelligence programs and lessons learned in recent military operations, 10 a.m., SR–222.

April 8, Full Committee, to hold hearings, in closed session, to examine military implications of the United Nations Convention on the Law of the Sea; to be followed by an open session at 10 a.m. in SD–106, 9:30 a.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: April 7, to hold hearings to examine the National Bank Preemption Rules, 2 p.m., SD–538.

April 8, Full Committee, to resume hearings to examine current investigations and regulatory actions regarding the mutual fund industry, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: April 7, business meeting to consider pending calendar business, 9:30 a.m., SR–253.

April 7, Subcommittee on Science, Technology, and Space, to hold hearings to examine near earth objects, 2:30 p.m., SR–253.

April 7, Subcommittee on Oceans, Fisheries and Coast Guard, to hold an oversight hearing to examine U.S. Coast Guard activities, 2:30 p.m., SR–428A.

April 8, Full Committee, business meeting to consider pending calendar business, 11 a.m., SR–253.

Committee on Energy and Natural Resources: April 8, Subcommittee on National Parks, to hold hearings to examine National Park Service concessions program, including implementation of the National Park Service Concessions Management Improvement Act (Public Law 105–391), 2:30 p.m., SD–366.

Committee on Environment and Public Works: April 6, Subcommittee on Fisheries, Wildlife, and Water, to hold hearings to examine S. 1366, to authorize the Secretary of the Interior to make grants to State and tribal governments to assist State and tribal efforts to manage and control the spread of chronic wasting disease in deer and elk herds, 9:30 a.m., SD–406.

April 7, Subcommittee on Fisheries, Wildlife, and Water, to hold an oversight hearing to examine the detection of lead in District of Columbia drinking water, focusing on needed improvements in public communications and the status of short-and long-term solutions, 2:30 p.m., SD–406.

Committee on Finance: April 7, to hold hearings to examine strategies to improve access to Medicaid home and community based services, 10 a.m., SD–215.

Committee on Foreign Relations: April 7, to hold hearings to examine the United Nations oil-for-food program, 9:30 a.m., SD–419.

April 7, Subcommittee on African Affairs, to hold hearings to examine fighting HIV/AIDS in Africa; to be followed by a nominations hearing, 2:30 p.m., SD–419.

April 8, Subcommittee on European Affairs, to hold hearings to examine anti-Semitism, 2:30 p.m., SD–419.

Committee on Governmental Affairs: April 7, to resume hearings to examine U.S. Postal Service reform issues, focusing on the chairmen's perspective on governance and rate-setting, 10 a.m., SD–342.

April 7, Financial Management, the Budget, and International Security, to hold hearings to examine S. 346, to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition

in certain executive agency procurements, 2 p.m., SD–342.

April 8, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold hearings to examine implementing the Medicare Prescription Drug Program, 9:30 a.m., SD–342.

Committee on Indian Affairs: April 7, business meeting to consider pending calendar business, 10 a.m., SR–485.

Committee on the Judiciary: April 7, Subcommittee on Administrative Oversight and the Courts, to hold hearings to examine a proposal to split the Ninth Circuit, 10 a.m., SD–226.

April 7, Subcommittee on Antitrust, Competition Policy and Consumer Rights, to hold hearings to examine crude oil relating to higher gas prices, 2:30 p.m., SD–226.

April 8, Full Committee, to hold hearings to examine the nominations of Robert Bryan Harwell, to be United States District Judge for the District of South Carolina, George P. Schiavelli, to be United States District Judge for the Central District of California, William Duane Benton, of Missouri, to be United States Circuit Judge for the Eighth Circuit, and Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands, 10 a.m., SD–226.

April 8, Full Committee, to hold hearings to examine safety concerns of America's Mass Transportation System, 2:30 p.m., SD–226.

House Chamber

The House will not be in session.

House Committees

No committee meetings are scheduled.

Next Meeting of the **SENATE**

1 p.m., Monday, April 5

Senate Chamber

Program for Monday: Senate will be in a period of morning business.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

2 p.m., Tuesday, April 20

House Chamber

Program for Tuesday, April 20: To be announced.

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