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Senate

The Senate met at 2 p.m. and was called to order by the Honorable GORDON H. SMITH, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Precious Lord, we thank You for Your absolute holiness and justice, for You are the sovereign Judge of the universe. We praise You that Your kingdom cannot be shaken. You will never be voted out; no coup will ever dethrone You.

Thank You for the gifts and talents You have given to our Senators. You have blessed them with influence that can make a difference. You have supplied them with analytical skills to cut through the labyrinthine maze of complex issues. You have surrounded them with capable people who also labor for freedom.

Remind them often that to whom much is given, much is required. Make them good stewards of affluence and influence that they will use Your gifts to serve those on life's fringes. Prepare our hearts to respond to You and to live for Your glory. To You be the glory and the dominion forever and ever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GORDON H. SMITH 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 10, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GORDON H. SMITH, a Senator from the State of Oregon, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SMITH thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the 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 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 conduct a period for morning business, with Senators to speak for up to 10 minutes each. Shortly, we expect to lock in an agreement for a vote at 5:30 this evening on the adoption of a Senate resolution relating to Iraqi prisoners. That will be the first rollcall vote of the day.

The Senate may also resume consideration of the FSC/ETI JOBS legislation. I filed cloture on that bill on Friday, and that cloture vote will occur Tuesday morning. We are still hoping to work out an agreement to allow for a vote on the pending Cantwell amendment prior to that cloture vote. I will continue to talk with Members this afternoon about that agreement, and I will update Senators as to what to expect in the timing of those votes later in the day.

In any event, it is time that we bring the FSC/ETI JOBS bill to a close. We have been on that bill 12 days. We have considered and disposed of 20 different amendments on the floor of the Senate—9 rollcall votes and 11 voice votes.

Again, I remind my colleagues, if cloture is invoked, germane amendments will be offered. As we mentioned at the end of last week, those amendments would be discussed and debated for up to 30 hours postcloture.

For the remainder of the week, following the completion of the FSC/ETI bill, we will proceed to S. 1248, the IDEA, Individuals with Disabilities Education Act, legislation. We have an agreement as to how we will proceed on the IDEA bill. Therefore, we will be able to finish that bill this week.

Finally, I remind Senators that we have 2 weeks remaining before the next recess, and we have a number of items we must address prior to that recess, including the Defense authorization bill, the budget conference report, if available, bioshield, sending the highway bill, a very important bill, to conference, as well as nominations. Senators should be prepared for full weeks and busy sessions in order to finish our work before the Memorial Day recess.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, I appreciate the distinguished majority leader yielding to me. I know he has some remarks he wishes to make. We are going to have a cloture vote sometime tomorrow. There is a possibility, as there

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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always is, that cloture could be invoked, especially if there is the ability for us to vote on unemployment insurance. We have not completely vetted that with the caucus.

One point that weighs favorably at least on this Senator's mind is that the distinguished majority leader said on more than one occasion that when and if cloture is invoked we would have the opportunity to debate germane amendments. We have a handful of germane amendments. No one will be trying to use a lot of time, but I think the time on most of our germane amendments would be 5 minutes, 20 minutes, 30 minutes—not very much time. So we could do those quickly.

One of the concerns—and certainly the majority leader has never done this, and it hasn't been done for a number of years—if it is possible even postcloture to cut off people from offering germane amendments. I think the majority leader said on Friday that germane amendments would be allowed. That is a step in the right direction, not only for completing this bill but for future work in the Senate. It would be a bad thing if cloture were invoked, people anticipating they could offer their germane amendments, and then we go into a 30-hour quorum call. That would not set the right tone.

I appreciate the attitude and the remarks of the Senator regarding what would happen if cloture is invoked. I think that weighs heavily in favor of some people perhaps voting for cloture on this bill.

The ACTING PRESIDENT pro tempore. The majority leader.

ORDER FOR FILING OF AMENDMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding rule XXII, Senators have until 3:30 p.m. today in order to file first-degree amendments to S. 1637.

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

ABUSE OF IRAQI PRISONERS

Mr. FRIST. Mr. President, again, we will be voting somewhere around 5:30 p.m. today. We expect formal introduction of the resolution after more discussions over the course of the next several minutes.

I wish to take this opportunity to comment on the substance of the resolution that will condemn the abuse of Iraqi prisoners at Abu Ghraib prison and the details of the resolution we will talk about later on the Senate floor. It all focuses on the fact that this Nation, our colleagues, this body is shocked, is disturbed, is saddened by the incidents that have occurred at the Abu Ghraib prison in Iraq. These acts are deplorable. There is absolutely no excuse for what happened to those Iraqi prisoners.

The individuals who committed those despicable acts must be and will be held accountable. Justice must be served in a swift manner, in a fair manner, and in a transparent manner, and it will be. It is crucial that we get all the facts out quickly and thoroughly, and that is underway—never as quickly as people would like, but everyone, I believe, in their heart of hearts understands the importance of getting the facts out quickly and thoroughly.

I commend the President of the United States for his efforts to reach out to the Arab world to address this matter, particularly the apologies he offered to the victims and their families.

I am sure all Americans share his sentiments which he articulated so well. The Senate, too, will do its part to ensure the administration fully investigates the abuses at Abu Ghraib. By investigating the abuses committed at the prison, we recognize specific individuals are responsible for specific acts. By doing so, we recognize the vast majority of men and women in uniform every day promote the values and the principles we all hold so dear.

I would also like to highlight the work of the Department of Defense. After receiving a report from a concerned soldier, the Department of Defense promptly took action to investigate the allegations of abuse. The first investigation was initiated in January. More investigations followed and many are still ongoing. The military is examining its policy, its procedures, and its training with regard to the handling of prisoners and the management of detention facilities. These are the right and proper actions to be taken.

We do not yet know the full story. That is frustrating. It is frustrating for us in this body and for members of the administration. That investigation is underway. From what people have said, more disturbing stories and pictures will, in fact, find their way into the public domain. I have faith the administration will fully investigate these incidents and will report to us its findings.

In the meantime, the Senate will continue to do its duty. We had several hearings last week. We will continue to maintain a close watch on the unfolding situation. The appropriate committees of the Senate will fulfill their proper oversight roles. The Intelligence Committee and the Armed Services Committee both conducted hearings last week. More are planned, and briefings are at this very moment being scheduled.

Success in our national security policy depends on regular communication between the executive branch and Congress and ultimately the American people. I pledge to work with my colleagues and the administration to ascertain the truth and take action to ensure such appalling acts will never, ever happen again.

America is a nation governed by the rule of law. We hold accountable those who break the law. As the President has said, democracy is not perfect and indeed we make mistakes, but openness is a hallmark of that democracy, and as a democracy we will investigate and we will correct those mistakes.

The people of Iraq did not know justice under Saddam. His regime was born in violence and ruled by fear. Let us take this opportunity to show the Iraqi people and the world that America protects the rights of individuals. Let us show the world we can and will administer justice swiftly, fairly, and openly. We cannot undo the abuse those Iraqi prisoners suffered, but through our actions now we can show the Iraqi people the transgressions of a few do not represent America. They do not represent what we stand for as Americans.

Today the Senate will take up a bipartisan resolution which commends the noble work of our forces and condemns in the strongest manner possible the few who have disgraced themselves and brought shame to their fellow Americans. I urge my colleagues to unanimously pass this resolution this afternoon. I believe it is imperative that we speak with one voice, united in strength and united in purpose.

By passing this resolution, this body will show its resolve to pursue the truth and protect our national security. We will also show the world America believes such acts as occurred at Abu Ghraib must never happen again. Our soldiers are risking their lives in Iraq to bring peace and freedom to a country that has known neither. Our service men and women have worked tirelessly to build schools, rebuild hospitals, repair electricity grids and water lines, and to ensure food and water are available. We have seen innumerable acts of kindness and bravery from our soldiers on behalf of the Iraqi people. That is who we are and this resolution acknowledges their service.

We are engaged in a noble cause. We must see it through. The Iraqi people are depending on us to stay the course and the American people are depending on us to show courage, resolve, and leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

PLAN OF OBSTRUCTIONISM

Mr. DORGAN. Mr. President, like all of my colleagues, I am enormously proud to serve in the Senate. It is a unique and special privilege. I come from a small town of 300 people in the southwestern ranching country of North Dakota. Some of my colleagues come from big towns, some of them from family farms. We come from different parts of America to convene here and do public policy. I am enormously proud of this institution, but there are times when I see what is rancid, partisan, bare-knuckle politics played in this town that begin to bother me.

I am big enough to understand politics can be tough. I have been in politics a long while and I think most of

my colleagues understand politics is a tough business, but the Senate is different. It does not mean there ought not be politics in the Senate, but it means we ought to be reasonably serious about doing good things for our country and creating good public policy.

Last week we had a visit to the Senate floor by some colleagues, and I noticed an article in the National Journal that said the following: ''House, Senate Republicans coordinate anti-Daschle message, Pryce''—I believe this is the chairperson of the Republican Conference in the House—''acknowledged Wednesday that the respective conferences are coordinating their current message against so-called Democratic obstructionism . . .''

Today, I want to talk a little bit about this targeting that goes on, about the notion of obstructionism, because we had a discussion last week by one of our colleagues that talks about the ''price for obstructionism,'' ''the pain of obstructionism,'' and Democratic obstructionism specifically. Then we see this, the anti-Daschle obstructionism plan.

I will talk about some of this partisanship that boils up and boils over. I came to the Congress when Tip O'Neill was Speaker of the House and I served in the other body. Bob Michel was minority leader. The two of them liked each other. They spent a lot of time together, played golf together, worked together, did good things for America together. That was a different time and a different era. They respected each other and worked closely together. In my judgment, that is the way it ought to be.

I might say that changed about in the mid-1980s. My former colleague, Newt Gingrich, formed something called GOPAC. This is a letter signed by Newt, ''Dear friend,'' and the letter describes his version of American politics and says:

> I have also included a new document entitled ''Language: A Key Mechanism of Control,'' drafted by our GOPAC political director.

The letter then describes the words that should be used to describe the opponent and the words that should be used to describe one's self, signed by Newt Gingrich.

Here is what Newt then counseled back in the mid 1980s: When you are talking about your opponents, use words like destroy, sick, pathetic, lie, betrayed, incompetent, greed, anti-family, anti-child, anti-flag, anti-job, corrupt, shame, disgrace. That is what Newt Gingrich counseled candidates across the country to use when they described their opponent. He said, by the way, when you describe yourself you really ought to use words, which we have tested, like courage, children, family, liberty, vision, success.

Again, the rancid ignorance of excessive partisanship has its root about two decades ago in GOPAC—my former colleague, Mr. Gingrich, describing how people ought to play their politics in this country. I wouldn't do that in a million years. It ruins the political system, in my judgment.

We saw some of that recently in the last campaign for Congress. I had a colleague in the Senate who left three limbs on the battlefield in Vietnam. In his campaign, his courage, patriotism, his commitment to his country was questioned—a man who lost three limbs on the battlefield had his patriotism and courage and his commitment to his country and his country's national security questioned.

Now, the standard bearer on the Democratic side of the aisle is a man who has three Purple Hearts, a Silver Star and a Bronze Star, and they question his patriotism. They question his commitment to our country.

Let me talk a little bit about this message last week from those who concoct a political menu that says lets just try to be involved in this search-and-destroy mission if we can—how House and Senate Republicans coordinate the anti-Daschle message. Let me talk a little about this ''so-called Democratic obstructionism.''

Let me say, no one here—certainly not me—will ever apologize for deciding that our role in selecting people for a lifetime appointment on the bench is to say no when appropriate. We have said yes over 96 percent of the time when the President has sent us the name of a Federal judge he wants to sit on the Federal bench for a lifetime. But on those rare occasions when we say no, we have a constitutional right to do so and we will not apologize for keeping bad people off the Federal bench.

No one on this side of the aisle, I think, is prepared ever to apologize for opposing bad fiscal policy, the kind of policy that has turned the largest budget surpluses in history into the largest Federal deficits in history. You won't hear an apology for not supporting or for trying to stop bad fiscal policy. You will not hear an apology from this side of the aisle.

But I want to talk for a moment about this issue of obstruction. Senator DASCHLE doesn't need a defender on the floor of the Senate. His actions and his votes defend themselves. So is the case with my colleagues on the floor of the Senate. I respect differences of opinion. I think I served with some of the most talented and creative men and women in the Republican and Democratic caucus that I have ever had an opportunity to spend time with. I respect all of them. But let me talk for a moment about another kind of obstruction, and that is the obstruction of good public policy that ought to change this country for the better but that we can't get through the U.S. Congress because we have people who think they are just a set of human brake pads, that their sole mission in life is to stop good things from happening.

No one here works at the bottom of the economic wage scale. No one here is on minimum wage. No one in the Senate understands what it is like to live on the minimum wage. Yet for 7 years there has not been an adjustment in the minimum wage. Yes, there are people who work long hours, many of them with two jobs at the minimum wage, trying to raise a family. Yes, there are people trying to raise a family on the minimum wage. They have not had an adjustment in 7 years. We can't get a minimum wage increase through this Congress. Why? Because it is obstructed by those who control the Congress—the House, the Senate, the Presidency.

How about a simple little issue, country-of-origin labeling. We can't get that done. You know where your shirt was made; there is a label there. You know where your socks are made. You know where your shoes are made. You know where your belt is made. They are all labeled, except meat. Try to find out where your next piece of beef steak was produced. Did it come from a Mexican plant, Canada, the United States? You don't know.

By the way, if you want a description of the FDA inspector who inspected the Mexican beef, I will give you the description. Then you really ought to want to know where that meat came from. Can you get labeling on meat? No, you can't get it done. Why? Because the administration and the House and the Senate don't want it done. Obstruction.

How about the price of prescription drugs, the reimportation of prescription drugs. Why is that not now the law of the land, allowing the market system to work; allowing the American people to buy the less expensive, FDA-approved prescription drug from Canada; allowing the people who are on Lipitor, who pay $1.01 per tablet when they buy it in Canada, and for the same tablet, same pill, put in the same bottle, made by the same company, the U.S. consumer pays $1.81 per pill, and they ask the question why should the American public be charged nearly double for the same pill? Why haven't we fixed that?

It is not because we on this side of the aisle haven't pushed and pushed and pushed. It is because the majority in the House and the Senate and the President don't want it. They have obstructed it.

How about a highway bill. Last week I heard—in fact, the discussion on the floor last week about obstructionism on the part of this side of the aisle, and on the part of Senator DASCHLE, was about the highway bill. What a load of nonsense that is. The problem with the highway bill is not that anyone here is obstructing anything. We passed a highway bill. It passed with wide bipartisan support in the Senate. The reason we don't have a highway bill is because the Republicans—yes, I say Republicans—in the Congress and the Republican in the White House will not and cannot agree on what the number ought to be. So as a result of that, we

don't have a highway bill, and we have people on the other side of the aisle come out here and want to blame Senator DASCHLE for it. What a load of nonsense. It is simply not true. We don't have a highway bill because the majority party that controls the Senate and the House and the Presidency cannot agree and are having this internal feud on how big the bill ought to be, how much we invest in this country's highways.

Mr. President, I ask unanimous consent to continue for 10 additional minutes.

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

Mr. DORGAN. What about an energy bill. We ought to have an energy policy. You look at the price of gas at the gas pumps these days and ask yourself, Do we want to continue to be more and more dependent on foreign sources of oil? It went from 50 percent to 60 percent. Does that make sense for our country? Our economy will be belly up at some point if, God forbid, terrorists shut off the supply of oil to our country. Yet we rely on the Saudis, Iraqis, and so many others from troubled parts of the world for our supply of oil. We need an energy bill.

Don't point at Senator DASCHLE and don't point at the Democrat Caucus with respect to that issue. That bill failed the Senate by two votes, and my colleague, Senator DASCHLE, voted for it, as did I and others. The reason that bill failed in the Senate by two votes was because the majority leader of the House stuck a provision in it that he was warned would kill that bill, a retroactive waiver for liability for something called MTBE, a pernicious provision that he knew—he should have known; he was warned—would kill the bill. So they stick in a giveaway provision that kills the bill because it costs them four or five votes in the Senate, and then they want to come to the floor and point at the Democratic leader, Senator DASCHLE, as the problem. He is not the problem. The problem is the majority party that controls the House and the Senate and the White House.

We need an energy policy. In fact, we should have had the energy bill back on the floor of the Senate 2 weeks ago, but we don't control the Senate. We don't schedule the Senate.

Appropriations bills: I am a member of the Appropriations Committee. Last year we had to put seven appropriations bills into one big omnibus appropriations because we didn't get the appropriations bills done. Then in the middle of all that, the appropriations bill, with well over $300 billion—smack dab in the middle of that, those of us who were trying to overturn the FCC rules which would allow big broadcasters to become even bigger, and fewer and fewer people would control what you see, hear, and read in this country—they stuck right in the middle of this big appropriations bill something that upended our attempt to deal with the FCC rules. They stuck, right in the middle of this, something that interrupted the ability to affect the country-of-origin labeling for meat and other food products.

I tell you, it is a hollow claim, it seems to me, that there is obstructionism from this side of the aisle. It is a hollow claim that Senator DASCHLE is somehow guilty of obstructionism. The obstructionism on things that would improve this country, public policy dealing with—yes, the minimum wage increase, with country-of-origin labeling, with an energy bill, with a highway bill that means new jobs and new investment, with lowering prescription drug prices, with extending unemployment benefits to people whose benefits have run out during a time of economic trouble—all of those issues, all of those things that, in my judgment, would make this a better country and would improve things in this country have been stopped.

They have been stopped because one party controls the House, the same party controls the Senate, the same party controls the White House, and they have stopped these things dead. It is as simple as that.

Abraham Lincoln once said, ''Die when I may, I want it said by those who know me best that I have always plucked a thistle and planted a flower where I thought a flower would grow.'' I must say there are precious few thistle pluckers or flower planters these days in this political system. There are a lot of political flame throwers and those who decide everything they don't like ought to be put at the feet of the minority Caucus in the Senate and the minority leader of the Senate, Senator DASCHLE.

The Constitution of this country begins, ''We the people.'' Some in the Senate think the Constitution is a rough draft—something they ought to change every month, every week. We are apparently going to vote on three constitutional amendments very soon in the Senate because that work which occurred over two centuries ago and which has been amended outside of the Bill of Rights only 17 times needs, according to the majority, to be amended again and again and again. I think that Constitution of ours is pretty important. That Constitution provides an opportunity for a minority in Congress to stop bad things from happening. But it also empowers the minority to push good public policy.

We have as a Caucus offered a substantial amount of good public policy that would improve things in this country, provide hope and opportunity, and do what every American would want to have happen; that is, leave a country for their children that is better than the country they found when they were born into this great country of ours. All of us are lucky to be here and lucky to be here now. There is only one place on this Earth—only one place—named the U.S.A. This big, old globe of ours spins with 6 billion people on it. There is only one location on this big globe with 6 billion people called the U.S.A. We are lucky to be born here and lucky to be born now with all the opportunities and all the bounties that are offered to us as Americans. But with those bounties come responsibility. The responsibility is, in my judgment, to work together.

I am weary and tired of those who continue to point the finger of obstructionism and who continue to organize these ''anti'' messages, anti-Daschle, anti-Democrat, anti-this, anti-that. I have no time at all for those who, as my former colleague Newt Gingrich did, put out word lists to pollute the political process in this country and say to those who aspire to serve in public service the way you ought to refer to your opponent is with words like ''sick,'' ''pathetic,'' ''betray,'' and ''poison.'' Shame on them. That is not the best this political system has to offer. John F. Kennedy used to say every mother hopes her child might grow up to be President as long as they do not have to be active in politics. But, of course, politics is the basis for making public decisions in our country. It is an honorable occupation. The practice, in the main, is by people who care a great deal about this country's future.

I hope all of us will understand this isn't about trying to figure out who is setting up roadblocks and who is obstructing. Let us try to sort out between good and bad public policy and then pass the good.

Let me say again this message—this organizing for anti-Daschle, anti-Democratic Caucus, obstruction message—to those who spend time doing that, this country is at war. This country has an economy that is still troubled. This country needs an energy policy. This country has so many needs that require so much attention from all of us. Stop this nonsense. Let us decide to work together to make this country work better for our children.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

UNEMPLOYMENT COMPENSATION

Mr. KENNEDY. Mr. President, we are in a period of what we call morning business. But we know when we go back to what is referred to as the JOBS bill we will be on the Cantwell amendment which is to extend unemployment compensation to workers who have worked hard over the course of their lives and contributed into the unemployment compensation fund, the fund that today is approximately $14 billion in surplus. The Cantwell amendment is about $5 billion and, if passed, would certainly ensure the funds would be retained in a very robust financial situation. It would help us address the fact there are 85,000 workers every single week who are losing their unemployment compensation funds. As a result of losing their compensation funds,

they are hard pressed to pay for their mortgage, to continue to put food on the table, to pay for their utilities, the downpayment on their automobiles, and to continue to try to even be able to survive.

Real Americans are hurting in many parts of the country, and it doesn't have to be this way. The Senator from Washington has tried to have this issue addressed in the Senate some 14 times over the period of the last 18 months. She was only once successful, and that was in February of this last year when a vote that was taken in the Senate showed 58 Members of the Senate agreed with the Senator's position. We have a lot of close votes around here; some are 50–49, and some are 51–49. But when we have a vote that is 58–39, that demonstrates a strong bipartisan desire by the Members of this body to try to address the situation.

It isn't only the Members of this body. There was another vote in the House of Representatives which was 227–179 for a similar proposal to provide help and assistance to those who are unemployed, who have worked hard and paid into the fund. When the unemployment compensation fund was established, the very purpose of the unemployment compensation fund was to provide in these kinds of circumstances.

There are those who say we have seen and are seeing some significant changes in our economy and, therefore, this legislation is not necessary. Let me come back one more moment to address our procedural issue.

Last week, on Thursday evening, when it finally became possible after the long week for the Senate to consider the Cantwell amendment on the unemployment compensation fund, we finally had that matter before the Senate. Our Republican leadership rushed to move off the JOBS bill and move into morning business where we have been for the last several days because they didn't want to address the issue of unemployment compensation. Then we find the situation where the majority leader files cloture because the Republican leadership does not want to permit the Senate to vote on this kind of help and assistance for workers—basically middle-income families—to provide for themselves and their families, even though a broad majority of Republicans and Democrats favor it. They so fear, evidently, taking a vote on the issue of unemployment compensation that they say let us close out this amendment, prohibit Senator CANTWELL from getting a vote, prohibit the Senate from voting up or down, let's end all debate on the underlying bill and cut off any future amendments as well, because under the order they will have to follow the cloture provisions because we do not want to risk having the Members of this body vote yea or nay on the issue of unemployment compensation.

We are getting used to that by the leadership here. We see that similar technique followed when it comes to overtime, although with the persistence of my friend and colleague Senator HARKIN, we were able to get an overtime vote. We saw an overwhelming majority of the Members of this body send a very clear message to the Bush administration to keep their hands off overtime payments for American workers.

We have been trying to get an increase in the minimum wage for some 7 years, and we have been denied the opportunity to get an up-or-down vote and let the Senate speak its will. Clearly, there is a majority in this body who understand it has been 7 years since we provided an increase in the minimum wage. And certainly now is the time when so many of those proud men and women are working on the bottom rung, but, nonetheless, working and working hard—men and women, primarily women, women who have children, and men and women of color who want to be able to provide for their families, and this institution denies them an opportunity to get an up-or-down vote on minimum wage. They tried to ensure that we would not have to vote on unemployment compensation, then deny the Senate the opportunity to get a vote on the increase in the minimum wage, try to avoid a vote on overtime—all the issues that affect the economic conditions for working families and middle-income families in this country.

As I have said many times, I don't know what these families have done to this administration or to the Republican Party that they should declare war upon them, but that is the result of their policies.

I thought I would take a few moments of this time to review where we are in terms of the state of our economy because there may be those who believe because there has been an increase in the total number of jobs created, even though 40 percent of those created in the last report period of last week are basically low-income jobs. In the group announced in the earlier quarter, there was virtually no manufacturing jobs. These was the increase in low-wage jobs and the increase in the part-time jobs but not the kind of real growth which this country is familiar with when we come out of a recovery, which means good jobs, good benefits, good hope for the future, and a sense of hope for those workers and workers' families.

These are April figures and do not include the latest of the May figures. In January of 2001, we had 6 million Americans who were unemployed. Now we have 8.2 million, 2.2 million more that were unemployed than we had 2 years ago.

This is one of the most important charts because this shows the long-term employment is nearly triple. Those are the number of workers who have been unemployed for more than 26 weeks. These are record numbers from recent history of 20 years; 20 years since we have had this number of unemployed workers looking for jobs for longer than 26 weeks. Therefore, it reflects the fact we have many workers out there looking for jobs; they want to work and they are not able to find the jobs.

That is understandable when we have 8.2 million unemployed Americans yet we have only 2.9 million job openings, according to the Bureau of Labor Statistics. We have all these Americans looking for these jobs.

I ask consent that I be allowed to speak as long as I desire to speak.

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

Mr. KENNEDY. So we have 8.2 million unemployed Americans looking for these job openings. Clearly, they are not going to be able to squeeze into that funnel. It will mean many millions are going to continue to be unemployed.

That is what the Cantwell amendment addresses, those unemployed Americans who paid into that fund are losing their unemployment insurance, at the rate of over 85,000 a week.

The next chart is interesting because it shows the growth in the last 3 years. This represents March of this year, and it goes back to March of 2001 where we had 3.3 million Americans with part-time jobs who were looking for full-time employment. That was in March of 2001 at the start of this administration. Now that is up to 4.6 million Americans in part-time jobs who want to have a full-time job.

That is a great leap in terms of the unemployment numbers recently, the great numbers of those have been in the part-time jobs. As we know with part-time jobs, more often than not they do not get the health insurance, they are not given the overtime pay. Obviously, they are denied pensions and they are denied other protections which many full-time workers receive.

Americans want to work, they will work, but they are not given the opportunity to work in our economy, which gets back again to the Cantwell amendment. If that is the circumstance, why aren't we willing to extend the unemployment compensation fund when we know the unemployment compensation fund is in surplus?

The next chart indicates clearly that 40 percent of the jobs that are being created are in the low-wage and low-paying industries. This is what has happened in recent times. Even with the increase in the total numbers of jobs, these are basically low-paying jobs and part-time jobs. Only a handful of those in the last employment figures would be manufacturing.

The next chart shows 43 States still have higher unemployment than when the recession began. With the exception of the 6 States in yellow, 43 States still have higher unemployment than when the recession began, which comes back to the basic rationale for the Cantwell amendment.

We still have significant unemployment in great parts of this country of ours. People just cannot find other work. If that is the condition—and it is the condition because this is the Bureau of Labor Statistics figures—then we have to ask ourselves, Why are we cutting off and have ended effectively providing help and assistance with unemployment compensation? It does not have to be this way.

This chart is very instructive because it shows what a different administration did when we had economic challenges. This is in the early 1990s, coming out of the recession of the early 1990s. Under President Clinton, we saw the spiking of 2.9 million jobs. It took the spiking of up to 2.9 million before the administration terminated the extended unemployment compensation funds. They were facing significant unemployment. With Presidential leadership and with the support of a Democrat House and Senate—that is true; because we did not get a single Republican vote in the Senate or in the House of Representatives—President Clinton put that into effect. We had the longest period of economic growth, price stability and job expansion than we have had in the last century. Finally, they cut off the unemployment compensation after it reached 2.9 million.

We have 2 million still unemployed and this administration has said, No way, to those workers and denied them unemployment compensation.

This chart rebuts modern thinking about who is now suffering from the unemployment and who is not. The green line represents less than a high school degree and the red line signifies college graduate. It has been the belief that with more education, there is a greater and greater opportunity to get a job. Right? Wrong. It does not necessarily follow. It can follow but it does not necessarily follow.

Over the period of the last year, we find those with college degrees are increasingly those who are affected with unemployment, even more so than those with less than a high school degree which, effectively, remains flat.

What is happening is higher unemployment is moving into the middle income. This is going to college graduates—not those who just completed 1 year but those who completed college. The red line on the chart indicates they are the ones now who have college degrees. Yet they are increasingly unemployed.

I bring back to the Senate this very important chart because it very clearly shows what is happening out there in Main Street America to the middle-income working families in this country.

Over the period of the last 5 years, what we have seen—and we are looking now from 2000 to 2004—in the purchasing power of middle-income families is their income has gone down 2 percent. But the prices for their homes or rentals have gone up 17.8 percent; health care, 50 percent; tuition for their children, 35 percent; and utilities, 15 percent. You talk about the middle income having challenges holding on to their economic security, this is what is happening to them. Their income, in terms of purchasing power, has effectively been stable, but the costs which they have had to pay in health insurance, tuition, utilities, and home prices, let alone what has been happening in terms of their local taxes, have been going up, and they have been feeling the squeeze.

Can you imagine families with these kinds of obligations and suddenly they do not have any income at all. The only lifeline they have is the unemployment compensation. They have paid into it, and they wonder if they are going to get it. The unemployment fund is in surplus, and the Republican leadership says: No, we are not going to let you have a vote.

Finally, we should understand this very clearly about what has been happening on Wall Street. With the Wall Street recovery, the corporate profits have gone up in the last 3 years by some 37.5 percent. Yet the change in workers' wages, as this chart shows, is 1.5 percent; basically the same figures we had before.

So this is what is happening. There are those who are doing very well, and there are those who are able to go through this period of time and have a great deal of financial security. But not middle-income working families; they have not been able to do so. And this institution is not helping them. We are not helping them with any kind of increase in the minimum wage. We do not help them with the unemployment compensation. We do not help them, although we did have a positive vote. The administration certainly did not help them on the issue of overtime. We have left out 9 million Americans when it comes to pensions, which leads me into another issue in terms of health care coverage, which is another issue for us to consider.

What the Senator from Washington is attempting to do is to provide at least some temporary relief until the economy gets strong for those millions of Americans who are trying to make it, who worked hard and paid into the unemployment compensation fund so they will be able to meet the most basic and fundamental needs of their families.

Without this relief, 85,000 American workers a week are losing their unemployment compensation. Surely we can do something about it. We have a surplus fund of in excess of $15 billion. So I would hope we would cease the obstruction of the Cantwell amendment and permit us to have a vote on the Cantwell amendment. We have had a clear majority of this body that wants to vote in favor of it. Yet we are being obstructed from being able to do that, as we have been obstructed by the Republican majority on the issue of the increase in the minimum wage.

MEDICARE AND THE UNINSURED

Mr. KENNEDY. Mr. President, for many of us, this is ''cover the uninsured week,'' but, for the administration, a better title would be ''ignore the uninsured week.'' Since the day it took office, this administration has ignored the worsening health care crisis that jeopardizes more and more families. Costs are out of control. The number of the uninsured is soaring. No family can be sure that the insurance that protects them today will be there for them tomorrow. And the Bush administration remains frozen in the ice of its own indifference.

The number of people without insurance has grown by four million since President Bush took office—and he has done nothing. Health insurance premiums have skyrocketed by 43 percent—and he has done nothing. Prescription drug costs have exploded by 45 percent—and he has done nothing.

Every day, employers shift more costs to employers or cancel coverage altogether. Every day more families are forced into bankruptcy because of high medical bills. And President Bush does nothing.

Soaring health costs and declining insurance coverage harms the poor, but they are protected to some extent by Medicaid. It is the hardworking middle class who are victimized the most. More than 80 percent of the uninsured are in working families. Fourteen million have incomes of more than $50,000 a year. Seven million have incomes of more than $75,000 a year. No family is more than one pink slip or one employer decision away from being uninsured.

That is wrong. You and I know it is wrong. And the American people know it is wrong. But President Bush refuses to do anything about it.

The President has read the polls showing that the American people are concerned about health care, so he pretends that he cares. As in so many areas, he talks the talk, but he doesn't walk the walk. He has done nothing. The steps he has proposed don't even deserve to be called tokenism. They actually take us in the wrong direction. They would be laughable, except that the health care crisis is no laughing matter for millions of American families.

The President touts new tax breaks for the healthy and wealthy—as if the wealthy haven't already benefitted far too much from this administration's policies. The administration calls for health savings accounts—but for millions of Americans who need health care the most, the result will be thousands of dollars in higher premiums, not savings.

The administration claims to offer refundable tax credits to help the low-income uninsured buy insurance. But those credits are inadequate to buy real coverage. Far from helping the uninsured, they would actually cause millions more to lose the good employer coverage they now enjoy. They are

such a low priority for the President that he didn't even provide money to fund them in his own budget.

The administration is proposing association health plans to lower costs for small business. But these plans are nothing more than a giveaway to trade associations that support the President, and they will raise premiums for more than 20 million workers according to CBO.

The administration proposes a Federal cap on medical malpractice awards, and calls it cost control. But the idea that you can cut health care costs by denying fair compensation to severely injured patients is a cruel hoax. Some premiums are $100,000.

When it comes to affordable health care for the American people, this administration is all talk and no action. It is compassionate conservatism without the compassion. President Bush and the Republican Congress won't make the tough decisions to bring costs down. They won't stand up to the drug companies that profit enormously from the status quo. They won't put the need for health care for American families ahead of the greed of wealthy campaign contributors. It's time for a change.

Our colleague Senator JOHN KERRY is proposing a plan to give health care the top priority it deserves. He believes that secure, affordable health care for hard-working families is more important than tax breaks for millionaires and billionaires. His plan will provide health insurance coverage for 27 million people nearly two-thirds of the uninsured. He will cut costs for every family that pays an insurance premium.

He will take on the drug companies, so that Americans can enjoy the same fair prices paid by Canadians and Europeans. He will give every American—every American—access to the same health care enjoyed by members of Congress at the same fair price they pay. He will be a health care President—and that is just what the doctor ordered for every family that needs and deserves quality, affordable health care.

Every senior citizen now has health insurance through Medicare. But Medicare's guarantee of affordable health care remains unfulfilled, because Medicare does not cover the high cost of prescription drugs. Congress had a chance to provide a decent downpayment on prescription drug coverage last year, but President Bush and the Republican leadership hijacked that program.

The Bush Medicare bill needs to be scrapped and replaced. It is a raw deal for senior citizens and a sweetheart deal for the insurance industry and the pharmaceutical industry. It is a triumph of right-wing ideology pretending to be positive reform. It is based on a flagrant deception reaching all the way to the top of the White House. The sorry story of this legislation is a prime example of the need for new and more effective leadership in the White House.

The Republican Medicare bill lavishes Medicare money on subsidies to HMOs and other private insurance plans—$46 billion, according to the Medicare actuary. The goal is to undermine Medicare, make it no-competitive, and force senior citizens to join HMOs.

The administration's bill was designed to benefit drug companies and insurance companies, not senior citizens. It is not a serious solution to the high cost of prescription drugs. Because of high premiums and high deductibles, 6 million senior citizens will actually pay more in premiums for the drug program than they will receive in benefits. Another 6 million—the poorest of the poor on Medicaid—will actually be forced to pay more for the drugs they need. Three million more retirees will lose the good private retirement coverage they now have, and will be forced into the inadequate new program. That is 15 million senior citizens who will actually pay more for prescription drugs under this bill than they would pay if the bill had never been enacted.

Let me repeat that. Fifteen million senior citizens will actually pay more for prescription drugs than if this bill had never been enacted.

Even for those who do benefit from the bill, the benefits are meager. Once your spending for drugs reaches $2,250, you fall into a hole where you receive no benefits at all until you spend $2,800 of your own funds. If you spend $500 a year today, you will pay more in premiums than you get back in benefits. If you spend $1,000, you will still pay 86 percent of the cost. If you spend $5,000, you will pay 78 percent of the costs. The bottom line is that in paying for the drugs you need, you will be better off on a bus to Canada than you will be under the Bush bill.

A key reason the drug benefits are so inadequate under the Bush bill is that it fails to do anything to control the explosive growth in the cost of prescription drugs. Drug companies will reap at least $139 billion in windfall profits over the next 8 years. According to the Congressional Budget Office, drug prices will actually rise faster, not more slowly, as a result of this bill.

The Bush bill shouldn't be called the Medicare Prescription Drug Improvement Act. It should be called the ''Profits for Drug Companies Improvement Act.''

The more senior citizens learn about the Medicare bill, the less they like it. The Bush administration has already squandered more than $20 million of senior citizens' own Medicare money on thinly disguised political advertisements for the Bush reelection campaign. These misleading and dishonest advertisements are intended to persuade the elderly that this lemon of a bill is actually lemonade. But senior citizens aren't accepting those ads, because they don't trust them.

Now, the Bush administration is trying yet another disinformation campaign. Our part of the Medicare bill is a provision to license private companies to use the Medicare seal of approval to peddle discount cards to senior citizens.

The administration is attempting to hype these discount cards to try to rehabilitate their failed Medicare bill. But senior citizens understand that these Medicare discount cards are a phony and ineffective solution to high drug prices—and every day brings a new embarrassment. The $18 million of senior citizens' own money that the Bush administration is spending to promote this program isn't persuading anyone.

The administration set up a Web site to help senior citizens choose the cards that offer the biggest discounts in its ridiculously complicated program. But it turns out that many of the prices posted on the Web site are just plain wrong. The card companies blame the Bush administration, the administration blames the card companies, and senior citizens are left holding the bag.

Studies by Families USA and the House Government Reform Committee prove what most analysts had said. The cards offer little or no savings compared to discount programs already available to senior citizens. Senior citizens will still be paying 50 percent more than Canadians pay and 50 percent more than the Government negotiates for the Veteran's administration and other Federal programs.

The Bush administration tried to rescue their program with yet another study claiming to show that the cards really were a good deal. They claimed that the earlier study had not made a fair comparison in prices. So they prepared a new table and claimed savings ranging from 4 to 10 percent.

But once again, the administration played fast and loose with the facts. The discount cards don't allow purchase of a 30-day supply of drugs. So the administration took the cost of a 90-day supply, divided it by 3 and compared the cost to a 30-day supply already available on the Internet. Once postage and handling costs for three orders are also included, one discount card offers essentially the same discount, one card is 22 percent more expensive, and two cards offer minimal savings of 4 percent and 6 percent, not counting the enrollment fee.

Everyone understands that the real issue isn't small discounts from already inflated prices. The real issue is the Bush administration's unwillingness to take on the drug companies. It won't allow Americans to buy drugs at the much lower prices paid by foreigners. It refuses to allow the Government to use the purchasing power of 40 million Medicare beneficiaries to negotiate a fairer price.

When the Bush administration first put out its flawed study, they inadvertently let the cat out of the bag. They included Canadian prices and the Federal Supply Schedule prices of the

drugs. A few hours later, they released a ''corrected version'' that omitted the comparison, but the damage was obvious.

Whether the issue is the real cost of their Medicare plan or the savings from their drug cards, the Bush administration has made deception a tactic and distortion a habit.

The administration's hype won't fool senior citizens or the American people. It isn't fair for Americans to pay twice as much as foreigners pay for drugs made in America by American pharmaceutical companies. It is not right that the Bush administration is fighting to protect drug company profits instead of fighting for patients. It doesn't reflect American values that legislation designed to protect senior citizens should be turned into a bonanza for powerful Republican campaign contributors.

It is wrong for this administration to continually distort the facts and deceive senior citizens. We need a president and a Congress who will stand up to the drug companies and insurance companies and stand up for senior citizens.

THE PRISONER ABUSE RESOLUTION

Mr. KENNEDY. Mr. President, I want to comment about the resolution that will be before the Senate. We will vote on it in a very short time.

I support the resolution. The torture and other sadistic abuses of prisoners in Iraq have done immense damage already to America's reputation in the world, and the worst may be yet to come.

Protection of the Iraqi people from the cruelty of Saddam had become one of the administration's last remaining rationalizations for going to war. All of the other trumped-up rationalizations have collapsed. Saddam was not on the verge of acquiring nuclear weapons. He had no persuasive link to Al-Qaida. He had nothing to do with 9/11. We have found no weapons of mass destruction.

So it is human rights that the administration turned to in order to justify its decision to go to war. On December 24, 2003—the day Saddam was captured—President Bush said, ''For the vast majority of Iraqi citizens who wish to live as free men and women, this event brings further assurance that the torture chambers and the secret police are gone forever.''

On March 19, 2004, President Bush asked: ''Who would prefer that Saddam's torture chambers still be open?''

Shamefully, we now learn that Saddam's torture chambers reopened under new management—U.S. management.

Every day brings new photos, new horrors from the same prison and the same torture rooms that Saddam used to commit crimes against humanity. Today, it's the photo of a naked Iraqi man, his hands clasped behind his head in terror, facing snarling German shepherd dogs held on leashes by American soldiers. According to the New Yorker magazine, subsequent photos show the Iraqi man lying on the ground, writhing in pain, blood flowing from wounds on both his legs.

President Bush has presided over America's steepest and deepest fall from grace in the history of our country. The tragedy unfolding in Iraq is the direct result of a colossal failure of leadership.

We all agree that the guards and interrogators who committed these abuses at Abu Ghraib prison should be held accountable. They should be prosecuted to the fullest extent of the law. But the responsibility for these abuses does not lie with them alone.

On Friday, the Armed Services Committee held its first public hearing on the abuses. Secretary Rumsfeld and General Myers came to the hearing to tell us what had happened at the prison, but in several instances their answers were incomplete or misleading.

Secretary Rumsfeld testified that the guards at the prison had received training on detention procedures and had been instructed to abide by the Geneva Conventions. Yet in the report on his investigation of such abuses last winter, General Taguba found that the soldiers involved were poorly trained to manage such operations. He found that neither the prison camp rules nor the provisions of the Geneva Conventions were posted in English or in the language of the detainees.

Secretary Rumsfeld and General Myers testified that the abuses at the prison lasted from October to December 2003. They said that the military leadership's first indication of trouble was when a low-ranking soldier came forward in January 2004.

Yet, since the beginning of the war, the International Committee for the Red Cross had provided Pentagon officials with repeated reports of abuses at the prison. Some of these abuses, the Red Cross reported, were ''tantamount to torture.''

As early as May 2003, the Red Cross had sent Pentagon officials a memorandum describing more than 200 allegations of mistreatment during the capture and interrogation of Iraqi prisoners.

In October 2003, the Red Cross inspected the Abu Ghraib prison, including the unit where the worse abuses at the prison occurred. They saw prisoners being held naked in cells and forced to wear women's underwear. They saw evidence of burns, bruises, and other injuries consistent with the serious abuses that the prisoners had alleged.

After this October 2003 inspection, the Red Cross put officials at Abu Ghraib prison and at Central Command on notice that they were violating international humanitarian law. Yet October 2003 is when the military now says that the abuses at Abu Ghraib prison began, and that they didn't know anything was wrong until 3 months later.

Clearly, the military leadership failed to respond properly to the reports and recommendations of the Red Cross. During 2003, both the State Department and the Coalition Provision Authority repeatedly appealed to top military officials to stop the mistreatment of military detainees. Secretary Powell himself raised this issue at cabinet meetings and elsewhere, pleading for proper care and treatment of detainees, but the Defense Department failed to act.

The military leadership is also responsible for putting troops in charge of the prison who were not trained to do the job. They assigned too few soldiers to the prison than were required to do the job right. They relied on civilian contractors to perform military duties, including the interrogation of Iraqi prisoners.

The military leadership failed to respond in a systemic way even after it had initiated 35 criminal investigators into the alleged mistreatment of detainees in both Iraq and Afghanistan; 25 of these investigations involved deaths. In December 2002, military doctors at the Bagram Air Base in Afghanistan ruled that two Afghan men in U.S. custody had died from ''blunt force injuries.'' No one in the military has been held accountable for these homicides.

Since 9/11, top officials in the administration have shown an arrogant disregard for the protections of the Geneva Conventions in dealing with detainees. In January 2002, Secretary Rumsfeld was asked why he believes the Geneva Conventions do not apply to the detainees at Guantanamo. He replied that he did not have ''the slightest concern'' about their treatment in light of what had occurred on 9/11. In other words, they are terrorists, and torture is too good for them. The British magazine The Economist called his remarks ''unworthy of a nation which has cherished the rule of law from its very birth.''

It is clear that it is not enough for us merely to pass a resolution condemning the abuses. We need a full and independent investigation and fully accountability, including a comprehensive review of all detention and interrogation policies used by military and intelligence officials abroad, in Iraq, Afghanistan, Guantanamo, and elsewhere. The American people and the Iraqi people deserve answers, and they deserve them quickly.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

NATIONAL ENERGY CRISIS

Mr. CRAIG. Mr. President, I come to the floor not to point fingers or make accusations about the tragedy that occurred in Iraq and continues to unfold. So while we are focused on international affairs and what may or may

not have gone on in the Abu Ghraib prison, what I am going to talk about for a moment is what the average American, taxpaying, consuming, voting public, has experienced this past weekend.

They went to the service station in their local community and filled up their gas tank with the highest priced gas in the history of this country. They paid anywhere from $1.84 to over $2.50 a gallon, depending on where one lives. When that credit card or that cash was handed out, that American consumer had paid more for gas at that moment on that day than ever in the history of this country. Yet this Senate, embroiled in Presidential politics at this very moment, fails to deal with this issue.

I am amazed that last month the American economy struggled along and created nearly 300,000 new jobs, and we may well end up the quarter with one of the strongest growth periods in the American economy than we have had in a decade, and yet in all of those struggles, the American economy is spending more for energy than ever in the history of this country.

I have not heard one speech on the floor about blame big oil, and the reason I have not is because I think there are a lot of Senators who are hiding at this moment or not wanting to address the fact they voted down a national energy policy some months ago and denied the American consumer a progressive Government policy that begins to promote investment and development in the energy sector of this country.

At the close of business on Friday of this past week, the futures for crude oil in some categories went to over $38 a barrel. That will translate down the road to nearly $3 a gallon at the pump in the United States. I bet I am one of the few who will come to the floor today and speak about the crisis in energy that is draining this economy while all of that money flows to the Middle East because we are so focused on the Presidential fingerpointing that is going on at this very moment.

Why don't we fingerpoint at ourselves for just a little bit? Why don't we blame big government and big politics at this moment for the failure of the Senate to address and pass a national energy policy for this country?

When we talk about growth and we talk about the average American family's needs, have we told the American family this year they are going to spend between $400 and $500 more for gasoline than they did a year ago? No, we have not told them that. I am telling them that today because that is what they are going to spend.

They are also going to spend a great deal more for a lot of their consumer goods that are made with petrochemicals. Carpeting in our homes today is synthetic and made as a derivative of the hydrocarbons or petroleum. Paint, plastics, all of those kinds of products are critically important to the American consumer, and the base resource that makes them is petroleum. Yet this country has had a ''no development'' policy for well over two decades. We have run around and stuck our heads in the sand hoping that somehow we could just get through this while the world was becoming an ever larger consumer of hydrocarbons.

We have good conservation policies in place, and we would have better conservation policies in place had we passed a national energy policy. We would have pro-production policies in place and we would be sending the economy toward producing once again had we passed a national energy policy.

My guess is bids would have gone out for the development of an Alaska gas pipeline to bring billions of cubic feet of gas to the lower 48 had we passed a national energy policy.

We would have the legitimate right to say to the consumer that we have done something for you. Oh, yes, we were asleep at the switch for a decade fighting over the environment and fighting over the politics of who wins and who loses in energy production, but we cannot even say that today. We cannot even say we did the right things.

I was doing a radio talk show this morning and somebody said: Isn't this the President's fault? I reminded them that the first priority of the Bush administration when they came to office 3½ years ago was a national energy policy, and while the other side is trying to subpoena the records and pick the books and argue that this was somehow a clandestine gathering, what they failed to recognize is the multiple recommendations made by this study group, headed by the Vice President, was early on and was a priority of this administration.

We took those recommendations with the work the Energy Committee has done in the Senate, under the leadership of PETE DOMENICI, and we crafted a national energy policy. It was not about who was a winner and who was a loser. It was about getting this country back into the business of production so the American consumer would not have to pay $2.50 a gallon at the pump for their gas. But, once again, we got embroiled in politics.

Somehow winners and losers wanted to be picked by some. Somehow we could not touch the pristine environment of ANWR of Alaska to bring that oil south to the lower 48 and to give us leverage power in the world market to tell the world producers that we were not going to be held hostage by their restrictive production that would drive up prices. We did none of that. Even though a majority of the Senate—Republicans and Democrats—voted for a national energy policy, a few dragged their feet, we missed that magic number of 60, and a national energy policy did not go forth.

What did I tell that phone caller today when he said, Shouldn't we blame the President? I said, no, he was the first to lead us. We simply would not follow because, you see, our politics was better or smarter, and, in this instance, it might well have been dumber. So blame Congress and blame the Senate and check the voting records of your individual Senators to see where they were on the development of a pro-production, pro-conservation, multiple alternative, new technology energy policy for our country.

As the summer goes on, all of our refineries are operating at peak capacity at this moment, but that which they are refining, nearly 60 percent is produced by a foreign country, and those foreign countries are raking in U.S. gold today in the form of U.S. dollars like they never have before. All of our money flows overseas instead of developing in this country and producing jobs and improving our economy.

Call your Senator and say: Vote on a national energy policy. It is right there in front of you. Quit playing politics with this issue. I believe the American consumer grows angry that the price they pay at the pumps is the highest price they have ever paid for gas. This time they have only one group to blame, and that is the Congress of the United States, for failing, at the urging of the President and at the urging of consumer groups and all who have studied this issue over the years, they have us to blame because we could not produce a national energy policy for this country. It is big politics and a failing Senate.

While we continue the debate about the tragedies of Iraq—and we should get to the base of that issue, let's not forget there are other issues in this country that are very important to job creation, to the long-term economic stability of our country, and one of those will be the cost of energy and the cost of input into the economy of this great country.

Let's pass a national energy policy. Let's pass the tax incentive package that is within the FISA bill. Let's get at it, Senate, and do the work we were sent here to do and allow this country to get back into the production of energy so we can challenge the world market and provide our consumers with that which they deserve: an abundance of reasonably priced energy and a variety of alternatives to pick from in this great marketplace of ours.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak in morning business and use such time as I might consume.

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

CLOTURE VOTE ON THE JOBS BILL

Mr. BAUCUS. Mr. President, Albert Einstein once advised, everything should be made as simple as possible but not simpler. In other words, know when you have done enough.

On the JOBS bill that will soon be before the Senate today, we are near time when we have done enough. The Senate has returned to the JOBS bill now for the 14th separate day over the course of 5 separate weeks. The Senate has considered 28 separate amendments. It adopted 17 separate amendments. Many of the amendments the Senate considered, such as Senator HARKIN's amendment on overtime regulations and Senator WYDEN's amendment on trade adjustment assistance, have not been strictly germane to the bill at hand.

The modern Senate does not regularly devote such time and freedom of amendment to major bills. It is really not that normal for the Senate to consider every amendment until no other Senator seeks to offer amendments.

My colleagues will remember the Senator from Louisiana, Russell Long. Senator Long served as chairman of the Finance Committee from 1965 to 1981. When Russell Long would bring a major tax bill to the Senate floor, he would frequently file cloture early, just to require that amendments be germane.

With the advent of the budget reconciliation process in 1981, the Senate began considering major tax increases in Senate reconciliation bills. The reconciliation process, as we know, limits debate to a maximum of 20 hours, pretty much 2 or 3 days, and reconciliation restricts Senators to only germane amendments.

In 1996, the Senate began considering tax cuts under the tight rules of the reconciliation process. Since then, almost every major tax bill has been a reconciliation bill. This year, a number of Senators sought to have this JOBS bill considered in reconciliation. To his credit, the chairman of the committee, Senator CHUCK GRASSLEY, fought these efforts. He and I talked about this several times. He frankly prevailed on many on his side of the aisle in arguing that this tax bill, the FSC/ETI bill, should not be under reconciliation under those very tight conditions but should be a regularly considered bill, and he prevailed. I commend him for that.

Let us now look at this bill. This bill began as a venture of both Democrats and Republicans working together in the Finance Committee. I might add the vote was 19 to 2. Only two members in the committee voted against this bill, and they were on the other side of the aisle.

This bill's major provision, tax cuts for American manufacturing, is really a Democratic priority. Democrats have sought all along to create and keep good manufacturing jobs in America. We advanced this priority when many House Republicans sought to maximize tax breaks for international businesses or, to put this another way, the Finance Committee decided after consulting with Members on both sides of the aisle, both Republicans and Democrats, that it made more sense for the FSC/ETI placement bill to have a deduction for manufacturing produced in the United States rather than the approach taken by the majority party in the other body, which wanted a corporate tax reduction, international tax reduction bill, not a domestic manufacturing jobs bill. So it is a very different approach.

Again, to his credit, the chairman of the committee, Senator GRASSLEY, agreed with Members on both sides of the aisle that the best solution is the Republican and Democratic approach, the bipartisan approach, to help create more jobs in America by providing for the 9-percent manufacturing deduction. Contrast that with the House majority approach, which is much different, and I am quite certain a majority of our Members, certainly on this side of the aisle, are against it.

When it comes to the question of how much and how long we need to fight for amendments on the Senate floor, I think it matters whether we are talking about a partisan bill where the majority has closed the minority out of the process or are we talking about a bipartisan bill where Senators have worked together across the aisle. This clearly has been a bipartisan bill.

Our bill advanced the Finance Committee as a cooperative venture. The chairman of the Finance Committee and I working together included many of the provisions in the bill in response to requests from Senators on this side of the aisle. I daresay many provisions in this bill are in response to a request by Senators on this side of the aisle, although a good number are in response to Members on the other side of the aisle. So therefore this bill reflects a very open and democratic process.

Once we came to the Senate floor, this Senator tried to ensure that the Senate consider the maximum number of amendments, as many as we possibly can. Twice before on this bill, I have fought cloture, worked against cloture, to ensure that the Senate could address, for example, Senator HARKIN's overtime amendment and others. The Senate did consider that amendment. The Senate adopted that amendment. Over the course of last week's Senate consideration, the chairman of the Finance Committee and I have attempted to maximize the number of amendments the Senate could consider, and now the Senate has considered 28 amendments. It adopted 17 of those. That, I believe, is a very respectable record.

Now, when the Senate appears to be stymied over whether to vote on the amendment of the Senator from Washington on unemployment insurance, I continue to work for a vote on that amendment.

So here is where we stand: If the majority can see that there is a prospect that the Senate will invoke cloture on this bill, then I believe the majority will allow a vote on the unemployment insurance amendment; but if the majority sees that Senators on this side of the aisle are united against cloture, regardless of whether they allow a vote on the unemployment issue, then I believe the majority will not allow a vote on the unemployment insurance amendment. That is where we are. It is that simple.

If Democrats want the Senate to vote on unemployment insurance, then we need to show some prospect of bringing this bill to a close. I believe we should accept that offer to get a vote on the unemployment insurance amendment. To do so, we should support cloture.

We should acknowledge that we are near the time when we have done enough. I say ''near time'' because even after the Senate invokes cloture, the Senate may still consider germane amendments. There are several amendments I believe the Senate will be able to consider postcloture. For example, there is the amendment by the Senator from South Carolina, Mr. HOLLINGS, to strike the international provisions. There is the amendment by the Senator from Michigan, Mr. LEVIN, on tax shelters. There is the amendment by the Senator from Louisiana, Ms. LANDRIEU, to provide tax benefits to reservists. There are amendments by the Senator from Arizona, Mr. MCCAIN, to strike energy tax provisions. There may be other germane amendments. Based on my understanding of the intention of the two leaders and the two managers, I believe that if the Senate invokes cloture, the Senate will work through these and other germane amendments postcloture. In fact, the majority leader has publicly indicated so.

Thus, I do believe we are near time when we have done enough. I support efforts to get a vote on the unemployment insurance amendment, and I support invoking cloture thereafter. So let us make this bill as good as possible but not better. Let us advance this bill to create and keep good manufacturing jobs, especially in America. Let us invoke cloture on this bill tomorrow.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

IRAQI PRISONER RESOLUTION

Mr. GRAHAM of South Carolina. Mr. President, I would like to take a few minutes to discuss the vote that is coming up this afternoon, the resolution about the Iraqi prisoner abuse scandal.

No. 1, I would like to compliment Majority Leader FRIST and Senator DASCHLE for bringing this matter up, and the committees and those who are

involved in drafting the resolution, and allowing it to come to the floor. I think it is important for the Senate to be on record; but, more importantly, that this not just be used or seen as an opportunity for politicians to pile on and talk about the story that is hard to watch or view, that we are all on the right side here in making sure the world understands we condemn this, and it is more about us protecting ourselves politically. I think it is a symbolic gesture, but much of democracy is symbolism: The idea that an elected body—some say the most prestigious deliberative body in the world, and I can understand why people would say that about the Senate—would take some of its time to have a vote on something that goes to the core of who we are as a people.

As I travel around and listen to constituents about this prisoner abuse scandal, a couple of points are reflected back to me.

No. 1, the people there are probably not nice people; they are criminals; maybe terrorists; that other people do worse; let us not be so hard on ourselves; and people in a war environment where there is much stress sometimes overreact. That is all true. But that is not the point. The point is if we use as a standard to govern ourselves the shortcomings of a dictatorship, then the big loser is us.

I spoke at a graduation this weekend. I said never use the standard of someone else's failures to be your benchmark as to how you would like to live your life.

We know how bad people treat good people and others. We have seen it in history for thousands of years. It was a real part of Saddam Hussein's regime.

The question is, Can we prove to the world and ourselves that good people treat bad people differently? Not only can we, I think we must.

There are a lot of Iraqis who are probably not shocked by this prisoner abuse scandal nearly as much as we are. In their world, this is pretty much the way you do business. A lot worse happened in that prison under Saddam Hussein. But what happened there that we know about so far is very hard for Americans to understand and digest. That is the good thing. The fact a lot of Iraqis are willing to accept that this is usual is not a good thing.

What will have to occur for Iraq to make it as a functioning democracy is people are going to have to change what to expect from their leaders and their government and those in authority.

My question to our Nation is, If we show anything short of disgust and condemnation, would we not be reinforcing to those already disheartened Iraqis that you should not have high expectations? Even the Americans, whom we have all heard about and who tout themselves as the good guy, understand how these things can happen.

This resolution is a small step forward to prove to the Iraqi people and others that you should have high expectations of those who are in your government—those who are given the authority to imprison, to make arrests and detain. If you start having those high expectations, you will be amazed at how things in Iraq change for the better.

I have been waiting for a demonstration to occur in Iraq against the activities that led to the death of the four contractors. I am fully aware if you join us to stabilize Iraq, to be a judge, or a prosecutor, or a police chief or the army—any symbol of authority that would bring about a transfer of democracy in Iraq—the insurgents are likely to come after you and your family.

It is easy for us to talk about demonstrating and showing disgust when we are not threatened. But in the history of our Nation, people have put their lives at risk to make us better. In my lifetime, people such as Dr. Martin Luther King risked their lives to try to make life better for us all. During the civil rights demonstrations of the 1950s and 1960s, the photos of police dogs attacking African-American men and women shocked us all and it made what segregation is about real.

I hope these photos will shock us and make us understand when we fail as a people, when our institutions fail, it is OK to apologize. It doesn't make you smaller; it actually makes you larger. It is OK to say, I am sorry. There is a moral imperative, that when we assess accountability we do not take anybody off the list because of their rank or their status.

This resolution today is a small step forward. There will be many more steps to be taken to overcome this prisoner abuse scandal and to transform Iraq into a functioning democracy. But there are voices in our country which are vilifying and undercutting the effort.

I appeared on a show this Sunday with former NATO Commander General Wesley Clark, a man who served his country in a variety of roles and honorably served in Vietnam and was wounded. But he said something that disturbed me. It took a while for me to realize the depth of the statement. When asked, Will Iraq be democratic, or the effort to transform Iraq be successful, he said, Less than 50. I will give 2-to-1 odds that this operation ends in a catastrophe, for a lack of a better word paraphrasing him. It is not good, I believe, to bet against ourselves, or to put 2-to-1 odds on the ending. People will take that wrong and think they are winning when they are really not. Whether Iraq becomes a functioning democracy or something akin to it is not only possible, it is a must.

There will never be a Mideast without turmoil and hatred until some countries in that region embrace the idea that you can worship God more than one way, that there is a role for women, a meaningful role for women, and democracy ensures the two things I have mentioned. All people can participate and one's faith is expressed in many ways in a democracy. Not only is Iraq's transformation to a democracy a worthwhile objective, I think we have a moral imperative to accomplish that mission because it goes to the sense of whether we will ever win the war on terror. For every democracy that is formed in the Mideast, there is one less place for Osama bin Laden and his henchmen to be able to thrive; they know that. That is why they are fighting so hard and so fiercely. The people indigenous to Iraq who do not want a democracy understand their past association with Saddam Hussein will not be rewarded. They want it their way and no other way. They use this opportunity to attack us and run America and other people out as a way to create a vacuum which they will fill.

If that occurs and we fail in Iraq, the big loser will be the next generation of freedom-loving people all over the world. The international community is not only essential to transforming Iraq, it must take an active part sooner rather than later.

History tells us sometimes the international community is more worried about appeasing the problem than solving the problem. Winston Churchill virtually stood alone because so many people before him believed Hitler would be OK if you gave him just one more country. People like Hitler are never OK with just a little more. They want all you have and then some.

Osama bin Laden will never be appeased by having part of Iraq or all of it. People who think the way he does cannot be dealt with in terms that we understand and live by. That is not to say we need to throw our law and our values overboard. We need to understand the only thing that will control the Osama bin Ladens of the world is the same thing that controlled the Hitlers of the world: Good men and women from diverse backgrounds from all over the world coming together and saying, We will fight you. We will fight for freedom of religion, diversity in life. If you want to fight, that is the only way this can be resolved, you will get a fight.

The international community needs to help us yesterday. President Bush is right: a democratic Iraq is necessary to transform the Middle East as a starting point. President Bush is right: Iraq is a frontline effort in the war on terror. It is a place in the past where terrorists felt at home; a place in the past with a leader, Saddam Hussein, who fueled money to the Middle East to reward those who wanted to destroy the State of Israel and prevent a two-state solution between Palestine and Israel.

This resolution could not come at a better time. But it is only a small first step of many more steps to come. My bet is that it is not 2 to 1, it is 100 percent; that if Americans can come together and stop the partisan fighting over this war, having differences of opinion is absolutely appropriate, and the only way a free people can live.

The Iraqi prison abuse scandal is an opportunity for America to come together. Regardless of whether you are Republican or Democrat, we see this problem the same. If we work together, we can win. We will work, I am 100-percent certain of that. The only person who can defeat us is ourselves.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. What is the parliamentary situation?

The PRESIDING OFFICER. Morning business with a 10-minute time limit.

JUDICIAL NOMINATIONS

Mr. HATCH. Madam President, over 6 weeks ago, the Senate minority instituted what resulted in a virtual freeze on the Senate's constitutional responsibility to provide advice and consent on the President's nominees.

This is troubling to me for a variety of reasons. Nevertheless, I am slightly encouraged by the movement on a few executive nominations last week, even though I remain extremely concerned about the current and continuing freeze on judicial nominations.

The last time the Senate confirmed a judge was on March 12, about 2 months ago. So it is past time for a rollcall.

Yesterday, in addition to being Mother's Day, marked the beginning of the fourth year since the President sent to the Senate his first nominations to the Federal judiciary. Back on May 9, 2001, President Bush nominated 11 outstanding individuals to serve on the bench. The Senate has confirmed eight of those nominees. One has withdrawn, and two are still pending.

I commend Senator DASCHLE and other colleagues across the aisle, especially my friend the ranking Democratic member of the Judiciary Committee, Senator LEAHY, for working with us and the administration in confirming to date 173 of President Bush's judicial nominations. As Senator LEAHY frequently reminds us, 100 of those nomination confirmations took place during his tenure as Judiciary Committee chairman from mid-2001 through 2002.

But more work can and needs to be done so that the American public can enjoy the benefits of a more fully staffed Judiciary. Unfortunately, the old saying, ''justice delayed is justice denied'' is true. The Senate needs to consider the judges on the calendar and give each one an up-or-down vote, as the Constitution requires. At present, there are 32 nominations for our district and circuit courts pending before the full Senate. Among this group are 22 men and 10 women. This is an outstanding group of candidates with diverse backgrounds. These candidates include a number of impressive minority candidates such as Justice Janice Rogers-Brown of the California Supreme Court, who has been nominated to serve on the influential Circuit Court of Appeals for the District of Columbia.

The nominees being held in limbo are highly qualified. Each and every one of them deserves the consideration of the full Senate. They include sitting State supreme court justices, State and Federal trial judges, and distinguished members of the bar. Many have served as judicial clerks in our Federal trial and appellate courts and in the Supreme Court. Others have served at the highest levels of all three branches of Government. All have distinguished academic records. Twenty-four of these nominees received a Well Qualified rating from the American Bar Association. Fourteen of those Well Qualified ratings were unanimous.

While I do not take the position that the ABA ratings are or should be dispositive on judicial nominations, let me remind my colleagues what a Well Qualified rating means. According to guidelines published by the American Bar Association, standing committee on Federal judiciary:

> To merit a rating of ''well qualified,'' the nominee must be at the top of the legal profession in his or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity, and either have demonstrated, or exhibited the capacity for, judicial temperament.

This rating accurately describes the nominees before the Senate. When votes are held, I believe we will find there is bipartisan support for all of the nominees pending before the Senate. Even those who have been previously filibustered have received an affirmative vote of support by a majority of the Senate and have supporters across the political spectrum. Yet they are being held up, for the first time in this country's history, by filibusters.

As further evidence of the qualifications and support of the nominees, I note that 22 nominees were reported out of the Judiciary Committee without a single negative vote. Eighteen district judges were reported by voice vote and with no announced opposition. Four circuit nominees received a 19-to-0 Judiciary Committee vote. I see no reason all cannot expeditiously be acted on by the Senate. That means all of the 22 Judiciary Committee consensus nominees by voice vote or by unanimous consent, and the others, as well.

I have been troubled by the practice in this Congress of demanding time-consuming rollcall votes on nominees who pass unanimously or nearly unanimously. I understand these positions are lifetime appointments, but the Senate acts on many extremely important matters by unanimous consent or by voice vote. I have been told that last year alone we took about twice as many rollcall votes on unopposed judicial nominees than in 8 years under President Clinton. That is just last year.

Like every other Senator, I took an oath to defend and support the Constitution. Every Senator has his or her view on how that responsibility is to be exercised with respect to acting on judicial nominees. In my view, the Constitution requires the Senate provide its advice and consent regarding the judicial nominees.

Fulfilling my oath means I have a stake in seeing that happen. As chairman of the Judiciary Committee, I have a special role in working with the leadership in seeing the nominees, once reported from the committee, are brought up for floor action. Vote up or down, but just vote. Every judicial nominee who reaches the Senate floor is entitled to an up-or-down vote.

I am hopeful the votes will be held on all judicial nominees presently on the Executive Calendar, as well as for nominees who may yet be reported this year by the Judiciary Committee.

Now, I intend for my remarks today to bring us closer together on considering nominations in the Senate. While I will not fully discuss this matter today, I will note I am not persuaded by arguments that suggest that President Bush's exercise of his constitutional prerogative to make recess appointments somehow justifies this current freeze on nominations. Absent the refusal to allow the simple up-or-down vote on judicial nominees that article II, section 2, clause 2 of the Constitution requires, the recess appointments would not have been made in the first place.

I am mindful that my colleagues across the aisle have also expressed an interest in seeing that minority party nominees to bipartisan boards and commissions be acted upon. For the last several weeks, I have publicly stated on a number of occasions that I understand this concern and that I would support qualified Democratic nominees such as Jon Leibowitz, a former Judiciary Committee staffer of Senator KOHL, to serve as a Commissioner on the Federal Trade Commission. Likewise, I am pleased that the White House is considering a particular Democratic attorney, also a former Judiciary Committee staffer, to serve on the Federal Sentencing Commission.

I hope that significant and mutually satisfactory progress can be made on judges and other nominees. I hope such progress will be made. I know from my experience in this body if we work together we can usually find solutions to these matters, even in an election year.

Senator LEAHY and I and other members of the Judiciary Committee have worked hard on nominations, even as we faced other difficult issues in the committee this year.

I know Senator FRIST and Senator DASCHLE are working hard with the administration, and I wish them well. I simply implore them—each and every one of them—to accelerate the pace of these discussions. But I must also state I believe the time for discussions, negotiations, and talk is drawing to a close. At some point, the Senate must do its sworn duty and vote up or down on judicial nominations. That is just right. It is the right thing to do.

The time for action is quickly coming upon us. Some believe that point

has already passed. To do otherwise is unfair to this institution, unfair to the nominees, unfair to the President, and, most importantly, unfair to the American public who entrusted us with the responsibility to conduct the public business.

Madam President, we can and should do a better job of considering judicial nominees on the Senate floor. I stand ready and willing to continue to work with all of my colleagues and the administration on this important matter.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ENERGY POLICY

Mr. REID. Madam President, in Reno, this weekend, the price of a gallon of unleaded gasoline was $2.22. Premium gasoline costs more than that. The higher blend fuels in Nevada cost about $2.50 a gallon.

My friend and neighbor from the State of Idaho, the senior Senator from the State of Idaho, was in the Chamber a few minutes ago talking about the fact that if we pass the energy bill that had previously been on the Senate floor, and the one that came back from conference, we would have all of our energy problems resolved. I want to disabuse anyone within the sound of my voice, that simply is not factual.

That energy bill was a bad bill. It did nothing to help the cost of gasoline. The thing it would do is give the industry just what it wants, billions of dollars in the form of subsidies and tax breaks, with no real conservation requirements.

We want an energy bill. We, the minority, want an energy bill. But we want an energy bill that will diversify our energy supply, reduce our Nation's dependence on foreign oil, and protect the environment.

The one thing the bill did not have in it that came back from conference was ANWR. That was at least something of which we were able to convince people of good will around here: The fact that the United States has, at its fingertips, less than 3 percent of the oil reserves of the world, recognizing that we cannot drill our way out of our problems. And that includes the oil that is supposedly in the ground in Alaska. We cannot produce our way out of our problems. Almost 97 percent of the oil reserves in the world are someplace else. So we have to do things that are smart and not only look to the short term but to the long term.

There is no doubt that the price of crude has contributed to the higher gasoline prices in Nevada and throughout the rest of the country these last few years. But the outrageous 55-cent-per-gallon increase in Nevada, since January, has not been driven by the rising cost of crude oil only, but I believe by corporate greed and profit. These oil companies and refiners are getting rich, and middle-class families are getting gouged.

The stalled energy bill will do nothing to reduce the high price of gasoline because it fails to either improve regulations on an oil industry that is overconcentrated or rein in demand by adopting tougher fuel economy standards. Instead, the legislation proposes just what the industry wants—I repeat, giving billions of taxpayers' dollars to large oil companies in the form of subsidies and tax breaks, with no conservation requirement whatsoever.

The Bush administration's own analysis concludes that the legislative incentives to reduce our reliance on foreign oil in the bill will have only a negligible success. The administration report concludes that implementation of the energy bill would reduce net petroleum imports by about 1.2 percent in 21 years—a reduction hardly worth the billions of dollars taxpayers would give away to the oil companies.

We must also pressure the Saudis to increase production instead of cutting it back by a million barrels per day. I have said on this floor previously that Saudi Arabia and the OPEC nations can do a great deal to relieve the problems we have. They are our allies. That is something that I am not too sure exists. It is a one-way street with them. But I was pleased to hear that Saudi Arabia has said they will recommend at the next OPEC nations meeting to increase production by at least 1.5 million barrels a day. That is nice because they just cut back production by a million barrels of oil a day.

We need to be releasing oil from the Strategic Petroleum Reserve to drive down prices. We have to stop putting extra oil in the Reserve, for which we are paying an arm and a leg.

In terms of meeting the Nation's energy needs, we should increase the use of alternative fuels and renewable energy resources. That is the thing we can do to take a bite out of big oil. We can rely more on the Sun, the wind, geothermal, even biomass.

So I was encouraged that in the FSC bill the Finance Committee put in energy incentives, including the section 45 production tax credits for renewable energy. That will allow us to use the things that are renewable like the Sun, wind, and, of course, geothermal heat.

So I applaud Senators GRASSLEY and BAUCUS for having this section 45 production tax credit for renewable energy resources that expands and extends the credit for these issues that I have talked about, these renewable resources.

Renewable energy will protect consumers and create jobs. It is important to stop declaring our energy independence when that is not the case. I do not think it serves any purpose to come out and talk about how great this bill is that failed. If it were that great, it would not have failed. It is a bill that does nothing to solve the energy needs of this country.

One of the big issues in that bill, of course, was the fact that this substitute fuel that had been manufactured around the country, MTBE—what the bill proposed is that you just simply forget the fact that companies that used MTBE polluted the ground, and that people have suffered from it.

No one knows of a better example of that than what took place in Utah, Nevada, and California. MTBE polluted the water systems there. These companies have had to respond in damages as a result of litigation filed by the water entities in that area. So what this bill would have done is taken away the right of these entities, such as in the Lake Tahoe area, to seek recourse for the damages caused by these chemicals to the water supply.

So the bill that was before the Senate, and the conference report that was defeated, was a bad bill. It was a bill that was a sop to the car manufacturers and the oil companies. That bill would have done nothing to solve the energy problems of this country.

The legislation we will be asked to work on this week, the FSC/ETI bill, has something that will help the long-term needs of the country. I hope we don't become righteously indignant as my friend did—for whom I have the greatest respect. He is a fine man, and we have worked together on a number of issues dealing with western land problems. The fact is, passing the bill that came before us, that was defeated because there weren't enough votes to go forward on the conference report, was some of the best action the Senate has ever taken. If we want to respond to the energy needs of the country, we need to do things that really help the consumers and not big oil and big auto manufacturers.

I was stunned to learn that New Yorker magazine has come out today with a story by a man named Hirsch that talks about some of the things going on in the torture chambers in Iraq, not the torture chambers that were there and run by Saddam Hussein but torture chambers that were there—I am embarrassed, humiliated, and disappointed to say—and were run by Americans. He talked about the story on public radio today, and this is a message that I understand and I think all Americans have to understand: We can't have a few enlisted people, as we refer to them—no longer draftees; everyone is enlisted—nonofficers, take the fall for what went on there. He talked about the reason pictures were taken, both the videos and stills.

I ask unanimous consent for 2 additional minutes.

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

Mr. REID. They were going to be used to show the prisoners' families and neighborhoods. That is why they

were produced. This was not something that was done by some soldiers just trying to do something to pass the time of day; the people who were in the officers corps instructed these men and women that they were to take these pictures and what they were to be used for in the future. I know some of these nonofficers did things that were wrong, and I am so grateful there were people in the military who came forward and said enough is enough. That is the reason we know about it now. But let's not have a few of the nonofficers be the scapegoats for what went on.

We are a mighty nation. We have to respond accordingly. We cannot allow a few underlings to take the fall for what obviously was a concerted action that officers were involved in. It is just a question of how high up in the officers corps the problem went.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—S. RES. 356

Mr. FRIST. Madam President, I ask unanimous consent that at 4:30 p.m. today, the Senate proceed to a resolution which is now at the desk regarding Iraqi prisoners. I further ask unanimous consent that the time until 5:30 p.m. be equally divided between the two leaders or their designees; provided further that no amendments be in order, and at 5:30 p.m., the Senate proceed to a vote on the adoption of the resolution, with no intervening action or debate. Finally, I ask unanimous consent that immediately following the vote, the preamble be agreed to.

Mr. REID. Madam President, I would ask the leader to modify his agreement to allow Senator DURBIN to use 15 minutes of our time during the debate time the Democrats have under this proposed unanimous consent request.

Mr. FRIST. No objection.

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

The Senator from Illinois.

IRAQ PRISONER ABUSE AND WILLIAM HAYNES NOMINATION

Mr. DURBIN. Madam President, I come to the Senate floor with a heavy heart. As so many other Americans, I am horrified at the graphic images of American soldiers abusing Iraqi soldiers and prisoners. We are in a situation today where our troops in the field in Iraq and Afghanistan have performed millions of acts of kindness and good will and bravery which, sadly, have been overshadowed by the recently disclosed photographs. That is a reality.

The war in Iraq is more dangerous today because of the scandal at the Abu Ghraib prison, and our standing in the world is being challenged. A nation which believes in the rule of law and democracy must demonstrate that in its own conduct. Our conduct is being called into question.

I am very concerned that we have reached this point. I am concerned that statements from the Bush administration, sadly, over the last 2 years have sent a message that we were prepared to bend some of the time-honored rules and standards when it came to the treatment of prisoners of war. Over 2000 years ago, the Roman orator Cicero said: Laws are silent in time of war.

In modern times, we have rejected this proposition. Some voices are now calling on us to turn back the clock, but we can't do that. That is not America. That is not what we are all about. Our great country was founded by people fleeing governmental repression. Our founders wanted to ensure that the United States would not oppress its citizens even during time of war, and that is why they included a prohibition on cruel and unusual punishment in the Bill of Rights of the Constitution.

After World War II, the United States and our allies, horrified by the genocidal practices of Nazi Germany, created a new international legal order based on respect for human rights. One of the fundamental tenets was a universal prohibition on torture and ill treatment. Each year Amnesty International and even our State Department issue report cards on countries around the world as to whether they are living up to that standard. Imagine what that report will look like the next time it is issued by our own Department of State.

In light of the horrific abuses that have come to light in recent weeks, we ought to take a moment to review the legal order that was created after World War II. International law absolutely prohibits torture as well as ''cruel, inhuman or degrading treatment.'' The Universal Declaration of Human Rights states unequivocally:

> No one shall be subject to torture or cruel, inhuman or degrading treatment or punishment.

The United States, with a majority of countries in the world, is a party to two treaties that contain absolute bans on torture, cruel and inhuman degrading treatment: The International Covenant on Civil and Political Rights and the Convention against Torture.

The Geneva Conventions govern the status and treatment of those in a wartime detainee situation. The U.S. Government has long held that as a party to the conventions, we are legally bound by its terms. The Geneva Conventions make clear that there are no exceptions to this prohibition against torture and such treatment during armed conflict.

Article 13 of the Geneva Conventions says: Prisoners of war must at all times be humanely treated. Prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.

Article 14 of the Conventions states: Prisoners of war are entitled in all circumstances to respect for their persons and their honor.

Article 17 states: No physical or mental torture, nor any form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatsoever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

The United States of America is a signatory to this international agreement. Army regulations implementing those provisions repeat these standards and make it clear that they apply to the men and women in uniform.

International law, U.S. law, and Army regulations speak clearly. Nonetheless, as we have learned in recent weeks, abuses took place at Abu Ghraib prison that clearly violate these standards. To quote army MG Antonio Taguba's report:

> Between October and December 2003, at the Abu Ghraib Confinement Facility, numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted upon several detainees. This systemic and illegal abuse of detainees was intentionally perpetrated.

The report describes ''the intentional abuse of detainees by military police personnel,'' including ''punching, slapping, and kicking detainees,'' ''using military working dogs, without muzzles, to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee,'' ''breaking chemical lights and pouring the phosphoric liquid on detainees,'' ''threatening detainees with a charged 9m pistol,'' ''beating detainees with a broom handle and a chair,'' and ''sodomizing a detainee with a chemical light.''

Importantly, the Taguba report concludes that the military police were not trained or put on notice in other ways that these kinds of abuses were impermissible and would not be tolerated.

Let me say, before I read on, that you would know by human instinct that the things I have just read were wrong. You should know at the moment such an order is given that it is an unlawful order. But the fact is, when General Taguba looked into the background and training of these soldiers, little or nothing was done to prepare them for their assignment.

I will read further from the Taguba report:

> Neither the camp rules nor the provisions of the Geneva Conventions are posted in English or in the language of the detainees at any of the detention facilities . . . There is a general lack of knowledge, implementation, and emphasis of basic legal, regulatory, doctrinal, and command requirements . . . I find that the 800th MP Brigade was not adequately trained for a mission that included operating a prison or penal institution at Abu Ghraib Prison Complex.

Unfortunately, the abuses in Iraq are, in some ways, the logical byproduct of the administrations's policies. In the aftermath of 9/11, the Bush administration made it clear that they believed that international legal order,

which served us so well during the cold war, was not good enough for the war on terrorism.

The administration has created a secret detention system, outside the strictures of domestic and international law, that stretches from Norfolk, VA, and Charleston, SC, where American citizens Jose Padilla and Yasser Hamdi are detained as enemy combatants, to Guantanamo Bay, where hundreds have been detained since the commencement of hostilities in Afghanistan. The administration denies public access to these detainees and asserts that the Geneva Conventions do not apply to the war on terrorism.

A Washington Post editorial entitled ''System of Abuse'' alleges:

> Similar mistreatment of prisoners held by U.S. military or intelligence forces abroad has been reported since the beginning of the war on terrorism. A pattern of arrogant disregard for the protections of the Geneva Conventions or any other legal procedure has been set from the top, by Mr. Rumsfeld and senior U.S. commanders.

Some of the most flagrant legal violations have taken place at Guantanamo Bay. The administration claims that the detainees are not entitled to the protections of the Geneva Conventions, though they may be treated in accordance with some provisions of the conventions ''to the extent appropriate and consistent with military necessity.''

There is no room for hairsplitting when it comes to the law. This kind of policy sends a signal to lower ranking officials that the law is an obstacle to be overcome, not a bright line that cannot be crossed.

Contrary to this position, the Geneva Conventions protect all captured combatants and civilians. The official commentary on the conventions explains: ''There is no intermediate status; nobody in enemy hands can fall outside the law.''

The Geneva Conventions do not allow the hairsplitting which this administration has engaged in at Guantanamo and other places where there are detainees in this war on terrorism.

Administration officials claim that none of the Guantanamo detainees qualify as POWs. However, under article 5 of the 3rd Geneva Convention, captured combatants are presumed to be POWs, and must be treated as such, unless and until determined otherwise by a competent tribunal in an individualized proceeding. The U.S. Government has long abided by this principle, e.g., the U.S. convened more than 1,000 such proceedings during the gulf war. Military regulations state, ''When doubt exists as to whether captured enemy personnel warrant POW status, Art. 5 Tribunals must be convened.''

The Red Cross, which typically refrains from public comment on its visits to wartime detainees, has taken the unusual step of criticizing the Guantanamo Bay detentions. They said:

> The [Red Cross's] main concern today is that the U.S. authorities have placed the internees in Guantanamo beyond the law. This means that, after more than eighteen months of captivity, the internees still have no idea about their fate, and no means of recourse through any legal mechanism.

Since 9/11, there have been persistent reports that U.S. interrogators have used interrogation tactics that may rise to the level of torture or cruel, inhuman and degrading treatment.

For example, a December 5, 2002, story in The Washington Post reported on the widespread allegations that the United States was using so-called ''stress and duress'' techniques, including sleep, food, water, or sensory deprivation, and forcing detainees into uncomfortable or painful physical positions.

According to The Post, an unnamed administration official said, ''If you don't violate someone's human rights some of the time, you probably aren't doing your job. I don't think we want to be promoting a view of zero tolerance on this.''

The use of these techniques, which are also known as ''torture lite,'' violates prohibitions on torture and cruel, inhuman, and degrading treatment. The State Department has repeatedly characterized the use of such tactics by other countries as torture, plain and simple.

Our own State Department has accused other countries that have tried to rationalize this treatment as being engaged in torture.

In Israel, a country that has grappled with terrorism for decades, the Supreme Court held that ''stress and duress'' techniques interrogation techniques violate international law and are absolutely prohibited. As the Court explained:

> These prohibitions are ''absolute.'' There are no exceptions to them and there is no room for balancing. Indeed violence directed at a suspect's body or spirit does not constitute a reasonable investigation practice.

Guantanamo interrogators have reportedly used these tactics. There is a disturbing link between Guantanamo and the abuses in Iraq. MG. Geoffrey Miller was the commander of the Guantanamo Bay detention facility. In late 2002, Miller reportedly asked the Pentagon to approve the use of some ''stress and duress'' techniques. In April 2003, the Pentagon approved the use of these techniques.

The Defense Department's general counsel was involved in creating guidelines. That is an important element for us to consider regarding the nomination before us today.

In August 2003, Miller, the Guantanamo commander, visited Abu Ghraib prison to examine interrogation practices there. According the Taguba report, Miller recommended that military police, who were serving as prison guards, become ''actively engaged in setting the conditions for successful exploitation of internees.'' The Taguba report criticized Miller's recommendation which the report said would violate Army regulations and ''clearly run counter to the smooth operation of a detention facility.''

There is another key player who Congress need to question closely, William Haynes, who is the Defense Department's general counsel. As the top lawyer at the Pentagon, Haynes was intimately involved in crafting the legal standards for the war on terrorism and the war in Iraq, including the guidance regarding ''torture lite.''

Last year, President Bush nominated Mr. Haynes to be a judge on the 4th Circuit Court of Appeals, the second highest court in the land.

When Haynes was nominated, I and many of my colleagues on the Judiciary Committee were already very concerned about the Defense Department's legal policies related to the war on terrorism and the war on Iraq. So, we questioned Haynes closely.

Following his hearing, I sent Haynes a number of written questions. He failed to respond to some of my questions and many of the answers he did provide were not responsive. He answered several questions by citing government briefs. He refused to respond to other questions because he ''may or may not have been called to provide advice'' on the subject in his official capacity.

I sent a followup letter to Mr. Haynes, expressing concern about his nonresponsiveness and giving him another opportunity to respond to my questions related to torture of detainees and internees, and POWs.

His second set of answers was not much better than the first and he still failed to respond to many of the questions I asked. Let me offer a couple of examples.

I asked Mr. Haynes about views he expressed in a speech to the Federalist Society. Speaking about the detention of enemy combatants, he said: ''Congress specifically authorized the President not only to use deadly force, but also an lesser force needed to capture and detain enemy combatants to prevent them from engaging in continued hostilities against the United States.'' I asked him:

> Do you believe that the Executive could use deadly force against an American citizen enemy combatant in the United States instead of apprehending him or her? If yes, please explain. If no, how do you explain your statement quoted above?

In his first set of answers, Mr. Haynes responded by simply citing to a government brief, ''The Government's position concerning the statutory authorization of September 18, 2001 has been most recently articulated in its brief filed in opposition to petition for the writ of certiorari in Hamdi v. Rumsfeld.''

I asked Haynes for a more responsive answer.

Keep in mind he is the general counsel for the Department of Defense responsible for establishing the legal standards under the Geneva Conventions and American law and military regulations on the treatment of prisoners and detainees.

I am asking him specifically to tell me the standards he used. These questions were sent to Mr. Haynes months before the scandal at Abu Ghraib prison. He continued to be evasive. He again cited a Government brief instead of explaining his views. He carefully avoided answering directly any of the questions which I asked him.

I asked Mr. Haynes about the failure to provide article 5 tribunals to detainees at Guantanamo Bay. The U.S. Government has long abided by this practice and U.S. military regulations provide detailed procedures for article 5 tribunals.

I asked Mr. Haynes:

> Have the detainees been provided with the process outlined in [U.S. military] regulations?

He responded by asserting the screening process for detainees ''goes well beyond what article 5 requires.'' But he did not respond to my question:

> Have the detainees been provided with the process outlined in U.S. military regulations?

He failed to respond. That, unfortunately, is the pattern we have seen with Mr. Haynes and this nomination.

These questions sent by Members of the Senate to nominees are more than an academic exercise. We want to establish for the record exactly the role Mr. Haynes and others played, if any, in establishing the interrogation tactics and techniques which have now been dramatized so negatively to the world.

Mr. Haynes cannot expect the vote of this Senate to the second highest court of the land by being evasive on this critical issue at this important moment in our history.

Torture and cruel, inhuman, and degrading treatment are wrong, illegal, un-American, and totally counterproductive in the field of intelligence.

As the Israeli Supreme Court reminded us:

> Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the Rule of Law and recognition of an individual's liberty constitutes an important component in its understanding of security. At the end of the day, they strengthen its spirit and its strength and allow it to overcome its difficulties.

Those inspiring words come from the Supreme Court of the Nation of Israel, a nation which battles terrorism every day. They have rejected the easy way out, torture ''lite,'' stress and duress. They have decided that does not make them any safer as a nation, and it degrades their reputation in the world community. The United States can do no less.

Since the horrific terrorist attacks on 9/11, our commitment to this principle and values has been tested. As we withstand repeated warnings of possible terrorist attacks, we may be tempted by the notion that torture is somehow justified, but it is not. We must resist the temptation.

In his classic novel ''The Brothers Karamazov,'' Dostoevsky posed the question eloquently:

> Imagine that it is you yourself who are erecting the edifice of human destiny with the aim of making men happy in the end, of giving them peace and contentment at last, but that to do that it is absolutely necessary, and indeed quite inevitable, to torture to death only one tiny creature, the little girl who beat her breast with her little fist, and to found the edifice on her unavenged tears—would you consent to be the architect on those conditions?

No, America must not engage in torture and cruel, inhuman, and degrading treatment. Torture is wrong. We have said that unequivocally for 50 or 60 years. It is one of the values and principles that guides our Nation.

As Thomas Paine said:

> He that would make his own liberty secure must guard even his enemy from oppression.

Torture is an ineffective counterterrorism tactic. It produces unreliable information. When our Government engages in these kinds of abuses, we project a negative image abroad, creating anti-American sentiment around the world that is virtually impossible for us to deal with. If we engage in this sort of activity, we run the risk of subjecting our men and women in uniform and other American citizens not only to a dangerous wartime situation but to torture themselves if they are ever detained or captured.

Our Nation has been a beacon for democratizing forces around the world as they challenge repression and human rights violations.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. We extend whatever time the Senator from Illinois needs.

Mr. DURBIN. I ask for 1 additional minute.

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

Mr. DURBIN. Madam President, our Nation has been a beacon for democratizing forces around the world as they challenge repression and human rights violations. The American exemplar inspired many to shed the yoke of communism and move toward democracy. In an era where we have emerged as a superpower, the world looks to us for leadership, inspiration, and our values. When we curtail individual rights, other nations follow suit and democracy and human rights suffer.

I have sent a letter to the chairman of the Senate Judiciary Committee, Senator ORRIN HATCH of Utah. I have asked Senator HATCH to reschedule a hearing for Mr. William Haynes whose nomination is currently on the calendar. Mr. Haynes, now more than ever, must answer these important questions about the role he played as general counsel at the Pentagon. If he had nothing to do with this policy, he can make that eminently clear, but if he did have something to do with it, I think we need the answers to these questions before we, in good conscience, are asked to vote to support his nomination to the second highest court in America.

I yield the floor.

CONDEMNING ABUSE OF IRAQI PRISONERS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the resolution, which the clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 356) condemning the abuse of Iraqi prisoners at Abu Ghraib prison, urging a full and complete investigation to ensure justice is served, and expressing support for all Americans serving nobly in Iraq.

The PRESIDING OFFICER. The majority has 32 minutes remaining. The minority has 10 minutes remaining.

The Senator from Wyoming.

Mr. THOMAS. Madam President, I am pleased we have this resolution before us. I think all of us share the same thoughts about this whole Iraqi prisoner abuse issue. We are all very disappointed and very troubled about the events in the prison. We need to move forward to resolve this issue. We need to do what needs to be done as a followup. We do not need to make it into a political operation for the next week because we have other things to do in Iraq. But we must take care of this issue because we, as Americans, hold ourselves to a higher standard.

These are appalling actions of those responsible for the treatment of the detainees in Iraq. It falls far short of any of those standards. Our credibility has been called into question in the eyes of those we are trying to help, as well as the rest of the world. These incidents of cruelty and mistreatment at the hands of American service men and women are inexcusable, and certainly it is a very small group of our service people. Unfortunately, the foolish actions of a few have cast a pall on thousands of our military. All of us know that is not the case, and all of us who have served in the military know these are not the kinds of activities we are ordered to do.

There have been mistakes, and we need to determine how those happened and see they do not happen again so our folks can continue at the very hard job they have.

These terrible events have dealt a blow to what we are seeking to do. I want to say again our task is to win in Iraq, and this is a deterrent from that, but we can overcome it and move on with the task.

This also makes it more important that we win at home. With the media and the emphasis that has been put on this issue, it detracts from our job. We cannot let that happen. If we are really as strong in our feeling about our service people overseas, we ought to make sure we support what they are doing and continue to give them that support.

We as a nation must deliberately correct the situation and ensure it does not happen again. All of us want to do that.

Democracies hold themselves accountable. That is our task. We can do

it, and we will do it. We acknowledge we have done wrong, and we will move to correct it. That is what this resolution is about. That is what the hearings are about. That is what holding people in authority responsible is about. We need to move on that initiative. We need to get the facts. We need to make the whole effort more transparent in the future, of course, as all Government activities should be transparent.

The process needs to move swiftly and decisively. We need to do this job and get on with the rest of the job.

For those who committed the acts and those who enabled them, we need to do all we can in determining if there is involvement in the chain of command.

I do not think anyone denies that is what we need to do. These things that have happened are certainly fundamentally contradictory to American values. The eyes of the world are focused now on how we will react, and we have reacted. The President has reacted. The Secretary has reacted. The Congress will react. We need to ensure that it continues, but I do warn that we ought not divert all of our attention to this issue, taking it away from the overall issue that still exists. We need to be there. The stakes are simply too high to play politics with this issue, and unfortunately that might well happen.

So we need to proceed. We need to make everyone understand that these are not the kinds of things that the United States will live with and let happen. We will do something about it. We need to bring those to justice who were involved. We will go forward and we will win in Iraq. First, we must win in the United States.

ENERGY POLICY

Earlier, I listened to the assistant minority leader talk about energy and say that the things we are doing now have nothing to do with an energy bill. I think that is absolutely wrong. What we are talking about is an energy policy that will last somewhat over time but is designed to change some of the things that we are doing in energy and energy use that are causing us part of the problems today. Will they reflect some change in the next day or two? Of course not. But we need to be working forward at doing something about the long-term impact of energy.

I will briefly talk about a few of the things that need to be done because it is just impossible to say they do not have an impact. Keep in mind that we have had an energy bill now last year and this year, and we tried to bring it up on the Senate floor. It passed here, went to conference, came back, and would not be accepted again. We have been obstructed and cannot move forward in doing something with the broad energy bill that has to do with energy efficiency. Again, it is going to take some time to do that, but it is very clear that consumption has gone up faster than has production. If we continue to do so, this will be the case. Even more importantly, our consumption will grow and our production—if we keep it as it is—will soon be overcome and will not grow. So we have to talk about issues like renewable energy. We have to talk about alternative energy. Those things are in the bill. That is what we are talking about doing, seeing if we can do some things differently than we have in the past.

We also have some incentives to continue like in marginal wells. Marginal wells, even with the price as high as it is, if there is not some incentive for a well that only delivers two, three, or four barrels a day, we do not produce them, but in total they still have a large impact on what we are doing.

We need to make some changes in the way we use energy. We are using oil, for example, to heat homes. We are using oil to do a lot of things other than make gasoline. We have other energy sources that could be used for that purpose. The same is true with natural gas. We are using natural gas for many things. For instance, the electric-generating plants that have been built in the last 10 or 15 years have all been natural gas plants. Natural gas is so much more flexible for other uses: we ought to be using coal; we ought to be using nuclear for the generation of electricity so we can use natural gas for other purposes.

So to say this bill has nothing to do with our problems with energy is absolutely without merit. It does have a great deal to do with it.

We talked about some things that would have a pretty immediate impact, such as doing something on the Indian reservations to promote production. They would like to do that, but we have not really been able to make it happen. We are talking about doing something with hydrogen, fairly short term, to make hydrogen part of automobile fuel, and use coal and make hydrogen for automobiles.

We can talk about the price of gas next week. I would love to be able to do something about that, and hopefully maybe we can, but the real thoughtful question is, where are we going to be in 5, 10, or 15 years from now to meet the needs which will constantly be growing? We need to have a plan. We need to have a policy. This Congress has absolutely refused to move forward with the policy, along with many other things, and has strictly been obstructed from moving forward. So every week we are going through the same things because we cannot get them passed. Something needs to be done.

I think we have some very important issues before us. First of all, we have this resolution. I favor the resolution, which says very clearly how we feel about what happened in the prisons in Iraq. It says very clearly what we ought to be doing about those responsible for those acts. It says very clearly that we ought to make sure that does not happen in the future and that we can go back to doing what we are supposed to be doing. I hope we do not make such an issue in terms of accomplishing things that we detract from the real purpose of our being in Iraq, and that is to win freedom for the Iraqi people, do something about terrorism, and be able to bring our men and women back to the United States after the victory.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. THOMAS. I ask unanimous consent that the time in the quorum call be equally divided between the two sides.

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

Mr. THOMAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, I just returned from my home State of Florida, and I cannot state the number of people who came up to me over the course of the weekend to ask me about the situation in the prison in Baghdad and the question of what should be done with Secretary Rumsfeld.

My reaction is, we have an ongoing investigation. I would like to see some more results of that investigation, in addition to what we have already been shocked with in the graphic photographs—although I understand we have ''not seen nothing yet,'' that we are going to get more graphic photographs, including some videos that are fairly descriptive of behavior that is clearly not behavior approved in the normal course of the standards of Americans.

Of course, offensive conduct by Americans is made all the more difficult as we are in unsettled parts of the world in a place of Arab culture and the Muslim religion.

Often, my response has been specifically about Secretary Rumsfeld; that this issue is much greater than any one Secretary of Defense. The issue comes down to how America has planned for the postwar occupation. We did not do a very good job of planning for the postwar occupation.

This Senator happens to be a Democrat from Florida, but that does not have anything to do with this. What I am about to say is very bipartisan, or nonpartisan. One of the committees on

which I have the privilege of serving is the Senate Foreign Relations Committee. The chairman is a Republican and his name is DICK LUGAR of Indiana. He has been saying very similar things to what I am about to say, as has his ranking Republican member, Senator CHUCK HAGEL of Nebraska, and certainly the ranking Democrat and former chairman, Senator JOE BIDEN of Delaware. It is this: We had a brilliant military campaign in Afghanistan and again in Iraq, led, by the way, by a Floridian, GEN Tommy Franks.

To give credit where credit is due, I include Secretary of Defense Rumsfeld. He ought to be given credit. It was a brilliant military campaign, blending the use of military forces—specifically, special operations forces in Afghanistan—with other agencies, such as the CIA. The CIA was first in Afghanistan. The first American killed in Afghanistan was Mike Spann, a CIA agent detailed out of Uzbekistan.

So, too, in the runup to the military campaign in Iraq, a brilliant military planning in the war effort. We took Iraq in much fewer days than General Franks had ever planned. Of course, that is what he is supposed to do as a combatant commander, plan for the worst and be very conservative in the planning. The military campaign was spectacular.

The problem was, before the war in Iraq, in the Senate Foreign Relations Committee, over and over we asked the administration—who is ''we''? It is all of those Senators I just talked about, the bipartisan leadership of the Senate Foreign Relations Committee—asking over and over, peppering the administration with questions: What are your plans? Well, we do not have them. Well, bring them to us. And they would come back with some cursory plan.

Of course, we are now seeing the results.

The prison problems are a manifestation of just one element of the lack of a plan, of what it is to be an occupier in a Muslim country and then not planning for the sensitivities of being an occupier in a Muslim country.

What do we do now? The criminal investigation will go forward. The rest of the reporting is going to go forward, and we will find out what to do with regard to the prisons. But what we ought to be doing, and I think we are hearing this chorus from a number of Members in a bipartisan way, coming out of the several committees—not the least of which is the Foreign Relations Committee—the President ought to convene the major countries of the world, along with the Arab neighbors of Iraq in the region, and they should forge consensus. When somebody says that consensus cannot be reached, all you have to do is explain to those countries it is in their naked self-interest to try to get a stabilized Iraq.

France, for example, has a Muslim population somewhere between 8 and 12 percent. Convene those nations and then invite in a NATO force led by the United States. Go to the United Nations, get a senior international diplomat to come in and start working after June 30 to build Iraq with the institutions so it can go to elections.

We will be there a long time. Anyone who doubts that, we are in the ninth year in Bosnia. It will take a lot of troops. Eventually, we will see our troops will have to be more than what we are planning for now with the 130,000 that we have there.

With those few short comments prior to the voting on this resolution, I thank the Senate for the privilege of addressing the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH pertaining to the introduction of S. 2398 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. MIKULSKI. Mr. President, I want to join my colleagues and so many others around the country and around the world to condemn the treatment of prisoners at Abu Ghraib prison in Iraq. What happened there is deplorable. It is despicable, and it is dishonorable. It does not reflect the values of the United States of America or the code of conduct for the United States military that so many of our brave men and women live by every day.

This has been a terrible blow for the vast majority of our troops who go by the book, serve America with honor, and put their lives on the line every day to promote and protect the democratic principles that we hold dear. It is also a terrible blow for America's standing around the world. Today, our troops are less secure. Instead of winning hearts and minds on the road to a free and democratic Iraq, our troops must now overcome tremendous anger and mistrust.

That is why we must take immediate steps to: investigate these abuses, hold accountable those responsible, commend those who did the right thing, and correct the problems quickly and thoroughly.

First, there must be thorough and rigorous investigations. Congress and independent investigators in the military and the intelligence community must get the facts: what are the abuses, how widespread are they, how did they come to happen, and what did the military and civilian leadership do, or not do, to correct them. On charges of such a grave nature—that are so detrimental to America's standing in the world—there cannot be enough transparency and public scrutiny.

The result of these investigations must be accountability at all levels of the military and civilian chain of command—up to the highest levels. Why do the Privates and Specialists face prosecution, but the Generals get letters of reprimand? Those who participated or were complicit in abuses—or created a climate that allowed them to occur—must be held accountable, no matter their rank or title.

The world has witnessed shameful acts committed by people who represent the United States in Iraq. Now America must show the world how United States of America exercises the true principles of democracy—upholding the rule of law by administering justice in a swift, transparent and fair manner.

We should also commend those who did the right thing, like Specialist Darby, who reported the abuses, General Sanchez, who launched an investigation, and General Taguba, who issued a no-holds-barred report.

The problems that led to this must be corrected quickly and thoroughly. Our soldiers in Iraq must get the training and supervision they need to do their jobs with honor and in accordance with international law. And if heads need to roll to correct the problem, so be it. The world must know that America holds to the highest standards of military conduct and human rights protections. Anything less is unacceptable.

The resolution we will vote on this evening commends our soldiers, condemns the abuses and calls for swift justice and accountability. Yet it should go further and demand accountability at all levels.

Mr. President, I hope the Senate will speak with one voice by unanimously supporting this resolution.

• Mr. COLEMAN. Mr. President, I strongly support the resolution which the Senate is considering today.

The world has witnessed images that do not represent America's cause for freedom, democracy and human rights. While our American soldiers toil and sacrifice to bring justice and opportunity to Iraq, there is a small group of soldiers who have undermined the work of this noble mission through their despicable behavior.

The acts that took place at Abu Ghraib prison were simply inexcusable. The violation of any Iraqi prisoner's human rights, dignity or life by any member of the American military—for whatever reason—defies not only international law, but basic human decency. These acts risk undermining the mission, and put at risk other American men and women working for freedom in Iraq.

I am concerned that Congress was not adequately informed of the abuses and the investigations. Secretary Rumsfeld's appearance on Capitol Hill last week was welcome, and I expect that he will continue to make himself available to the Senate.

I deeply appreciate the President's willingness to speak candidly and apologetically to the Arab world. I support the decision to offer compensation to the victims, and to put together commissions to ascertain how widespread the abuse and humiliation were, and what can be done to prevent future violations. I am hopeful that these steps will be part of a much needed

process to make amends for the great damage that has been done by a few men and women.

Abu Ghraib was home to torture under Saddam Hussein's regime, and has not yet overcome its notorious reputation. Consequently, I believe that, should the Iraqi people wish it, this prison should be wiped off the map. Tearing down Abu Ghraib prison would symbolize the definitive end to the era of torture—an era which preceded Operation Iraqi Freedom, and must be put to rest once and for all.●

Mr. HATCH. Mr. President, I rise today to echo the horror that all of our citizens felt when we first viewed the photographs taken at Abu Ghraib prison. It is a stain upon the honor of our nation and the actions of these few individuals have undermined many of the substantial gains and sacrifices that our service men and women have achieved since the events of September 11th.

At the same time, it is important to remember that these are the disgraceful actions of a few and by no means do they represent the hard work and honorable service of the 138,000 soldiers, sailors, airman, marines, and coast guardsman that are serving our country in Iraq and surrounding countries.

During this trying time, I am also reminded that one of our troops' primary responsibilities is to do what is necessary to minimize civilian casualties. As some of my colleagues have mentioned on numerous occasions, one of their most vivid memories of the war was when a young American service member ran out onto an exposed bridge in order to save a young Iraqi woman. This is just one of many examples of the high personal, professional and moral conduct that is displayed every day by our Nation's service members.

The question then arises, how do we remove this stain on our honor? Our commander-in-chief, the President, as always, is leading the way by expressing his outrage over these actions and has apologized to the world.

The Department of Defense has followed the President's example.

In his very forthcoming and candid comments before the Senate Armed Services Committee, the Secretary of Defense apologized and took full responsibility for these mistakes.

The statements by President Bush and Secretary Rumsfeld were the hallmarks of leadership and show the world what is best about the United States. It is the sign of a great nation to acknowledge openly when laws have been broken, bring those violators to justice, and apply the law equally to all. We are working with the Iraqi people to use these same legal principles as the cornerstone of their developing legal system. Therefore, it is my hope that the results of the trials to come will form the real enduring image in minds of the Iraqi people.

I strongly support the resolution that is before the Senate. It adds our apology to those offered by the President and the Secretary of Defense; it rightly commends the vast majority of service members who are serving nobly abroad to support liberty; and it reiterates our commitment to bring to justice those who broke the law.

It is a beginning to set things right.

However, I am dismayed to learn that some have taken this opportunity to make a political point. They have called on the Secretary to resign. It is troubling that some would take advantage of these horrific acts in order to achieve a political gain during an election year.

This is a Secretary of Defense who has continued to show that he is a man of honor by taking direct responsibility for the actions of a few rogue individuals.

Secretary Rumsfeld has proven conclusively time and again that he is a positive agent for change at the Department of Defense. I know of no other individual who will engage in a more aggressive investigation of the events that have occurred and will institute whatever changes are necessary to prevent these violations from ever happening again.

We have much to do to repair our credibility.

The President's apology, followed by the acceptance of responsibility by Secretary Rumsfeld and the actions of the Senate today, begin this process.

However, this process will also require a rigorous investigation. There is one man who I know who is up for that challenge and it is Secretary Rumsfeld. This great Nation must stand behind him.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. EDWARDS. Mr. President, although I must be necessarily absent for the vote this afternoon, I want to express my support for this important resolution and briefly speak on the issue that has shocked all of us during the past two weeks—the horrific abuse sustained by the prisoners and detainees in Iraq.

All of us condemn what has happened in Iraq's prisons. The acts the world has now seen are deplorable; they are inhumane; they are appalling. Every day brings new evidence of horrors. These actions are completely inconsistent with our values, and completely counterproductive to our efforts to help the Iraqi people achieve security, stability, and freedom.

These images cast a dark shadow on all our efforts in Iraq, and they make the work of our brave military men and women in Iraq only harder. These shameful acts of a few have put many in harm's way. As we condemn these acts and punish those responsible all the way up the chain of command, we must continue to support our soldiers in Iraq and around the world. We cannot let the images and stories from the last week—and the images and stories that will certainly emerge in the coming weeks—distort the fact that the vast majority of men and women serving their country today in Iraq and elsewhere are doing so with great dignity, skill and patriotism.

This is not just a major setback for our efforts in Iraq. Just think about the damage that these acts have done to America and our authority to promote peaceful, democratic change around the world. At the same time when we are trying to reach out to Arab countries—and to help their societies develop more opportunities so their people can live in greater freedom—these photographs and the behavior they depict do tremendous harm to America's ability to lead.

That is why we must stand together today to condemn these actions in the strongest terms. But our words will not be enough. We must follow up our words with deeds. There must be a full investigation into how these acts were allowed to happen, and an exhaustive effort to see that measures are put in place so that they never happen again. Many questions must be answered, and we must have the administration's full cooperation. The American people—and the Iraqi people—deserve answers. We must hold accountable those responsible all the way up the military chain of command, and they must be punished to the fullest extent of the law.

I also believe that these acts reveal such a fundamental failure of leadership that we need to have accountability here in Washington. We cannot just blame this on the individual soldiers involved. We must show the world that no one can shirk responsibility no matter how high that responsibility goes, or what office one might hold.

So if we want to signal to the rest of the world that we in fact emphatically reject what happened; if we want to send the message that what happened in that prison was inconsistent with American values; if we want to say to the rest of the world that we as a nation want to change course here, then we need to hold our leadership at the highest levels accountable.●

Mrs. FEINSTEIN. Mr. President, I rise today to offer my strong support for a Senate resolution condemning the abuses in United States detention facilities in Iraq.

This resolution makes clear that the abusive behavior we have seen graphically portrayed in photographs, detailed in the report of MG Antonio Taguba, and described by Secretary Rumsfeld in testimony last week, are unacceptable.

Such conduct is wrong, un-American, and inconsistent with the history and tradition of our military services. It is critical that the Senate voices its absolute rejection of the conduct, and this resolution does just that.

It must be understood that this resolution, however, is narrow and focused. It is confined to expressing our views on the specific conduct at issue. It does not purport to be a comprehensive view

on the implications of this growing scandal, nor a conclusive statement of a congressional investigation into this incident, and its ramifications.

I believe that such an investigation is necessary and should be undertaken as soon as possible. We need to know why the Geneva Convention appears to have been ignored. We need to understand how such a debacle could have happened, and what orders were given by who, and when, which governed the prison at Abu Ghraib. We need to know why the reports of the Red Cross and others were not responded to in a comprehensive and timely manner. And why was this problem concealed for months from the Congress and the American people.

If the conflict in Iraq is seen as a battle for the hearts and minds of the Iraqi people, then it is unfathomable how such a devastating failure in that battle could be allowed to happen. This is not just about personal accountability, or abuse—it is about the conduct of a conflict upon which the future of our security may depend.

It is also important to recognize that planning and implementing a military detention and interrogation operation is a necessary and important part of a competent and professional war plan. There are three reasons why this is so:

First, the information gained from proper interrogation is critical to protect our warfighters—it allows us to deal with the tactical risk on the ground in Iraq. Simply put, military interrogation is part of the overall intelligence-gathering mechanism which is designed to provide timely, accurate information to front line troops and strategic planners. Done correctly, a well-run, properly administered military detention system will yield information that will keep our men and women in uniform alive in the face of an increasingly violent insurgency.

Second, detention and interrogation is inherently risky, and that risk is a moral risk. It is not easy to run prisons, interrogate detainees, and maintain order in a manner consistent with our Nation's moral values. There are certainly some guides to help manage this risk: the Geneva Convention, for instance, provides a well-established set of guidelines that can not only allow American soldiers to adhere to international law, but help them ensure that their conduct is acceptable to Americans and to our moral code.

Third, it should be apparent that the administration of a military prison system inside Iraq is a clear danger point in the context of our strategic goals—prisons pose a necessary, but important, strategic risk. Failure to adhere to the highest standards of conduct will fuel the increasingly hostile view of Americans and American policy in Iraq and the Middle East.

I have reviewed Secretary Rumsfeld's testimony, as well as other information provided in public statements of the administration and private briefings.

I am becoming increasingly concerned that the Secretary, and the Administration, are missing the point of this growing scandal.

Of course there is a need to investigate individual wrongdoing and hold people accountable for their acts according to the Code of Military Justice. But much more needs to be done. I see little evidence that there has been adequate planning for the management and function of military detention facilities in Iraq, and this failure needs to be addressed now.

This is critical for the three reasons I outlined above. In essence, military detention facilities should be looked upon exactly like other elements of war-planning—necessary to fight successfully, but carrying risks to our soldiers and to our mission.

I am concerned that this function has not been adequately planned. It does not surprise me that we see the lack of planning becoming apparent in the revelation of individual misconduct, but I think it is critical that the Department of Defense take on the larger issue, and take it on immediately.

The situation is grim. Each of the three risks I mentioned have come to be.

Some of our soldiers, inadequately supervised and poorly commanded, have succumbed to the moral hazards of running a prison. I do not excuse their actions, and they will be held accountable for their actions. But it is predictable that without adequate command and control such conduct will happen in a prison, and for that Secretary Rumsfeld and senior Army commanders are responsible.

It is clear that the potentially valuable source of tactical intelligence that could have been gained through the competent and professional administration of military detention facilities was wantonly thrown away by allowing those facilities to degenerate into a chaotic and ungoverned free-for-all.

It is my view that there is a place for properly conducted interrogation in the context of a military detention facility.

But it seems to me that what we have seen is not overly aggressive interrogation, but wanton cruelty and abuse, unconnected with any doctrinally acceptable method of prisoner interrogation.

We will never know what potentially valuable tactical intelligence was lost in the chaos of Abu Ghraib prison, but I am confident that whatever intelligence was there was unlikely to have been elicited in that environment.

Again, Secretary Rumsfeld and senior commanders are responsible for this failure, and I call upon them to immediately remedy this situation.

We have troops on the ground, under fire, and we cannot afford to abandon a mechanism for gathering intelligence which could help make our troops safer.

Finally, the failure to run this element of our war effort competently has resulted in a catastrophic setback to our strategic interests.

It should have been self-evident that failure to run U.S. detention facilities in a professional, competent and lawful manner would, when made public, adversely affect our prospects in Iraq and in the region.

Simply put, American soldiers will come under increasing fire because of the failure to run the prisons correctly, and whatever prospects remain for peacefully transferring power to an Iraqi government have been diminished.

In sum, it is important to recognize that planning for detention and interrogation of prisoners is as much a part of war planning as making sure that there is enough gas for tanks, enough ammunition for guns and armor for our soldiers.

I am concerned that the failure to plan for this aspect of the war is consistent with a general pattern at the Pentagon—an unwillingness to plan for the realities of Iraq and the Middle East. We will all pay for that failure.

One key part of the resolution speaks to the roll of the Congress, noting that ''the best interests of the United States and the American people will be served by a full investigation by the appropriate Committees of the United States Senate exercising their oversight responsibilities.'' This is a critical point. This body must immediately begin its task of addressing this issue.

There are a few particular questions upon which I hope we will focus:

Whether, and to what extent, the conditions and procedures in Abu Ghraib and other prisons came about because of particular policy decisions by senior officials. For instance, who made the decision, reported in the media, to use prison guards to ''set the conditions'' for interrogations?

Why was the critical task of administering Abu Gharaib entrusted to soldiers without adequate training or guidance?

Who in the command structure is responsible for maintaining and administering our military program to detain and interrogate prisoners in Iraq and elsewhere?

I hope we can answer these, and other questions, and make the changes necessary to make our nation safer.

● Mr. McCAIN. Mr. President, I am unavoidably absent from the Senate this afternoon, but would like to express my strong support for S. Res. 356.

The photos and reports of abuse at Abu Ghraib prison that have emerged over the past week defy description. I condemn, as must all Americans, these horrific acts. It saddens and shames our country to see Americans perpetrate these abuses on other human beings. Their actions do not reflect the principles for which this country stands.

We have fought to liberate Iraq, and to free the Iraqi people from the murderous rule of Saddam Hussein. We have achieved great things in Iraq, but

we have much work to do. The sickening images of abuse that have emerged in the media threaten to undermine much of the good we have done. These incidents have marred the reputation of our country abroad, and have made the tasks of the brave Americans fighting and working in Iraq harder. But I am confident that the vast majority of men and women working to bring freedom to Iraq will conduct their noble mission with integrity and distinction.

Toward that end, we need to have all the facts about the abuses at Abu Ghraib and elsewhere, and we need them immediately. We cannot wait months for a new commission to issue a report, nor for new photos and details to dribble out over weeks. The American people need to know, at once, the abuses committed, punish those guilty of these crimes, and ensure that they never again occur. We must also ensure that similar abuses are not occurring elsewhere in detention centers outside Iraq. Our venture in Iraq is moral, and must be conducted with moral means. We must ensure that we are treating all prisoners and detainees humanely and in accordance with U.S. and international laws and regulations.

Mr. President, as Americans we are defined not just by the way in which we deal with our friends but by how we treat our enemies. I know that in many countries around the world, abuse of prisoners is commonplace and brutal interrogation is the norm, rather than the exception. But American, a Nation that was founded on the idea of liberty and justice for all, must hold itself to a higher standard. We liberate, not torture, and we free, not oppress.

Burned into our minds are terrible images: a hooded man standing on a box, a prisoner on a leash. These photos represent humanity at its worst, and represent everything that America is not. We must show the country and the world another image—that of Americans working with Iraqis to topple the statute of Saddam Hussein, to free the Iraqi people—truly represents who we are.●

Mr. DASCHLE. Mr. President, I rise in strong support of this Senate resolution expressing our clear condemnation of the despicable abuses of Iraqi prisoners at Abu Ghraib prison.

Nearly a week ago, I called on the Senate to clearly and forthrightly condemn the despicable acts perpetrated at Abu Ghraib prison.

The pictures and description of the treatment inflicted on Iraqi detainees was too brutal, too inconsistent with what this country stands for, and far too consequential for our troops for this body to stay silent.

Given the severe consequences on our troops and our efforts in Iraq, it is important that the Senate say to the world that:

No. 1, the Senate commends the American forces serving honorably in Iraq;

No. 2, the Senate condemns the mistreatment of Iraqi detainees and apologizes to the victims of this abuse;

No. 3, the Senate is prepared to exercise its oversight responsibility and fully investigate these incidents; and

No. 4, the United States government—both the executive branch and the legislative branch—will hold accountable all of those responsible for these despicable acts.

This resolution does each of these and makes clear that the Senate will fulfill its responsibility in the face of these troubling revelations.

That's what the resolution does. Let me say a few words, Mr. President, about what it does not do.

The resolution does not spell the end of our work, In fact, the Senate is just getting down to the business of investigating what happened and how widespread these practices are.

The Armed Services Committee has another hearing tomorrow. We look forward to hearing the testimony of General Taguba, someone who had the courage to fully document these abuses not just in Iraq but Afghanistan as well and bring them to the attention of his civilian and military superiors.

The hearing also comes as news agencies publish reports of even wider spread abuse practices in Iraq, all of which apparently began in Guantanamo when senior administration officials adopted a policy to permit interrogation tactics that this country has never before allowed. So we are at the beginning of this effort, not the end.

Nor does this resolution limit in any way whom or what Congress should and must investigate. As horrendous as they are, we are now told that these pictures may only be the tip of the iceberg. And we learned today that the International Committee of the Red Cross was expressing concerns directly to the administration as early as March 2003—over a year ago.

Lastly, this resolution does not absolve anyone. We will have done a great disservice in this investigation if only a handful of enlisted men and women are held accountable and the actions and decisions of those higher up in the military and civilian chain of command are ignored. Anyone who ordered these actions, tolerated these abuses, or contributed to an atmosphere that led to this mistreatment must be held accountable.

I join with several of my colleagues—Republican and Democrat—who have made clear that we need to ensure that the entire chain of command is held accountable for these despicable acts, and we will have failed the American people if we do otherwise.

Like most Americans, we learned about these horrific acts on national television. And like the overwhelming majority of Americans, we were shocked at the brutality the pictures depicted.

The simple truth is that America stands for democracy and the unalienable rights of individuals, and the vast majority of Americans serving in Iraq embody those principles—and do so under unimaginably difficult and dangerous circumstances.

In order to uphold the service and sacrifices of these fine men and women and to demonstrate to the world—yet again—what America truly stands for, we must send this clear message.

The stakes here could not be higher. We are at a dangerous and difficult crossroads in Iraq. If these pictures go unanswered, the consequences could not be more grave for our troops and their security, for our goal of a free and unified Iraq, and for our hope for a stable Middle East.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in 2 minutes we will be voting on S. Res. 356, a resolution condemning the abuse of Iraqi prisoners at Abu Ghraib prison. I would like to close the debate and comments today by reading the resolve clauses that follow a number of whereas statements. This is what we will be voting on in a couple minutes:

Resolved, That the Senate—

(1) commends all Americans serving nobly abroad who are advancing the ideals of freedom and democracy, and working, through the individual and collective actions of such individuals, to improve the lives of all the people of Iraq;

(2) condemns in the strongest possible terms the despicable acts at Abu Ghraib prison and joins with the President in expressing apology for the humiliation suffered by the prisoners in Iraq and their families;

(3) urges the Government of the United States to take appropriate measures to ensure that such acts do not occur in the future;

(4) believes that it is in the interests of the United States and of the people of the United States that the appropriate committees of the Senate, exercising the oversight responsibilities of such committees, and the President, through the appropriate departments or agencies of the executive branch, conduct a full investigation of the abuses alleged to have occurred at Abu Ghraib; and

(5) urges that all individuals responsible for such despicable acts be held accountable.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that I be added as a cosponsor of the resolution.

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

All time has expired. The question is on agreeing to the resolution.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Minnesota (Mr. COLEMAN), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

I further announce that if present and voting the Senator from Minnesota (Mr. COLEMAN) would vote ''yes.''

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

I further announce that if present and voting, the Senator from New Jersey (Mr. LAUTENBERG) would vote ''yea.''

The result was announced—yeas, 92, nays 0, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—92

Akaka	DeWine	Lincoln
Alexander	Dodd	Lott
Allard	Dole	Lugar
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Bennett	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Bond	Feinstein	Nickles
Boxer	Fitzgerald	Pryor
Breaux	Frist	Reed
Brownback	Graham (FL)	Reid
Bunning	Graham (SC)	Roberts
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carper	Hatch	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Stabenow
Collins	Johnson	Stevens
Conrad	Kennedy	Sununu
Cornyn	Kohl	Talent
Corzine	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lieberman	

NOT VOTING—8

Coleman	Kerry	Murkowski
Edwards	Lautenberg	Specter
Hollings	McCain	

The resolution (S. Res. 356) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 356

Whereas the United States was founded on the principles of representative government, the rule of law, and the unalienable rights of individuals;

Whereas those principles are the birthright of all individuals and the fulfillment of those principals in Iraq would benefit the people of Iraq, the people of the Middle East, and the people of the United States;

Whereas the vast majority of Americans in Iraq are serving courageously and with great honor to promote a free and stable Iraq and through such service are promoting the values and principles that the people of the United States hold dear;

Whereas Americans serving abroad throughout the history of the United States, both military and civilian, have established a reputation for setting the highest standards of personal, professional, and moral conduct;

Whereas in January 2004, a member of the United States Armed Forces reported alleged abuses perpetrated in Abu Ghraib prison during November and December 2003;

Whereas an inquiry into those alleged abuses was ordered in January 2004, and that inquiry is reported to have found numerous incidents of criminal abuses by a small number of Americans based in Iraq;

Whereas the reaction to the alleged abuses is having a negative impact on the United States efforts to stabilize and reconstruct Iraq and to promote democratic values in the Middle East and could affect the security of the United States Armed Forces serving abroad;

Whereas Congress was not informed about the extent of the alleged abuses until reports about the abuses became public through the media;

Whereas success in the national security policy of the United States demands regular communication between the President, the agencies and departments of the executive branch, Congress, and the people of the United States;

Whereas, in an interview on May 5, 2004, the President stated ''First, people in Iraq must understand that I view those practices as abhorrent. They must also understand that what took place in that prison does not represent America that I know. The America I know is a compassionate country that believes in freedom. The America I know cares about every individual. The America I know has sent troops into Iraq to promote freedom—good, honorable citizens that are helping the Iraqis every day.'';

Whereas in that interview the President further stated ''It's also important for the people of Iraq to know that in a democracy, everything is not perfect, that mistakes are made. But in a democracy, as well, those mistakes will be investigated and people will be brought to justice. We're an open society. We're a society that is willing to investigate, fully investigate in this case, what took place in that prison. That stands in stark contrast to life under Saddam Hussein. His trained torturers were never brought to justice under his regime. There were no investigations about mistreatment of people. There will be investigations. People will be brought to justice.''; and

Whereas the pursuit of truth and justice are core principles of the United States, and if the Government of the United States conducts a full investigation of the alleged abuses and holds accountable the individuals who are responsible for such abuses, the people of Iraq and of the Middle East will witness how a democracy upholds the rule of law and protects the rights of individuals by administering justice in a swift, transparent, and fair manner: Now, therefore, be it

Resolved, That the Senate—

(1) commends all Americans serving nobly abroad who are advancing the ideals of freedom and democracy, and working, through the individual and collective actions of such individuals, to improve the lives of all the people of Iraq;

(2) condemns in the strongest possible terms the despicable acts at Abu Ghraib prison and joins with the President in expressing apology for the humiliation suffered by the prisoners in Iraq and their families;

(3) urges the Government of the United States to take appropriate measures to ensure that such acts do not occur in the future;

(4) believes that it is in the interests of the United States and of the people of the United States that the appropriate committees of the Senate, exercising the oversight responsibilities of such committees, and the President, through the appropriate departments or agencies of the executive branch, conduct a full investigation of the abuses alleged to have occurred at Abu Ghraib; and

(5) urges that all individuals responsible for such despicable acts be held accountable.

Mr. MCCONNELL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

ASBESTOS NEGOTIATIONS

Mr. FRIST. Mr. President, after cloture was not invoked on S. 2290, the Hatch-Frist asbestos bill, Senator DASCHLE and I asked Judge Becker to conduct a mediation process in the hope of identifying a path to reach consensus on this contentious yet extraordinarily important issue. Judge Edward Becker was asked to focus on working with the interested stakeholders on three major issues—projections, claims values, and overall funding into the trust—understanding that there are over a dozen additional issues that remain unresolved. Our belief was that if these three issues could be resolved, it would be much easier to work through the remaining differences.

Judge Becker presided over meetings for the last 2 weeks and held his final session last Thursday. His presence was invaluable in helping to further define the issues and illuminate the differences. Throughout the process all parties negotiated in good faith and worked towards bridging the gaps. We are extremely grateful for the time, energy, and leadership Judge Becker put into working through these technical issues, and to all the parties for their steadfast participation.

Last week, Judge Becker gave us his final report on the result of his mediation. We are glad there has been movement in major areas but realize there is more work to be done. While both sides have provided new proposals, ultimately, there remains gaps in claims values, projections, and the amount of dollars needed to establish a trust.

As you know, we have been personally committed to achieving a resolution to this extremely complicated issue for some time. Many members of both caucuses have devoted countless hours of time and considerable personal energy toward this end as well. We are committed to working together to determine whether a compromise can be reached that would provide sufficient payments to asbestos victims and certainty to companies.

THE AMERICAN LUNG ASSOCIATION—A CENTURY OF EXCELLENCE

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the American Lung Association as it prepares to celebrate its centennial anniversary on May 22. It is a remarkable milestone and the leaders and members

of this impressive organization, past and present, deserve great credit for their continuing successful commitment to fight lung disease for the past 100 years. From its inception as a community-based organization formed to eradicate tuberculosis to its current initiatives to reduce smoking, improve environmental health, reduce asthma incidence, and support research on preventing and treating lung disease, the Association has been an extraordinary leader in public education and public advocacy.

The American Lung Association early mission was to combat the growing public health threat of tuberculosis a century ago. Even in 1904, the association had the creativity and visionary thinking to develop the nation's first health campaign to deal with this threat. The association developed new ways to diagnose and treat the disease and prevent its spread. Through public outreach efforts, it brought the best available technology to communities throughout the United States. In fact, the association funded the research that led to the discovery of isoniazid in 1952, which was the first drug for children with the disease and is still widely used today. The American Lung Association has long had an indispensable role in controlling the spread of tuberculosis and preventing epidemics of this disease. The Nation is very grateful for its immense contributions to public health.

In its long and distinguished history, the association has risen to the challenge of many other health threats. In 1960, the board of directors issued a policy statement warning that ''Cigarette smoking is a major cause of lung cancer.'' The statement came 4 years before the landmark ''Surgeon General's Report on Smoking and Health,'' and the association became an effective leader in the battle we are still waging to this day against smoking. The association had the skill and foresight to develop needed smoking cessation programs and youth smoking prevention programs, and it did so decades before the public and the Federal Government called for them.

An additional high priority of the association today is reducing the heavy burden of asthma in our society. Based on its outstanding successes with tuberculosis and smoking cessation, I have no doubt that it will lead the way to make our environments safer for asthma sufferers.

On this special anniversary, I commend the American Lung Association for a century of leadership in improving the health of millions of Americans every year, and I wish them great success in their important mission in the years ahead.

Mr. CRAPO. Mr. President, it is my tremendous honor to rise today to recognize a very special birthday. Over the last 100 years, the American Lung Association has distinguished itself in numerous and meaningful ways. It has made significant contributions to modern health science and has been a force for successful political action. Most importantly, the American Lung Association is responsible for saving millions of lives through its constant and dedicated efforts to educate the public to the dangers of lung disease and to promote both preventive care and treatment for this terrible illness.

The American Lung Association has been especially active over the past 40 years in bringing the health concerns of smoking to the national policy agenda and aggressively promoting the principles behind the Clean Air Act in relation to pollution's effect on the human body and to those individuals with existing lung illnesses.

Its work in the field of asthma is equally exemplary. The American Lung Association has pioneered research efforts to determine the causes and treatment of childhood and adult asthma, calling for needed funding and government support. It has also spearheaded efforts to teach children with asthma how to better manage their disease so as to reduce complications, hospitalizations, and in some cases, deaths.

With the knowledge that lung disease is responsible for one in seven deaths annually, there is no doubt of the critical nature of the efforts of the American Lung Association. It is certainly appropriate that this body recognize this dedicated organization for a century of remarkable efforts to improve the health and lives of all Americans, and wish its members many more years of continued success. When they succeed, we all do indeed breathe easier.

Mr. LAUTENBERG. Mr. President, I congratulate the American Lung Association, ALA, on its 100th anniversary. Since its inception in 1904, as the National Association for the Study and Prevention of Tuberculosis, the American Lung Association has served as a champion for those affected by lung disease.

Lung disease is America's number three killer, responsible for one in seven deaths. Every year, close to 342,000 Americans die of lung diseases. However, lung disease is not only a killer, most lung disease is chronic. More than 35 million Americans are now living with chronic lung disease. I applaud ALA's commitment to fighting lung disease in all its forms, with special emphasis on asthma, tobacco control and environmental health.

One of the main focuses of the American Lung Association is the reduction of tobacco use in order to combat lung disease. Smoking is responsible for 90 percent of all cancer deaths. Four years before the publication of the landmark 1964 Surgeon General's Report on Smoking and Health the American Lung Association established the link between cigarette smoking and lung cancer.

As the author of the law banning smoking on airplanes and in all Federal buildings I am tirelessly committed to protecting individuals from deadly secondhand smoke and developing regulations to protect children from the dangers of tobacco use. I am proud to call ALA my partner in this effort.

In addition to the outstanding progress ALA has achieved in its anti-tobacco work the association is also recognized as a leader in the clean air movement. Americans have ALA to thank for developing the crucial health basis for the Nation's clear air standards that led to passage and implementation of the landmark 1970 Clean Air Act and the Clean Air Act Amendments of 1977 and 1990.

I commend the ALA for its outstanding achievements over the past century, and I offer by best wishes for a successful future.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On December 22, 2001, in Lake Elsinore, CA, two men, ages 19 and 22, and a 20-year old woman, allegedly beat and made defamatory remarks to two people they perceived to be gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO NANCY AAMODT

Mr. SMITH. Mr. President, it is no secret that those of us who are privileged to serve in the U.S. Senate could not do so without the support of the hard working and dedicated staff. And I rise today to pay tribute to one of the most valuable members of my staff, who will be retiring at the end of May.

For the past 7½ years, anyone who has called or visited my Portland office has probably talked with Nancy Aamodt. Indeed, from her post at the office's front desk, Nancy is usually the first person who answers the phone, and the first person who greets visitors. I have long believed in the wisdom of the old saying that ''first impressions are the most important ones,'' and I know that when Oregonians talk with or meet Nancy, their first impression will be of a kind, caring, and courteous individual. She treats all callers and visitors with hospitality and courtesy, and leaves everyone knowing that they were treated with great respect.

The Bible tells us that ''God loves a cheerful giver,'' and I can't think of a better description of Nancy. She truly

is a ''cheerful giver,'' as she constantly reaches out and offers kind words and support to those who need it most.

The commitment to helping others and interest in current events that Nancy exhibits at the office also extends to her personal life, as well. For many years, Nancy has been a respected leader in both the Oregon and National Federations of Republican Women. She has served as President of the OFRW, and is a member of the NFRW Legislative Committee.

I am very proud to call Nancy and her husband, Dave, my friends, and wish her the very best as she retires from service to the U.S. Senate.

ADDITIONAL STATEMENTS

HONORING BETTY BENJAMIN

• Mr. DAYTON. Mr. President, today I congratulate and honor my friend, Betty Benjamin from Minneapolis, who last Saturday celebrated her 80th birthday. She has lived an extraordinary and outstanding 80 years.

Raised on a farm near Redwood Falls, MN, Betty studied social work at Hamline University, where she met her future husband, Robert Benjamin, a pre-med student from Pipestone, MN. During the mid- to late 1960s, Betty was busy raising her family, but somehow she found time to become a committed leader in the local movement to reform the existing abortion laws. Recognizing her determination and natural leadership, her friends and colleagues asked her to become the president of two women's organizations; the Edina League of Women Voters and the Minnesota Organization for the Repeal of Abortion Laws. The latter organization later became the Minnesota Chapter of the National Abortion Rights Action League.

When Betty became the leader of Minnesota's pro-choice community, abortion was an illegal procedure. Driven by her professional experience as a social worker and her deeply held belief that women should have the freedom to make their own decisions about their own bodies and lives, Betty was committed to see the abortion laws repealed. With her family by her side, Betty dedicated everything to the movement—her time, her energy, and even her home. To save valuable resources, the organization met in a spare room at the Benjamins' house in suburban Minneapolis for more than 5 years. Opening her home to other abortion rights advocates allowed Betty to stay connected to the statewide, grassroots organizing plan she shaped. At one point, Betty organized a Board of Directors that featured a resident from each of Minnesota's 67 legislative districts. Most importantly, making the organization's base of operations her home enabled Betty to be a loving and devoted mother. And what a role model she was to her three children! Day after day, she demonstrated the values of hard work and persistence and that one person can truly make an imprint on social policy.

While the organization eventually outgrew the Benjamins' spare room, Betty has never outgrown the organization and the fight. A steady source of inspiration and encouragement to all in the movement, Betty continues to serve on the Minnesota NARL Foundation Board of Directors.

At 80 years of age, Betty's activism and passion still spill out of the boardroom and onto the streets. Two weeks ago, she flew from Minneapolis to Washington, DC, to participate in the largest march ever for women's reproductive rights. Once again, she stood strong with her fellow Americans, this time over a million, to protect the rights she fought to secure for women more than 30 years ago.

I stand here on the Senate floor today to honor Mrs. Betty Benjamin on her 80th birthday and to thank her for her continued commitment and dedication. May God grace us with her presence and her passion for many years to come.•

OSTEOPOROSIS AWARENESS AND PREVENTION MONTH

• Ms. SNOWE. Mr. President, I wish to speak about osteoporosis and to remind my colleagues that May is Osteoporosis Awareness and Prevention Month. Osteoporosis today is a major public health threat for an estimated 44 million Americans, or 55 percent of the population age 50 and over. At least ten million Americans are estimated to have osteoporosis and almost 34 million more are estimated to have low bone mass, placing them at increased risk for the disease.

Of the 10 million Americans estimated to have osteoporosis, 20 percent are men. Current statistics show that one in two women and one in four men over age 50 will have an osteoporosis -related fracture in her or his lifetime. To put this into perspective, as I look around this chamber, these statistics mean that more than 25 of our group of 100 Senators could develop osteoporosis. And, while osteoporosis is thought of as an older person's disease, it strikes men and women of all ethnic groups at any age.

The literal meaning of the word ''osteoporosis'' is ''porous bone.'' Osteoporosis is a devastating disease that causes bones to thin and break easily—especially bones in the hip, spine and wrist. It is known as a silent disease because most people don't even know that they have osteoporosis until after they have broken a bone.

Not only are these bone fractures very painful and devastating to an individual's quality of life, but they can also be life-threatening, especially for older men. Nearly one in four hip fracture patients who are age 50 and over, and average of 24 percent, die in the year following their fracture. And the 80,000 men who suffer hip fractures each year are nearly twice as likely to die in the year after the fracture as women their age.

Apart from the severe life-or-death and quality of life consequences that bone fractures can have, osteoporosis has become a major health care expense. In 2001, osteoporosis cost the country $17 billion, or $47 million a day in direct costs, according to a report of the National Osteoporosis Foundation, ''America's Bone Health: The State of Osteoporosis and Low Bone Mass in Our Nation,'' issued 2 years ago. Of course, those figures would be even higher today.

The ramifications of osteoporosis go beyond our country's health care system and are truly international in scope. The World Health Organization considers osteoporosis to be the second leading health problem in the world.

In spite of these alarming statistics, we are making progress and developing a growing awareness and commitment to confronting this disease. Twenty years ago, few people understood the terms ''osteoporosis,'' and no medical therapy existed to treat the disease or help prevent its onset. Today, osteoporosis research and education are helping us make great strides. People are far better informed about the causes of this disease and steps to take for prevention and treatment.

Building strong bones during childhood, adolescence and as young adults can help individuals avoid the disease later in life. Four simple steps can help prevent osteoporosis and optimize bone health: Eating a balanced diet rich in calcium and vitamin D; doing weight-bearing exercises on a regular basis; leading a healthy lifestyle without smoking or excessive alcohol; and having bone density tests and treating low bone mass, as recommended. Preventive measures and treatment—even after a fracture—will minimize further bone loss and help prevent future disability.

Along those lines, I have introduced two bills, the Osteoporosis Federal Employee Health Benefits Standardization Act of 2003, S. 417, which ensures that coverage of bone mass measurements is provided under the Federal health benefits program, and the Medicare Osteoporosis Measurement Act of 2003, S. 419, which amends Medicare to include coverage of bone mass measurements under Medicare part B for all individuals, including estrogen-deficient women, at clinical risk for osteoporosis. I urge my colleagues to join me in supporting this legislation and working towards passage of these bills this year.

Injuries and death from bone fractures can be greatly reduced with prevention, early detection, and the new forms of treatment that are now available. We should all take the initiative and keep one thought foremost in our minds: It's never too early or too late to start.•

COVER THE UNINSURED WEEK

• Mr. SARBANES. Mr. President, today I wish to recognize Cover the Uninsured Week. I take this opportunity to highlight the crisis of the uninsured in the United States and to underscore the significant impact that this crisis has on our population.

The number of Americans without health insurance is equal to the combined populations of 24 States and the District of Columbia. As of a September 2003 National Bureau of Census report, the most recent set of comprehensive figures on this problem, nearly 44 million people had gone without health insurance for the span of an entire year or longer. Millions more had been uninsured for part of a year.

The estimated 43.6 million people who are currently uninsured face constant financial vulnerability. At any moment they could face financial devastation by the costs associated with an unexpected injury or disease. In Maryland alone, there were 595,500 uninsured in 2003—approximately 13 percent of Maryland's population. According to the Baltimore Sun, 700,000 people younger than 65 have no insurance.

Lack of insurance takes a huge financial toll on families. On average, the uninsured are forced to pay 35 percent of the overall costs of their medical coverage. As a result, medical bills are the leading cause of bankruptcy and are cited as a reason for half of all personal bankruptcy filings.

In my own State of Maryland, we hear the worries of people with preexisting conditions who cannot change their job because they fear they will never again be eligible for affordable health insurance. I hear about recent college graduates who are no longer eligible for coverage under their parent's insurance policy and are going without, hoping nothing happens to them until they find a job that has health benefits.

I hear the stories of those who have had to forego care because they are uninsured; mothers, fathers, children who have fatal disease, forced to face fatal consequences because they cannot effectively access the health care system. Statistics show that up to 18,000 people die each year because we ignore the plight of the uninsured. That is the equivalent of 49 people a day.

Who are the uninsured? Often we are led to believe that if people are working they will have health coverage for themselves and their families. This is not the case. Eighty percent are in families in which at least one person is working. Many employers and workers are finding it difficult to afford health insurance due to the continual increases in health care costs. Service and labor jobs, which make up a significant portion of our workforce, are less likely to offer insurance. Moreover, part-time workers are often ineligible for employer-sponsored insurance and low-wage workers often cannot afford to pay their premiums.

This phenomenon has a very negative impact on the lives of children. Mr. President, 8.5 million of our children are uninsured, which is more than the number of children in first and second grade in all of our public schools combined. A Florida Healthy Kids Corporation study showed that uninsured kids are 25 percent more likely to miss school than insured children. Such a percentage represents a significant disadvantage for children, especially for those who likely face other obstacles as well.

Often those with insurance take these benefits for granted. We tend to ignore that which does not directly affect us. But those who are ignoring this problem for that reason should think again. There are consequences to all of us for ignoring the plight of the uninsured. According to a recent Institute of Medicine report, the United States loses $65–$130 billion each year as a result of the poor health and early deaths of uninsured adults. These numbers are called lost ''health capital,'' also known as individual work losses and development losses in children due to poor health. A community's high rate of uninsurance can adversely affect its overall health status, including the financial stability of its health care institutions and providers. Moreover, such communities face decreased access to services such as emergency departments and trauma centers.

I hope the Senate in the near future can begin to engage in discussions about meaningful ways to provide quality, comprehensive, affordable health care for all of our citizens. I would like to comment the Robert Wood Johnson Foundation and their cosponsors for creating Cover the Uninsured Week. I urge my colleagues to use this week as an opportunity to redouble our efforts to work toward a collective and comprehensive solution to address this critical problem.●

ROBERT GLIDDEN

● Mr. VOINOVICH. Mr. President, the State of Ohio has had a good friend in Ohio University President Robert Glidden for many years. Higher education in particular, in Ohio and elsewhere, has had a good friend in Dr. Glidden for a lifetime.

As he prepares to retire next month from the presidency of Ohio University, my alma mater, I think it is important to recognize Dr. Glidden's commitment, dedication and hard work. Most of all, though, I would like to applaud his stance that education is the best means through which to raise up the individual, the State of Ohio and our great Nation, and his zeal in conveying that philosophy.

On July 1, 1994, Dr. Glidden became the 19th president of Ohio University, the first public institution of higher learning in the old Northwest Territory. He previously had served Ohio as dean of the Bowling Green State University College of Musical Arts from 1975 to 1979 and assistant professor of music at Wright State University from 1966 to 1967. His other posts have included professor, music school dean, provost and vice president for academic affairs at Florida State University and music professor at Indiana University and the University of Oklahoma.

Dr. Glidden can be proud of his service to higher education. In the past decade, he has taken Ohio University to a new level of excellence by emphasizing the university's academic and research missions. He has also made it an Ohio University priority to reach out to Southeast Ohio through the university's strong regional campus system, the Voinovich Center for Leadership and Public Affairs, and a multitude of other offerings. He has moved the university forward—by way of improvements in undergraduate education, technological advancements and campus improvements—during some of the toughest economic times we have faced in recent memory.

This has taken considerable creativity, focus and foresight, and often it has meant making difficult decisions. It also has required a commitment to seeking out new opportunities and revenue steams. Under Dr. Glidden's watch, external funding for Ohio University faculty research has climbed to $54.3 million, up from just $34.4 million six years earlier. The university also is about to surpass the $200 million goal of its Bientennial Campaign.

These are accomplishments on the grand scale, but there is a personal side to Dr. Glidden that students of Ohio University have come to know and appreciate. Above all, he respects them. He wants them to appreciate learning for learning's sake and gain knowledge and skills that will last them a lifetime, especially because the focus of their careers is likely to change several times as the years go by. He also has emphasized civility and character, attributes that—as we see every day—are more important now than ever.

Likewise, Dr. Glidden has nurtured Ohio University's relationship with its alumni. These individuals, now some 170,000 strong, are making important advancements and contributions around the globe. He takes pride in their accomplishments, and he encourages their continued involvement with and support for their university and education in general.

My wife Janet and I have enjoyed being able to get to know Bob and his wife, Reneé. Reneé's contributions to the university community are noteworthy in their own right. Not only did she oversee the renovation of the President's residence—painstakingly stripping and refinishing the home's main staircase herself—she has also made valuable contributions as a career volunteer. She has served on the Board of Trustees of the Dairy Barn/Southeastern Ohio Cultural Arts Center, the Stuart Opera House, Community Design Inc., the Percent for Art Committee, and the Ohio Arts Council.

In addition to his distinguished service to Ohio University, Dr. Glidden has taken a leadership role in higher education in Ohio and around the country through his involvement with Ohio's Inter-University Council and service as founding chair of the Council on Higher

Education Accreditation. Such activities have helped raise the bar for educational institutions around the country and earned him the respect of his peers nationwide. In the words of Miami University President James Garland, whose school has long enjoyed a healthy rivalry with Ohio University: ''When it comes to defending budgets and advancing policies in the interest of higher education, Bob has been a leader in the state . . . I have as much respect for him as a university president as anyone I've ever met.''

I am grateful, as I know others throughout southeast Ohio are that Dr. Glidden has expressed an interest in continuing his service to Ohio University, albeit in a more modest fashion, during retirement. His passion for education and the doors it opens make him a most valuable ally for the students of today and the leaders of tomorrow. Thank you, Bob, for your service. Go Bobcats.●

AMERICAN LEGACY FOUNDATION

● Mr. LAUTENBERG. Mr. President, today I pay tribute to an organization that has done so much good in our country. I am happy to be able to congratulate the American Legacy Foundation on its 5-year anniversary. Five years ago, the American Legacy Foundation was born out of the Master Settlement Agreement, MSA. As we are all aware, the States' lawsuits against the major cigarette companies explicitly required Sates to spend certain amounts of their settlement payments on tobacco-prevention efforts and to advance public health.

I would like to personally commend those organizations, such as the American Legacy Foundation, who have worked tirelessly for 5 years to reduce smoking in our Nation. Smoking is now at its lowest level in nearly three decades. This did not happen by chance. It happened because States and communities all across this great Nation, led by the American Legacy Foundation, challenged and continue to challenge the tobacco industry.

Whether it is an award-winning youth counter marketing campaign, or ''Great Start,'' an innovative cessation program for pregnant women, there is no denying the fact that programs such as these have successfully convinced teens, pregnant women and older adults that they can quit smoking.

In closing my remarks, I encourage my colleagues to remain committed to the spirit of the Master Settlement Agreement, so that we can eliminate tobacco addiction altogether. By squelching America's smoking habit, it is my hope that we can achieve the vision of a smoke-free society.●

WE THE PEOPLE NATIONAL FINALS COMPETITION

● Mr. ENZI. Mr. President, from May 1–3, 2004 more than 1200 students from across the United States came to Washington, DC to take part in the national finals of ''We the People: The Citizen and the Constitution.'' This is the most extensive program in the country developed specifically to educate young people about the U.S. Constitution and the Bill of Rights. Administered by the Center for Civic Education, the ''We the People'' program is funded by the U.S. Department of Education by act of Congress.

I am very proud to note that a class from Cheyenne Central High School in Cheyenne represented the State of Wyoming in this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's capital and compete at the national level.

The 3-day ''We the People'' National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of adult judges while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by questions designed to probe the students' depth of understanding and ability to apply their constitutional knowledge. Columnist David Broder once described this annual competition as ''the place to come to have your faith in the younger generation restored.''

Most recently, the ''We the People'' program was highlighted at two national conferences held in 2003: the White House Forum on American History, Civics, and Service, and the first annual Congressional Conference on Civic Education. Evaluations and independent studies have validated the effectiveness of the ''We the People'' program on students' civic knowledge and attitudes. This innovative civic education program continues to be one of the best antidotes to apathy and cynicism in our Nation.

I am certain everyone enjoyed their participation in the ''We the People'' national finals and I applaud the achievements of all who took part in the program. We should all be proud that so many are focused on and are learning about the fundamental principles and ideals that identify us as a people and bind us together as a nation.●

MILKEN EDUCATOR AWARD

● Ms. LANDRIEU. Mr. President, today I wish to recognize three outstanding teachers from my home State of Louisiana who will be honored by the Milken Family Foundation with the Milken Educator Award at their National Educator Conference here in Washington. The Milken Family Foundation was established in 1982 with the mission to discover and advance inventive and effective ways of helping people to help themselves and those around them lead productive and satisfying lives. On May 4–6 they will be holding their National Educator Conference in Washington, DC.

With a major focus on education, the Milken Family Foundation is committed to recognizing and rewarding the Nation's most outstanding educators and helping them to expand their leadership and potential. This year, the Milken Family Foundation has recognized Amanda Mayeaux, a math teacher at Dutchtown Middle School, Phyllis Diecidue, a reading teacher at St. Bernard High School, and Josh Michael Burton, a biology teacher at Albany High School, all from the State of Louisiana. They are among one hundred teachers who were selected from across the country to receive this very prestigious $25,000 award.

When I think back to my education, I remember many inspiring teachers who helped make me who I am today. Without highly qualified teachers who are dedicated to the success of every student, my colleagues and myself would most certainly not be where we are today. Today, research is confirming what common sense has suggested all along. A skilled and knowledgeable teacher can make an enormous difference on how well students learn. As we look towards the future of our country and the sustainability of our democracy, we must look to our children, the future leaders. The future of our workforce and our country depends on our ability to recruit and retain qualified teachers in our classrooms, who will help our children become active and responsible citizens. Often times teachers are not recognized for the challenges and struggles which they encounter each and every day and tremendous significance of their work. We must remember that it is our Nation's teachers who are in the trenches each and every day ensuring that our children gain the knowledge and skills that they will need to be successful.

As we in Congress continue to focus on education reform and ensuring that all children have access to the same quality education, it is important that we also take a moment to recognize the teachers who work hard every day to ensure that our children are succeeding. It is because of the hard work and dedication of these teachers that our children can set their sights towards a bright future. I know that my colleagues here in the Senate join me today in congratulating these exceptional educators and the other ninety-seven teachers from around the country who were recognized with this high honor.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILL PRESENTED DURING ADJOURNMENT

The Secretary of the Senate reported that on May 7, 2004, she had presented to the President of the United States the following enrolled bill:

S. 2315. An act to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7406. A communication from the Administrator, Federal Aviation Administration, transmitting, pursuant to law, a report relative to foreign aviation authorities to which the Administrator provided services in the preceding fiscal year; to the Committee on Commerce, Science, and Transportation.

EC–7407. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual report for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC–7408. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NOAA Climate and Global Change Program, FY 2005 Program Announcement'' (RIN0648–ZA91) received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7409. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Export Administration Regulations: Correction to ECCN 1C355 on the Commerce Control List'' (RIN0694–AC87) received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7410. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing the Taking of Cook Inlet, Alaska, Beluga Whales by Alaska Natives'' (RIN0648–AQ16) received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7411. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 13A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region'' (RIN0648–AP03) received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7412. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7413. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision of Export and Reexport Restrictions on Libya'' (RIN0694–AD14) received on May 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7414. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department of Energy's Annual Report for calendar year 2003 entitled ''Department of Energy Activities Relating to the Defense Nuclear Facilities Safety Board''; to the Committee on Energy and Natural Resources.

EC–7415. A communication from the Administrator, Energy Information Administration, transmitting, pursuant to law, a report relative to the Administration's Performance Profiles of Major Energy Producers 2002; to the Committee on Energy and Natural Resources.

EC–7416. A communication from the Assistant Secretary, for Fish, Wildlife, and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled ''Castillo de San Marcos National Monument Boundary Adjustment Act of 2003''; to the Committee on Energy and Natural Resources.

EC–7417. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Revisions to the Administrative Rules of South Dakota and New Source Performance Standards Delegation'' (FRL7652–3) received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7418. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Sulfur Dioxide Attainment Demonstration for the City of Weirton Including the Clay and Butler Magisterial Districts in Hancock County'' (FRL7653–8) received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7419. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation Plans: Wisconsin: Kewaunee County Ozone Maintenance Plan Update'' (FRL7657–6) received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7420. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills'' (FRL7652–3) received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7421. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Motor Vehicle and Engine Compliance Program Fees for: Light-Duty Vehicles; Light-Duty Trucks; Heavy-Duty Vehicles and Engines; Nonroad Engines; and Motorcycles'' (FRL7652–3) received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7422. A communication from the Acting Assistant Administrator for Administration and Resources Management, transmitting, pursuant to law, a report relative to changes to the status of numerous Presidentially-appointed, Senate-confirmed (PAS) positions at the Environmental Protection Agency; to the Committee on Environment and Public Works.

EC–7423. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Administrator for OECA, Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7424. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Administrator for Administration and Resources Management, Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7425. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator for General Counsel, Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7426. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator for Water, Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7427. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Chief Financial Officer (CFO), Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7428. A communication from the Acting Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination for the position of Deputy Administrator, Environmental Protection Agency, received on May 5, 2004; to the Committee on Environment and Public Works.

EC–7429. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Agency's inadvertent disbursements from 1974 to 1996 to purchase motor vehicles which constitute violations of the Antideficiency Act; to the Committee on Environment and Public Works.

EC–7430. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the Building Project Survey for Orange County, NY; to the Committee on Environment and Public Works.

EC–7431. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled

''Report to Congress on Abnormal Occurrences, Fiscal Year 2003''; to the Committee on Environment and Public Works.

EC–7432. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''At Risk Limitations; Interest Other Than That of a Creditor'' (TD 9124) received on May 5, 2004; to the Committee on Finance.

EC–7433. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Electing Mark to Market for Marketable Stock'' (RIN1545–AY17) received on May 5, 2004; to the Committee on Finance.

EC–7434. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–7435. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to nuclear nonproliferation in South Asia; to the Committee on Foreign Relations.

EC–7436. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Denial Policy in Iraq'' (RIN1400–ZA09) received on May 5, 2004; to the Committee on Foreign Relations.

EC–7437. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to minority employment and recruitment at the Department of State; to the Committee on Foreign Relations.

EC–7438. A communication from the Assistant Secretary for Legislative Affairs, transmitting, pursuant to law, a report relative to restrictions on assistance to the former Yugoslavia; to the Committee on Foreign Relations.

EC–7439. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report relative to competitive sourcing statutory reporting; to the Committee on Governmental Affairs.

EC–7440. A communication from the Archivist of the United States, transmitting, pursuant to law, a report relative to a proposed archival depository for the Presidential records and other historical materials of the Clinton administration; to the Committee on Governmental Affairs.

EC–7441. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Medical Device User Fee and Modernization Act of 2002; to the Committee on Governmental Affairs.

EC–7442. A communication from the Secretary to the Council of the District of Columbia, transmitting, Council Resolution 15–468 entitled ''Sense of the Council in Support of Protection of Civil Liberties Resolution of 2004''; to the Committee on Governmental Affairs.

EC–7443. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Commission's Report under the Government in Sunshine Act for calendar 2002; to the Committee on Governmental Affairs.

EC–7444. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 3B for Fiscal Years 2000 through 2003, as of March 31, 2003''; to the Committee on Governmental Affairs.

EC–7445. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 4th Quarter of Fiscal Year 2003''; to the Committee on Governmental Affairs.

EC–7446. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Fiscal Year 2003 Annual Report on Advisory Neighborhood Commissions''; to the Committee on Governmental Affairs.

EC–7447. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Certification of the Sufficiency of the Washington Convention Center Authority's Projected Revenues and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2004''; to the Committee on Governmental Affairs.

EC–7448. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period of April 1, 2003 through September 30, 2003; to the Committee on Governmental Affairs.

EC–7449. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001–23'' (FAC2001–23) received on May 6, 2004; to the Committee on Governmental Affairs.

EC–7450. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's Fiscal Year 2003 Performance and Accountability Report; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 2395. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. CHAMBLISS, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON):

S. 2396. A bill to make improvements in the operations and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2397. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2398. A bill to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the James V. Hansen Federal Building; to the Committee on Environment and Public Works.

By Mr. FITZGERALD (for himself and Mr. KENNEDY):

S. 2399. A bill to provide for the improvement of physical activity and nutrition and the prevention of obesity for all Americans; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 356. A resolution condemning the abuse of Iraqi prisoners at Abu Ghraib prison, urging a full and complete investigation to ensure justice is served, and expressing support for all Americans serving nobly in Iraq; considered and agreed to.

By Mr. GRASSLEY:

S. Con. Res. 105. A concurrent resolution designating the second week of March 2005 as ''Extension Living Well Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. COCHRAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

At the request of Mr. REID, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 491, supra.

S. 545

At the request of Ms. SNOWE, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 545, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access

and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 846

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 985

At the request of Mr. DODD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1103

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1103, a bill to clarify the authority of the Secretary of Agriculture to prescribe performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services and to enforce the Hazard Analysis and Critical Control Point (HACCP) System requirements, sanitation requirements, and the performance standards.

S. 1359

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1359, a bill to allow credit unions to provide international money transfer services and to require disclosures in connection with international money transfers from all money transmitting service providers.

S. 1411

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1666

At the request of Mr. COCHRAN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from South Dakota (Mr. DASCHLE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1900

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 2157

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2157, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 2244

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2244, a bill to protect the public's ability to fish for sport, and for other purposes.

S. 2249

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2249, a bill to amend the Stewart. B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2273

At the request of Mr. MCCAIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2273, a bill to provide increased rail transportation security.

S. 2302

At the request of Mr. CONRAD, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2310

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2310, a bill to promote the national security of the United States by facilitating the removal of potential nuclear weapons materials from vulnerable sites around the world, and for other purposes.

S. 2353

At the request of Mr. CRAIG, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2353, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

At the request of Mr. HATCH, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. SMITH) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2363, supra.

S.J. RES. 36

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S.J. Res. 36, a joint resolution approving the renewal of import restrictions contained in Burmese Freedom and Democracy Act of 2003.

S. RES. 170

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Res. 170, a resolution designating the years 2004 and 2005 as ''Years of Foreign Language Study.''

S. RES. 349

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 349, a resolution recognizing and honoring May 17, 2004, as the 50th anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 2395. A bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CONRAD. Mr. President, I am pleased to introduce today the Theodore Roosevelt Commemorative Coin Act, which would commemorate the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt. This bill authorizes the Secretary of the Treasury to mint and issue coins bearing the likeness of Theodore Roosevelt. The sales of these coins would support programs to educate the public about the impressive achievements of our 26th President.

As those of my colleagues who have studied Roosevelt's life are aware, my state has a special connection with Theodore Roosevelt. Roosevelt liked to say that the years he spent in the Badlands of North Dakota were the best of his life. He even attributed his success as President to his experiences as a hunter and rancher in western North Dakota. It is with great pride, then, that I introduce the Theodore Roosevelt Commemorative Coin Act, which honors President Roosevelt's foreign policy achievements and commitment to conservation in this country. In particular, the bill highlights his success in drawing up the 1905 peace treaty ending the Russo-Japanese War. This accomplishment earned him the 1906 Nobel Peace Prize—making him the first citizen of the United States to receive the Peace Prize. Moreover, the bill pays tribute to his enduring respect for our Nation's wildlife and natural resources. Over his tenure as

President, Roosevelt established 51 bird reserves, 4 game preserves, 150 national forests, 5 national parks, and 18 national monuments, totaling nearly 230 million acres of land placed under public protection.

It is fitting, therefore, that the proceeds from the surcharge associated with the coin be used for educational programs at two very important sites in the life of Theodore Roosevelt—his home in New York, Sagamore Hill National Historic Site, and the national park that bears his name and honors his conservation efforts, Theodore Roosevelt National Park, located in Medora, ND. These two sites played a significant role in the development of Teddy Roosevelt's policies and offered him refuge away from the stress associated with public life.

In addition, the bill would provide funds for the maintenance and acquisition of the largest collection of Roosevelt's unofficial papers, which is housed in the Harvard Library. The Theodore Roosevelt Collection is second only to the Library of Congress's collection of Roosevelt's presidential papers, and the funds raised by this bill would aid in the Collection's goal of purchasing additional Roosevelt materials, which will be preserved and exhibited throughout history.

As a North Dakotan and an American, it is my hope that this bill will renew interest in the life of Theodore Roosevelt. Roosevelt's courage, patriotism, optimism, and spirit reflect what is best about our country, and he is remembered not only as a great statesman, but also a friend to the environment. I encourage my colleagues to support this important legislation to honor Theodore Roosevelt's contributions to U.S. foreign and domestic policy and build upon his efforts to promote respect for our nation's lands.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. CHAMBLISS, Mr. DURBIN, Mr. SCHUMER, and Mrs. CLINTON):

S. 2396. A bill to make improvements in the operations and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, from time to time the Judicial Conference and the Administrative Office of the U.S. Courts recommend legislative proposals to improve the efficiency and enhance the operations of the Federal courts. I believe that, out of comity to the judicial branch, the Senate should have the judiciary's specific proposals on record so that we can give those suggestions proper consideration.

Today, joined by Senators LEAHY, CHAMBLISS, CLINTON, DURBIN, and SCHUMER, I am introducing the Federal Courts Improvement Act of 2004. This bill contains both technical and substantive changes in the law. These recommendations made by the judicial branch will improve the judicial process and enhance judiciary personnel administration, benefits, and protections. Some proposals have been carried over from previous Congresses, but the legislation also contains some new proposals which the Federal judiciary believes will improve its operation. I appreciate the support of my cosponsors, and encourage the entire Senate to support this legislation.

Many provisions contained in this bill streamline the operation of the Federal court system or otherwise facilitate judicial operations. The bill authorizes some realignments in the composition or the place of holding court of specified district courts. For example, section 120 would grant emergency authority for circuit, district and bankruptcy courts, as well as magistrate judges, to conduct court proceedings outside the territorial jurisdiction of the court. The need for this legislation has become apparent following the terrorist attacks of September 11, 2001, and the impact of that disaster on court operations, in particular in New York City. In emergency conditions, a Federal court facility in an adjoining district (or circuit) might be more readily and safely available to court personnel, litigants, jurors and the public than a facility at a place of holding court within the district. This is particularly true in major metropolitan areas such as New York, Washington, DC, Dallas and Kansas City, where the metropolitan area includes parts of more than one judicial district.

Other sections of the bill contain provisions that would improve resource management within the judiciary. The bill would improve the procedures for recouping technology costs and also would broaden the courts' investment options and offer an improved procedure for investing court registry funds in Treasury securities. Other provisions increase the approval thresholds for payment vouchers or expand the delegation authority of respect to approving vouchers. These improvements will reduce the amount of time judges must devote to non-judicial matters.

Provisions in this bill also clarify existing law to better fulfill Congress's original intent or to make technical corrections. For example, sections 113 and 114 clarify diversity jurisdiction rules as applied to resident aliens and foreign corporations. Section 117 repeals references to obsolete sections of the U.S. Code.

In addition, the Federal Courts Improvement Act of 2004 also contains provisions designed to improve personnel administration, benefits and protections for employees working for the Federal judiciary. These provisions, in some cases, bring the Federal judicial system in line with the executive branch and other governmental bodies. Other provisions are designed to improve the ability of the judiciary to recruit and retain personnel.

Several sections improve the judicial system in other ways. The bill offers protection of certain information contained in bankruptcy case files, such as Social Security account numbers, from public disclosure. The proposed legislation provides protection against malicious recording of fictitious liens against Federal judges. The bill provides for improving the process for determining Federal court security requirements.

I ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be printed in the RECORD.

There being no objection, the bill and additional material were ordered to be printed in the RECORD, as follows:

S. 2396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Courts Improvement Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Authority of bankruptcy administrators to appoint trustees and to serve as trustees in bankruptcy cases in the States of Alabama and North Carolina.
Sec. 102. Venue in bankruptcy cases.
Sec. 103. Place of holding court in Texarkana, Texas, and Texarkana, Arkansas.
Sec. 104. Change in composition of divisions of western district of Texas.
Sec. 105. Change of composition of divisions of western district of Tennessee.
Sec. 106. Place of holding court in the northern district of New York.
Sec. 107. Juror fees.
Sec. 108. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 109. Authority of district courts as to a jury summons.
Sec. 110. Automatic excuse upon request from jury service for members of the Armed Services, members of fire and police departments, and public officers.
Sec. 111. Elimination of the public drawing requirements for juror wheels.
Sec. 112. Conditions of probation and supervised release.
Sec. 113. Clarifying the scope of diversity of citizenship for resident aliens.
Sec. 114. Clarifying the scope of diversity of citizenship for corporations with foreign contacts.
Sec. 115. Reporting of wiretap orders.
Sec. 116. Magistrate judge participation at circuit conferences.
Sec. 117. Repeal of Obsolete Speedy Trial Act cross references to the Narcotic Addict Rehabilitation Act.
Sec. 118. Taxing of court technology costs.
Sec. 119. Investment of court registry funds.
Sec. 120. Emergency authority to conduct court proceedings outside the territorial jurisdiction of the court.
Sec. 121. Restriction of public access to certain information contained in bankruptcy case files.
Sec. 122. Security of social security account number of debtor in notice debtor provides to creditor.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS
Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
Sec. 202. Federal Judicial Center personnel matters.
Sec. 203. Annual leave limit for judicial branch executives.
Sec. 204. Supplemental benefits program.
Sec. 205. Student loan forgiveness for Federal defenders.
Sec. 206. Law clerk loan deferment.
Sec. 207. Inclusion of judicial branch personnel in organ donor leave program.
Sec. 208. Transportation and subsistence for Criminal Justice Act defendants.
Sec. 209. Maximum amounts of compensation for attorneys.
Sec. 210. Maximum amounts of compensation for services other than counsel.
Sec. 211. Excess compensation delegation authority.
Sec. 212. Protection against malicious recording of fictitious liens against Federal judges.
Sec. 213. Appointing authority for circuit librarians.
Sec. 214. Judicial branch security requirements.
Sec. 215. Bankruptcy, magistrate, and territorial judges life insurance.
Sec. 216. Health insurance for surviving family and spouses of judges.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

SEC. 101. AUTHORITY OF BANKRUPTCY ADMINISTRATORS TO APPOINT TRUSTEES AND TO SERVE AS TRUSTEES IN BANKRUPTCY CASES IN THE STATES OF ALABAMA AND NORTH CAROLINA.

Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–554; 100 Stat. 3088) become effective in and with respect to a judicial district in the State of Alabama, or in and with respect to a judicial district in the State of North Carolina—

(1) a reference in sections 303(g), 701(a), 703(b), 703(c), 1102(a), 1104(d), 1163, 1202, and 1302 of title 11, United States Code, to the United States trustee shall be deemed to be a reference to the bankruptcy administrator appointed and serving in such district under the authority of section 302(d)(3)(I) of such Act;

(2) a reference in sections 1202(a) and 1302(a) of title 11, United States Code, to section 586(b) of title 28, United States Code, shall be deemed to be a reference to such section as modified in operation by the other provisions of this section;

(3) a reference in sections 701(a)(1) and 703(c) of title 11, United States Code, to a panel of private trustees established under section 586(a)(1) of title 28, United States Code, shall be deemed to be a reference to the panel of private trustees established in such district under the authority of section 302(d)(3)(I)(i) of such Act; and

(4) a reference in subsections (b), (d), and (e) of section 586 of title 28, United States Code—

(A) to the Attorney General shall be deemed to be a reference to the Director of the Administrative Office of the United States Courts;

(B) to the United States trustee for the region shall be deemed to be a reference to the bankruptcy administrator appointed for such district;

(C) to a standing trustee shall be deemed to be a reference to a standing trustee appointed by the bankruptcy administrator;

(D) to the designation of 1 or more assistant United States trustees shall be disregarded; and

(E) to the deposit in the United States Trustee System Fund shall be deemed to be a reference to the payment to the clerk of the court for deposit in the Treasury;

for purposes of cases pending under title 11, United States Code, in such district.

SEC. 102. VENUE IN BANKRUPTCY CASES.

Section 1412 of title 28, United States Code, is amended by inserting ‘‘, on its own motion or on timely motion of a party in interest,’’ after ‘‘A district court’’.

SEC. 103. PLACE OF HOLDING COURT IN TEXARKANA, TEXAS, AND TEXARKANA, ARKANSAS.

Sections 83(b)(1) and 124(c)(5) of title 28, United States Code, are each amended by inserting after ‘‘held at Texarkana’’ the following: ‘‘, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas’’.

SEC. 104. CHANGE IN COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TEXAS.

(a) IN GENERAL.—Section 124(d) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ‘‘county of El Paso’’ and inserting ‘‘counties of El Paso and Hudspeth’’; and

(2) in paragraph (6), by striking ‘‘Hudspeth,’’.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Texas on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Texas on the effective date of this section.

SEC. 105. CHANGE OF COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting ‘‘Dyer,’’ after ‘‘Decatur,’’; and

(B) in the last sentence by inserting ‘‘and Dyersburg’’ after ‘‘Jackson’’; and

(2) in paragraph (2)—

(A) by striking ‘‘Dyer,’’; and

(B) in the second sentence, by striking ‘‘and Dyersburg’’.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

SEC. 106. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by striking ‘‘and Watertown’’ and inserting ‘‘Watertown, and Plattsburgh’’.

SEC. 107. JUROR FEES.

(a) IN GENERAL.—Section 1871(b)(1) of title 28, United States Code, is amended by striking ‘‘$40’’ and inserting ‘‘$50’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2004.

SEC. 108. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

(a) IN GENERAL.—Section 1871(b)(2) of title 28, United States Code, is amended by striking ‘‘thirty’’ in each place it occurs, and inserting ‘‘5’’.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2004.

SEC. 109. AUTHORITY OF DISTRICT COURTS AS TO A JURY SUMMONS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking ‘‘shall’’ and inserting ‘‘may’’; and

(2) by striking ‘‘his’’.

SEC. 110. AUTOMATIC EXCUSE UPON REQUEST FROM JURY SERVICE FOR MEMBERS OF THE ARMED SERVICES, MEMBERS OF FIRE AND POLICE DEPARTMENTS, AND PUBLIC OFFICERS.

(a) REMOVAL OF EXEMPTION.—Section 1863(b) of title 28, United States Code, is amended by—

(1) striking paragraph (6); and

(2) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) PERMANENT EXCUSE.—Section 1863(b)(5) of title 28, United States Code, is amended by striking subparagraph (B) and inserting the following:

‘‘(B) specify that the following persons, upon individual request, shall be excused from jury service:

‘‘(i) Members in active service in the Armed Forces of the United States.

‘‘(ii) Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession.

‘‘(iii) Public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

‘‘(iv)(I) Volunteer safety personnel.

‘‘(II) In this clause, the term ‘volunteer safety personnel’ means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.’’.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1865(a) of title 28, United States Code, is amended in the first sentence by striking ‘‘or exempt,’’.

(2) Section 1866 of title 28, United States Code, is amended—

(A) in subsection (a), in the first sentence by striking ‘‘exempt or’’;

(B) in subsection (c), in the first sentence—

(i) by striking ‘‘or (6)’’; and

(ii) by striking ‘‘excused, or exempt’’ and inserting ‘‘or excused’’; and

(C) in subsection (d), by striking ‘‘exempt,’’.

(3) Section 1869(h) of title 28, United States Code, is amended in the first sentence by striking ''or exempted''.

SEC. 111. ELIMINATION OF THE PUBLIC DRAWING REQUIREMENTS FOR JUROR WHEELS.

(a) DRAWING OF NAMES FROM JURY WHEEL.—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking the term ''publicly''; and

(2) by inserting after the first sentence ''The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.''.

(b) SELECTION AND SUMMONING OF JURY PANELS.—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence by striking the term ''publicly''; and

(2) by inserting after the second sentence ''The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1869 of title 28, United States Code, is amended—

(1) by striking subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

SEC. 112. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.

(a) CONDITIONS OF PROBATION.—Section 3563(a)(2) of title 18, United States Code, is amended by striking ''(b)(2), (b)(3), or (b)(13),'' and inserting ''(b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or''.

(b) SUPERVISED RELEASE AFTER IMPRISONMENT.—Section 3583(d) of title 18, United States Code, is amended by striking ''section 3563(b)(1)'' and all that follows through ''appropriate.'' and inserting ''section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in section 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) and only when facilities are available.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting ''or supervised release'' after ''probation''.

SEC. 113. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR RESIDENT ALIENS.

(a) IN GENERAL.—Section 1332(a) of title 28, United States Code, is amended by striking the last sentence and inserting the following: ''The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and apply only to actions filed on or after such date.

SEC. 114. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR CORPORATIONS WITH FOREIGN CONTACTS.

(a) IN GENERAL.—Section 1332(c) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) a corporation shall be deemed a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business; and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and apply only to actions filed on or after such date.

SEC. 115. REPORTING OF WIRETAP ORDERS.

Paragraph (1) of section 2519 of title 18, United States Code, is amended by striking all that precedes ''(a)'' and inserting the following:

''(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—''.

SEC. 116. MAGISTRATE JUDGE PARTICIPATION AT CIRCUIT CONFERENCES.

Section 333 of title 28, United States Code, is amended in the first sentence by inserting ''magistrate,'' after ''district,''.

SEC. 117. REPEAL OF OBSOLETE SPEEDY TRIAL ACT CROSS REFERENCES TO THE NARCOTIC ADDICT REHABILITATION ACT.

Section 3161(h) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (B) and (C); and

(B) by redesignating subparagraphs (D) through (J) as subparagraphs (B) through (H), respectively;

(2) by striking paragraph (5); and

(3) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

SEC. 118. TAXING OF COURT TECHNOLOGY COSTS.

Section 1920 of title 28, United States Code, is amended—

(1) in paragraph (2) by striking ''of the court reporter for all or any part of the stenographic transcript'' and inserting ''for printed or electronically recorded transcripts;''; and

(2) in paragraph (4) by striking ''copies of papers'' and inserting ''the costs of making copies of any materials where the copies are.''.

SEC. 119. INVESTMENT OF COURT REGISTRY FUNDS.

(a) IN GENERAL.—Chapter 129 of title 28, United States Code, is amended by inserting after section 2044 the following:

''§ 2045. Investment of court registry funds

''(a) The Director of the Administrative Office of the United States Courts, or the Director's designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director's designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

''(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 129 of title 28, United States Code, is amended by adding after the item relating to section 2044 the following:

''2045. Investment of court registry funds.''.

SEC. 120. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.

(a) CIRCUIT COURTS.—Section 48 of title 28, United States Code, is amended by adding at the end the following:

''(e) Each court of appeals may hold special sessions at any place outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could he held. The court may transact any business at a special session outside the circuit which it might transact at a regular session.''.

(b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''special sessions''; and

(2) by adding at the end the following:

''(b) Special sessions of the district court may be held at such places outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held. Any business may be transacted at a special session outside the district which might be transacted at a regular session. The district court may summon jurors from within the district to serve in any case in which special sessions are conducted outside the district under this section.''.

(c) BANKRUPTCY COURTS.—Section 152(c) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) Bankruptcy judges may hold court at such places outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court. Bankruptcy judges may transact any business at special sessions of court held outside the district that might be transacted at a regular session.''.

(d) UNITED STATES MAGISTRATE JUDGES.—Section 636 of title 28, United States Code, is amended in subsection (a) by striking ''territorial jurisdiction prescribed by his appointment'' and inserting ''district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law''.

SEC. 121. RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.

Section 107 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may, protect an entity with respect to a trade secret or confidential research, development, or commercial information.

''(c) The bankruptcy court for cause may protect a person with respect to the following contained in a paper filed, or to be filed, in a case under this title:

''(1) Any 'means of identification' as defined under section 1028(d)(4) of title 18.

''(2) Information that could cause undue annoyance, embarrassment, oppression, or risk of injury to person or property.''.

SEC. 122. SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE DEBTOR PROVIDES TO CREDITOR.

Section 342(c) of title 11, United States Code, is amended by inserting ''last 4 digits of the'' before ''taxpayer identification number''.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended—

(1) in subsection (c) by striking paragraph (4) and inserting the following:

''(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.'';

(2) by striking subsection (e) and inserting the following:

''(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of 65 years or upon relinquishing office if the judge is then beyond the age of 65 years—

''(A) if the judicial service of such judge, continuous or otherwise, aggregates 15 years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

''(B) if such judicial service, continuous or otherwise, aggregated less than 15 years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to 15.

''(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least 5 years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least 10 years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to 15.''; and

(3) by striking subsection (g) and inserting the following:

''(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.''.

SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking '', United States Code, governing'' and inserting ''governing'';

(B) by striking ''pay rates, section 5316, title 5, United States Code'' and inserting ''under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5''; and

(C) by striking ''the Civil Service'' and all that follows through ''Code'' and inserting ''subchapter III of chapter 83 of title 5 shall be adjusted under section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted under section 8468 of such title'';

(2) in subsection (c), by striking '', United States Code,''; and

(3) in subsection (d)—

(A) by striking ''United States Code,''; and

(B) by striking '', section 5332, title 5, United States Code'' and inserting ''under section 5332 of title 5''.

SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking ''or'';

(2) in subparagraph (E) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive position in the Federal Judicial Center by the Board of the Federal Judicial Center.''.

SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (6) through (24) as paragraphs (7) through (25), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;''.

SEC. 205. STUDENT LOAN FORGIVENESS FOR FEDERAL DEFENDERS.

Section 465(a)(2)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(F)) is amended by inserting before the semicolon the following: '', or as a full-time Federal defender attorney employed in a defender organization established under 3006A(g) of title 18, United States Code''.

SEC. 206. LAW CLERK LOAN DEFERMENT.

(a) FEDERAL STAFFORD LOANS.—

(1) AMENDMENTS TO SECTION 427.—Section 427(a) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)) is amended—

(A) in paragraph (3)(B), by striking ''and'' after the semicolon;

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by inserting at the end the following:

''(5) in the case of a borrower who is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or appointed under section 675 of that title, payment of the unpaid principal balance and interest on a federally insured student loan may be deferred not in excess of 3 years.''.

(2) AMENDMENTS TO SECTION 428.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(A) in clause (i)(I), by striking ''or'' after the semicolon;

(B) in subclause (II), by striking the comma and inserting ''; or''; and

(C) by inserting at the end the following:

''(III) is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title.''.

(b) DIRECT LOANS.—Section 455(f)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)(A)) is amended—

(1) in clause (i), by striking ''or'' after the semicolon;

(2) in clause (ii), by striking the comma and inserting ''; or''; and

(3) by inserting at the end the following:

''(iii) is serving as a full-time judicial law clerk, in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title,''.

(c) FEDERAL PERKINS LOANS.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) in clause (iii), by striking ''or'' after the semicolon;

(2) in clause (iv), by inserting ''or'' after the semicolon; and

(3) by inserting at the end the following:

''(v) not in excess of 3 years during which the borrower is serving as a full-time judicial law clerk in a court as defined under section 610 of title 28, United States Code, or a law clerk appointed under section 675 of that title;''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) loans made after July 1, 1998; and

(2) employment as a judicial clerk that occurs on or after the date of enactment of this Act.

SEC. 207. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN ORGAN DONOR LEAVE PROGRAM.

Section 6327(a) of title 5, United States Code, is amended by inserting ''or an entity of the judicial branch'' after ''An employee in or under an Executive agency''.

SEC. 208. TRANSPORTATION AND SUBSISTENCE FOR CRIMINAL JUSTICE ACT DEFENDANTS.

Section 4285 of title 18, United States Code, is amended—

(1) in the first sentence, by striking ''to appear before the required court'';

(2) by striking ''to the place where his appearance is required,'' and inserting ''(1) to the place where each appearance is required and (2) to return to the place of his arrest or bona fide residence,'';

(3) by inserting ''during travel'' after ''subsistence expenses''; and

(4) by striking ''to his destination,'' and inserting ''to his destination and during any proceeding at which his appearance is required,''.

SEC. 209. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Section 3006A(d)(2) of title 18, United States Code, is amended—

(1) by striking ''5,200'' and inserting ''7,000'';

(2) by striking ''1,500'' and inserting ''2,000'';

(3) by striking ''3,700'' and inserting ''5,000'';

(4) by striking ''1,200'' each place it appears and inserting ''1,500''; and

(5) by striking ''3,900'' and inserting ''5,000''.

SEC. 210. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Section 3006A(e) of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''$300'' and inserting ''$500''; and

(B) in subparagraph (B), by striking ''$300'' and inserting ''$500''; and

(2) in paragraph (3) in the first sentence by striking ''$1,000'' and inserting ''$1,600''.

SEC. 211. EXCESS COMPENSATION DELEGATION AUTHORITY.

(a) WAIVING MAXIMUM AMOUNTS.—Section 3006A(d)(3) of title 18, United States Code, is amended in the second sentence by striking ''circuit judge'' and inserting ''or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge''.

(b) MAXIMUM AMOUNTS.—Section 3006A(e)(3) of title 18, United States Code, is amended in the second sentence by striking ''circuit judge'' and inserting ''or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge''.

(c) CONTROLLED SUBSTANCES CASES.—Section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)) is amended in the second sentence by striking ''circuit judge'' and inserting ''or senior circuit judge, or to an appropriate nonjudicial officer qualified by training and legal experience. In any case in which the delegate judge or nonjudicial officer reduces the excess payment certified by the court, the claimant may seek review by the chief judge''.

SEC. 212. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''§ 1521. Retaliating against a Federal judge by false claim or slander of title

''(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien or encumbrance against the real or personal property of a Federal judge, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 5 years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than 10 years, or both.

''(b) In this section, the term 'Federal judge' means a justice or judge of the United States as defined under section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court, District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''1521. Retaliating against a Federal judge by false claim or slander of title.''.

SEC. 213. APPOINTING AUTHORITY FOR CIRCUIT LIBRARIANS.

Section 713 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''Each court of appeals'' and inserting ''The judicial council of each circuit''; and

(B) striking ''the court'' and inserting ''the judicial council''; and

(2) in subsection (b), by striking ''court'' each place it appears and inserting ''judicial council''.

SEC. 214. JUDICIAL BRANCH SECURITY REQUIREMENTS.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (22) through (24) as paragraphs (23) through (25), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) After consultation with the United States Marshals Service, and others if necessary, determine the security requirements for the Judicial Branch;''.

SEC. 215. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.

(a) BANKRUPTCY JUDGES.—Section 153 of title 28, United States Code, is amended by adding at the end the following:

''(d) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a bankruptcy judge of the United States in regular active service or who is retired under section 377 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.''.

(b) UNITED STATES MAGISTRATE JUDGES.—Section 634(c) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a magistrate judge of the United States in regular active service or who is retired under section 377 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.''.

(c) TERRITORIAL JUDGES.—

(1) GUAM.—Section 24 of the Organic Act of Guam (48 U.S.C. 1424b) is amended by adding at the end the following:

''(c) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.''.

(2) COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—The first section of the Act of November 8, 1977 (48 U.S.C. 1821; Public Law 95–157; 91 Stat. 1265) is amended in subsection (b) by adding at the end the following:

''(5) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.''.

(3) VIRGIN ISLANDS.—Section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)) is amended—

(A) by inserting ''(1)'' after ''(a)''; and

(B) by adding at the end the following:

''(2) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge appointed under this section who is in regular active service or who is retired under section 373 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.''.

SEC. 216. HEALTH INSURANCE FOR SURVIVING FAMILY AND SPOUSES OF JUDGES.

Section 8901(3) of title 5, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(E) a member of a family who is a survivor of—

''(i) a Justice or judge of the United States, as defined under section 451 of title 28, United States Code;

''(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands;

''(iii) a judge of the United States Court of Federal Claims; or

''(iv) a United States bankruptcy judge or a full-time United States magistrate judge;''.

FEDERAL COURTS IMPROVEMENT ACT

108TH CONGRESS

SECTION-BY-SECTION ANALYSIS

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Authority of Bankruptcy Administrators To Appoint Trustees and to Serve as Trustees in Bankruptcy Cases in the States of Alabama and North Carolina.

This section provides that the bankruptcy administrators in Alabama and North Carolina shall have the same authority as that exercised by United States trustees in all other states. The bankruptcy administrator program was established in the judicial districts in Alabama and North Carolina pursuant to section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986. Expanding the duties of bankruptcy administrators would further one of the central goals of the Bankruptcy Reform Act of 1978, Public Law No. 95–598: freeing bankruptcy judges from an administrative role in their cases. This will improve the efficiency and effectiveness of the bankruptcy administrators to facilitate the work of the court to the same degree that United States trustees have done so in the other 48 states.

Sec. 102. Venue in Bankruptcy Cases.

This provision amends section 1412 of title 28, United States Code, to clarify that a district court or a bankruptcy court exercising original jurisdiction under section 157 of title 28, United States Code, may raise an issue of venue sua sponte.

Section 1412, at present, neither explicitly allows nor explicitly prohibits a district court or bankruptcy court from raising an issue of venue sua sponte. Federal Rule of Bankruptcy Procedure 1014 implements the venue statute. The Rule only contains the phrase ''on timely motion by a party in interest.'' The incongruence between the statute and Rule has caused confusion. Currently, courts in the same districts raise the issue of venue sua sponte, while others do not.

While multiple fora may be permissive locations for filing a bankruptcy case, it is important that courts have the authority to meet the policy goals of preventing forum shopping and promoting an economic, efficient, and effective administration of that case. The Judicial Conference believes that amending the statute to clarify that the courts have the power to raise this issue sua sonte furthers those goals and, promotes the uniform application of the law. For example, if a debtor company, with its primary business and the vast majority of its creditors and employees in a particular state, has its bankruptcy petition filed in another, geographically removed state, the resulting bankruptcy proceeding could impose significant burdens upon the parties in interest, and may not result in the most efficient or effective administration of the bankruptcy. With the enactment of this section, the court, on its own motion or on a timely motion of a party in interest, may transfer a bankruptcy case or proceeding to a district court for another district in the interest of justice or for the convenience of the parties.

Sec. 103. Place of Holding Court in Texarkana, Texas and Texarkana, Arkansas.

This section amends sections 83(b)(1) and 124(c)(5) of title 28, United States Code, to provide that the Western District of Arkansas and the Eastern District of Texas may hold court anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas. Two courtrooms in the Texarkana courthouse are in one state and two are in the other. As the caseload in Texarkana has

increased in recent years (especially the criminal dockets), the courts have demonstrated a desire to use the court rooms interchangeably to move their dockets more efficiently. Currently, Texas-originated cases must be tried in Texas and Arkansas-originated cases in Arkansas. This amendment is a further refinement of the efficiency move to build one courthouse for judicial districts in different states.

Sec. 104. Change in Composition of Divisions of Western District of Texas.

This section would amend the jurisdiction of two divisions of the Western District of Texas by removing Hudspeth County from the Pecos Division and including it in the El Paso Division. The change is sought because increased law enforcement activities in the District's border counties continue to result in increased criminal filings. Three major border checkpoints are located in Hudspeth County, which is directly adjacent to the El Paso District. These checkpoints are closer to El Paso then they are to Pecos (by approximately 135, 105, and 50 miles respectively), and most of the law enforcement agents responsible for these checkpoints live in El Paso. In addition, although the prosecution of these cases occurs in Pecos, counsel usually travels from El Paso. Moreover, El Paso is better equipped to handle the burgeoning workload, as it is where two new judgeships will be filled. Thus, this section would benefit defendants, counsel, and law enforcement agencies, reduce travel costs, and increase the cost effectiveness of administering justice in the district. The United States Attorney for the Western District of Texas supports the proposal.

Sec. 105. Change in Composition of Divisions of Western District of Tennessee.

This section amends Section 123(c) of title 28, United States Code, to move Dyer County from the Western Division of the Western District of Tennessee to the Eastern Division. The section further provides that court for the Eastern Division shall be held at Dyersburg and Jackson. Currently, court for the Eastern Division is held only at Jackson. Dyersburg is removed as a place of holding court for the Western Division.

Dyersburg, the largest city in Dyer County, is approximately 75 miles from Memphis, the location of the Western Division court. However, Dyersburg is only 47 miles from Jackson, the location of the Eastern Division court. A drive from Dyersburg to Memphis takes approximately two hours but a drive from Dyersburg to Jackson requires less than one hour. In addition, there is a new four-lane highway between Dyersburg and Jackson which results in a very easy drive. The judges of this court are in agreement that this transfer would result in a convenience to litigants, lawyers, and jurors from Dyer County. Even more importantly, the court would realize a significant savings resulting from reduced juror mileage fees. The Dyer County Bar Association surveyed its membership concerning the proposed transfer of Dyer County. According to the president of the Dyer County Bar Association at that time, there was near unanimous support for the proposal.

Sec. 106. Place of Holding Court in the Northern District of New York.

This section would designate Plattsburgh as a federal place of holding court in the Northern District of New York. The need to designate Plattsburgh as a place of holding court has been necessitated by the effort to increase security near our national borders in the wake of the attacks of September 2001. The Department of Justice and the U.S. Customs Service are implementing significant increases in manpower and federal law enforcement capability along the Canadian border in the Northern District of New York. The additional manpower and equipment resources are expected to dramatically increase the number of proceedings that will be heard at the Plattsburgh location.

Currently, there is a part-time federal magistrate judge in Plattsburgh who holds criminal proceedings at his law office. There are no dedicated federal facilities available for the judge to use. The law office has virtually no security nor sufficient space to properly accommodate the members of the press or public (or even the defendant's own family). Arrestees, the majority of who are charged with trafficking in narcotics between Canada and the United States, must be processed under these circumstances. With a significant influx of cases, this situation will not continue to be manageable.

A designated court location in Plattsburgh would greatly facilitate the prosecution of the additional cases generated at the northern ports of entry in New York State. The Plattsburgh court location would minimize the transportation of detained defendants to the Albany court location. It would actually shorten detention time and enable the Immigration and Naturalization Service to obtain more prompt dispositions in the administrative removal proceedings that follow federal prosecutions. A Plattsburgh location would also enable detention of defendants locally, a critical advantage as detention space in Albany is severely limited.

Designation of Plattsburgh as a place of holding court would allow acquisition of space for a criminal proceedings courtroom of approximately 800 square feet at the Federal Building in Plattsburgh. In addition to providing adequate space for courtroom proceedings, the designation will enable the Northern District to create a new jury division consisting of the counties of Essex, Clinton, and Franklin, thereby enabling jurors from these areas to serve in nearby Plattsburgh, rather than drive three to four hours to Albany or Watertown. Also, the bankruptcy court would be able to make use of the new courtroom, which would make an enormous difference in those cases involving litigants from the North County.

Sec. 107. Juror Fees.

This section would amend 28 U.S.C. §1871(b)(1) by increasing the daily fee to which a juror is entitled from $40 to $50. The change would compensate jurors more adequately for their services. Although the cost of living has continued to increase each year, the daily rate for jurors has not increased in twelve years. Previous increases occurred in 1990 (from $30 to $40), 1978 (from $20 to $30), and 1968 (from $10 to $20).

The Jury Selection and Service Act, 28 U.S.C. §1861, et seq. (Jury Act), specifically prohibits exclusion of any citizen from jury service on the basis of economic status, and its legislative history reflects support for fee increases that would make jury service less burdensome. Congress recognized that, to the extent that the burden of jury service is diminished, financial hardship excuses could decline, with consequent enhancement of representative participation of juries. Therefore, while the juror attendance fee has never been intended to support or replace salaries, it is intended to provide a minimal level of compensation for jurors' time and effort in fulfilling their civic responsibility.

The projected additional cost for FY 2004 for a $50 daily attendance fee would be approximately $8.1 million. Therefore enactment of this legislation would require a commensurate increase in the fees of jurors appropriations account.

Sec. 108. Supplemental Attendance Fee for Petit Jurors Serving on Lengthy Trials.

This section amends 28 U.S.C. §1871(b)(2) by shortening the number of days that a juror is required to serve before he or she is eligible for the supplemental daily fee authorized by the section. Currently, a juror who is required to serve more than thirty days is permitted to receive an additional ten dollars a day, above the established juror fee of forty dollars. The economic hardship associated with jury service worsens the longer jurors are required to serve, especially if service continued for more than a week. This section recognizes the fact by reducing to five days the time before jurors could qualify for the supplemental fee.

The projected additional cost for FY 2004 for the supplemental daily fee authorized by this section would be approximately $2 million. Therefore enactment of this legislation would require a commensurate increase in the fees of jurors appropriations account.

Sec. 109. Authority of District Courts as to a Jury Summons.

This section would amend 28 U.S.C. §1866(g) to clarify that a court may, but is not required to, follow up on individuals who do not respond to the jury selection process.

Under the traditional ''two-step'' jury selection process, qualification questionnaires and summonses are mailed to prospective jurors separately. For those who do not respond to the questionnaires, 28 U.S.C. §1864(a) provides that they ''may'' be called into court to fill out the form. For those who fail to respond to a summons, however, section 28 U.S.C. §1866(g) provides that they ''shall'' be ordered into court to show cause for their non-compliance.

Pursuant to 28 U.S.C. §1878, however, 22 districts have combined these two steps into a ''one-step'' jury selection process, whereby questionnaires and summonses are sent out simultaneously. Section 1878(b) expressly provides that ''no challenge . . . shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure.'' Nonetheless, as long as section 1866(g) contains the word ''shall,'' challenges that a jury was unlawfully empanelled can be expected to continue. See *United States* vs. *Cisneros*, No 97–CR–485 (D.D.C.); *United States* vs. *Hsia*, No. 98–CR–57 (D.D.C.). This section will allow a court to take appropriate action against those who do not respond to a jury summons. The section leaves the decision of how to handle non-responders to the discretion of each court, guided by its own circumstances and experiences. The section also makes the provision gender-neutral.

Sec. 110. Automatic Excuse Upon Request From Jury Service for Members of the Armed Services, Members of Fire and Police Departments, and Public Officers.

This section repeals the exemption from jury service now granted to members of the Armed Forces, members of fire and police departments, and pubic officials under 28 U.S.C. §1863(b)(6) and grants to these persons an automatic excuse from jury service upon individual request. The current statute prohibits individuals in these broad categories of occupations to serve on a jury even if they wish to do so. Barring these individuals from jury duty is unjustified. This provision extends to these persons an automatic excuse from jury by amending 28 U.S.C. §1863(b)(5)(B) to allow them the opportunity to serve on jury if they choose to do so. If they choose not to serve, they are automatically excused.

Sec. 111. Elimination of the Public Drawing Requirements for Juror Wheels.

This section eliminates the noticing and public drawing requirements for selecting names from jury wheels. The Jury Act at 28 U.S.C. §§1864(a) and 1866(a) currently states that the clerk shall ''publicly draw at random,'' from the names of persons required

for jury service. ''Publicly draw'' is defined in 28 U.S.C. §1869(k) as a ''drawing which is conducted . . . after reasonable public notice and which is open to the public.'' Because computers have replaced the physical drawing of names, and because the public has little or no interest in attending a jury drawing, this section would eliminate the requirement to post a separate notice for each drawing from the master and qualified wheels, as well as the requirement to draw names publicly and/or to post public notices. Instead, one general notice will be posted in the clerk's office that explains the process by which names are randomly and periodically drawn from the wheels.

The Jury System Improvements Act of 1978, Public Law No. 95–572, authorized the Judicial Conference to adopt regulations governing the drawing of juror names from the jury wheels when a drawing is made by electronic data processing. Accordingly, the Conference has adopted regulations that take into account the changes in jury selection resulting from technological advances. The Conference regulations narrowed the meaning of ''public drawing'' to apply only to the selection of the starting number and interval (quotient) during the process of selecting juror names from the original source lists. The Conference did not require any public observance of the actual computer operations, interpreting the term ''reasonably public notice'' to mean the posting of a written announcement of the drawing from the master and qualified wheels on a bulletin board or another public place at the courthouse.

With advanced computer technology, more courts are moving to a purely randomized method for selecting juries. Indeed, the Administrative Office's new Jury Management System for the courts will perform the selection of names form the master and qualified jury wheels by a purely randomized process approved by the National Institute of Standards and Technology.

Sec. 112. Conditions of Probation and Supervised Release.

As part of the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. No. 104–132), Congress amended title 18, inter alia, by renumbering and amending the discretionary conditions of probation listed in section 3563(b), but failed to conform section 3563(a) (containing the mandatory conditions of probation) to that amendment. Therefore, the references in section 3563(a) to section 33563(b) are now erroneous. The amendment in subsection (a) of this provision corrects this technical error, thereby restoring congressional intent.

Subsection (b) corrects the same oversight as to 18 U.S.C. §3583(d), which delineates the conditions of supervised release, as is corrected in subsection (a). When 18 U.S.C. §3563(b) was amended in 1996, the cross reference found 18 U.S.C. §3583(d) was not conformed to that amendment. The amendment in subsection (b) corrects this technical error.

Subsection (b) also makes an amendment to the conditions of supervised release. Prior to the 1996 legislation, intermittent confinement available as a condition of probation, but not of supervised release. Experience since 1996 has demonstrated that this form of confinement (custody by the Bureau of Prisons during nights, weekends, or other intervals of time) is appropriate in certain circumstances. However, this provision recognizes several appropriate limitations on the use of intermittent confinement in this context. First, its use should be limited, as in the case of probation, to the first year of supervision. Second, it should be ordered only when Bureau of Prisons facilities are available to accommodate the individual in question. Third, it should be available only as a sanction for a supervised release violation as an option for the court that is less severe than revocation of supervised release.

Subsection (c) amends the section providing for intermittent confinement to clarify that its provisions, including the temporal limitations on its imposition, apply to supervised release as well as to probation.

Sec. 113. Clarifying the Scope of Diversity of Citizenship for Resident Aliens.

This section amends the last sentence of section 1332(a) of title 28 to clarify the scope of diversity of citizenship jurisdiction in disputes involving aliens admitted to the United States as permanent residents (''resident aliens''). Congress added this proviso to the section in 1988 (Judicial Improvements and Access to Justice Act, Pub. L. No. 100–702, 102 Stat. 4642) to ''deem'' a resident alien as a citizen of the state in which the alien is domiciled, with the specific purpose of denying federal jurisdiction in suits between a citizen of a state and an alien permanently residing in the same state. However, this deeming language has been interpreted as applying to other litigation circumstances involving aliens. For example, under section 1332(a)(2) a non-resident alien has been permitted to sue a United States citizen and a resident alien; the proviso deems the resident alien to be a citizen of the state of his permanent residence. Such application of the proviso has broadened the scope of diversity jurisdiction beyond that contemplated when the statute was enacted.

Thus, the Judicial Conference of the United States proposes replacing the last sentence in 28 U.S.C. §1332(a) (the resident alien proviso) with text providing that the district courts shall not have diversity of citizenship jurisdiction under subsections 1332(a)(2)–(3) where the matter in controversy is between a citizen of a state and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same state. This section will resolve differing interpretations of the sentence among federal courts.

Sec. 114. Clarifying the Scope of Diversity of Citizenship for Corporations With Foreign Contacts.

Section 1332(a) of title 28, United States Code, grants the district courts original jurisdiction of all civil actions where the matter in controversy exceeds $75,000 and is between citizens of different States or citizens of a State and citizens or subjects of a foreign state. No plaintiff can be from the same State as a defendant for this diversity jurisdiction to be available. Also, diversity jurisdiction does not lie when a citizen or subject of a foreign state (alien) seeks to sue another foreigner in federal court.

When one of the parties to a civil action is a corporation, section 1332(c) deems that corporation to be a citizen of any Sate in which it has been incorporated ''and of the State where it has its principal place of business.'' The quoted language was added to subsection (c)(1) in 1958 to give essentially dual citizenship to corporations. The intent was to preclude diversity jurisdiction over a dispute between an in-state citizen and a corporation incorporated in that state or primarily doing business in the state. In either situation, neither party faced a threat of bias if the action were to be resolved in state court. For example, today under 1332(c), if a corporation incorporated in Delaware has its principal place of business in Florida it is deemed a citizen of both Delaware and Florida. If a Florida citizen or a Delaware citizen sues that corporation, diversity jurisdiction would be defeated because both the plaintiff and defendant would be citizens from the same State (Florida or Delaware).

Federal courts have struggled with applying this statute when an action involves a U.S. corporation with foreign contacts or foreign corporations that operate in the United States. This difficulty occurs because section 1332(c)(1) makes no reference to a corporation with either of these two types of foreign contacts (country of incorporation or principal place of doing business). Some courts have noted that because the word ''States'' in the subsection begins with a capital ''S,'' it applies only to States of the Union, as well as U.S. territories, the District of Columbia, and Puerto Rico, as defined in section 1332(d). Other courts have concluded that the word ''States'' should mean foreign states, as well as States of the Union, when applying section 1332(c)(1).

The amendment in this section would adopt the majority view of courts interpreting the language by inserting the words ''foreign state'' in two places in section 1332(c)(1) to make it clear that all corporations, foreign and domestic, would be regarded as citizens of both their place of incorporation and their principal place of business. Such an approach builds upon the longstanding recognition that federal diversity and alienage jurisdiction seek to address the problem of perceived bias that results when non-citizens must litigate in a state court against opposing parties who are citizens of that state (or foreign state), either by virtue of its place of incorporation or by virtue of its principal place of business. See C. Wright & M. Kane, The Law of Federal Courts, 170 (6th ed. 2002). In addition to clarifying the application of the statute regarding corporate citizenship, the amendment would bring about a modest reduction in the diversity workload of the federal courts. It would not, however, deprive a corporation of access to a federal forum where there is a threat of local bias in state court. Moreover, the change made by this amendment tracks the definition of corporate citizenship recently codified in the Multiparty, Multiforum Trial Jurisdiction Act of 2002 (Pub. L. No. 107–273).

The second change in this amendment is to revise the working of section 1332(c)(1) so that a corporation shall be deemed a citizen of ''every State and foreign state by which it has been incorporated,'' instead of ''any State. . . .'' Although corporations can incorporate in more than one state, the practice is rare. In applying the subsection, most courts have treated such multistate corporations as citizens of every state by which they have been incorporated. The amendment would codify the majority view, treating corporations as citizen of every state of incorporation for diversity purposes. See C. Wright & M. Kane, The Law of Federal Courts, 167–68 (6th ed. 2002).

Sec. 115. Reporting of Wiretap Orders.

Currently, 18 U.S.C. §2519(1) requires that federal and state judges submit a report to the Administrative Office no later than 30 days after the expiration of an approved order, or the denial of an order, for a wiretap. Certain judges submit numerous reports to the Administrative Office throughout the year. For example, one state judge in 1999 approved 70 wiretap orders, and therefore, was required to submit 70 separate reports. Federal and state prosecutors are required by 18 U.S.C. §2519(2) to submit information relating to wiretap orders they applied for during the preceding calendar year once in January.

The individual reports submitted by judges are not processed by the Administrative Office until the prosecutors submit their summary reports. The prosecutor's reports are then matched to the judge's reports to complete the set of information published by the Administrative Office in the annual *Wiretap Report*.

The proposed section would permit judges to submit annual summary reports on wiretap orders acted on during the previous calendar year, just as prosecutors do. This would simplify the reporting requirements for the judges and their staffs, without impacting the accuracy or timeliness of the reporting required by the statute.

Sec. 116. Magistrate Judge Participation at Circuit Conferences.

This section amends section 333 of title 28 of the United States Code to include magistrate judges among the judicial officers who may by statute be summoned to attend circuit judicial conferences. Magistrate judges conduct a wide variety of pretrial proceedings in criminal and civil cases with consent of the parties. Magistrate judges are regularly invited by chief circuit judges to attend circuit judicial conferences in all circuits. They were not included in section 333 upon its enactment in 1939 because the modern office of magistrate judge was not created until 1968. The amendment updates the statute to reflect the significant contributions of magistrate judges to the federal courts and the value of their attendance at circuit judicial conferences where the business of the courts in each circuit is considered.

Sec. 117. Repeal of Obsolete Speedy Trial Act Cross References to the Narcotic Addict Rehabilitation Act.

This provision amends 18 U.S.C. §3161 to remove cross references to the now repealed 28 U.S.C. §2902. The Children's Health Act of 2000, Pub. L. No. 106–310, Div. B, §3405(c)(1), 114 Stat. 1221 (Oct. 17, 2000), repealed chapter 175 of title 28, United Sates Code (28 U.S.C. §§2901–2906), which was entitled, ''Civil Commitment and Rehabilitation of Narcotics Addicts.'' The repeal of chapter 175 of title 28 eliminated long obsolete provisions of title 28 that were enacted as title I of the Narcotic Addict Rehabilitation Act, Pub. L. No. 89–793, 80 Stat. 1438 (Nov. 8, 1966) (NARA) which had not been used in decades since it was completely defunded in the late 1970's. *See discussion in United States v. Butler*, 676 F.Supp. 88 (W.D.Pa. 1988).

There remain, however, three references to 28 U.S.C. §2902 in the provisions of the Speedy Trial Act, namely, 18 U.S.C. §3161(h)(1)(B), (h)(1)(C), and (h)(5) which should be stricken from this statute.

Sec. 118. Taxing of Court Technology Costs.

This section would incorporate some of the expenses associated with new courtroom technologies into the assessment of litigation costs against a losing party as provided by 28 U.S.C. §1920. Currently, §1920 allows a court to include certain limited costs (such as fees of the clerk, marshal, and court reporter; fees for witnesses; court appointed experts, and interpreters; and fees for docketing, printing and copying of papers necessarily obtained for use in the case) into the final judgment or decree of a case. This amendment would update the section to recognize that transcripts are available in electronic form as well as in hard copy. It would also expand the concept of ''papers'' in order to reflect the decreasing use of paper and the increasing use of technology in creating, filing, and exchanging court documents. It would not, however, permit the taxing of costs associated with the use of technology to create, assist, enhance or present materials during a trial.

Sec. 119. Investment of Court Registry Funds.

Registry funds are funds received by the courts in the course of litigation. The United States district and bankruptcy courts presently hold about $1.76 billion in registry funds on behalf of thousands of litigants, witnesses and other participants in court proceedings. These moneys are paid into the federal courts to secure judgments or appearance bonds, to begin interpleader or land condemnation actions, and for other judicial purposes. The funds are held and administered by the clerk of the court pending the resolution of the litigation. The registry funds are deposited in accordance with section 2041 of title 28, United States Code, into interest-bearing accounts, e.g. certificates of deposit, at financial institutions that have qualified as designated depositaries of public moneys in accordance with 31 C.F.R. Part 202. The courts also purchase short-term Treasury bills with registry funds. When the courts purchase these bills on the secondary market, the choice of investment instruments is limited and they must pay transaction fees.

This section would broaden the courts' investment options and offer an improved procedure for investing in Treasury securities. Under the Treasury's Government Account Series (GAS) program, there are no transaction fees, transactions may be posted daily, and a wider range of Treasury securities is available than the secondary market offers. Also, GAS has full-featured, on-line transaction facilities. Participation in the GAS program would help to reduce the courts' costs in administering registry funds.

Sec. 120. Emergency Authority to Conduct Court Proceedings Outside the Territorial Jurisdiction of the Court.

This section would authorize circuit, district and bankruptcy courts, as well as magistrate judges, to conduct special sessions outside their respective geographic boundaries upon a finding by the respective chief judge (or, if unavailable, the most senior active judge who is available) or the judicial council of the circuit, that, because of emergency conditions, no location within these boundaries is reasonably available where such special sessions could be held.

The need for this legislation has become apparent following the terrorist attacks of September 11, 2001, and the impact of these disasters on court operations, in particular in New York City. In emergency conditions, a federal court facility in an adjoining district (or circuit) might be more readily and safely available to court personnel, litigants, jurors and the public than a facility at a place of holding court within the district. This is particularly true in major metropolitan areas such as New York, Washington, D.C., Dallas and Kansas City, where the metropolitan area includes parts of more than one judicial district. The advent of electronic court records systems will facilitate implementation of this authority by providing judges, court staff and attorneys with remote access to case documents.

Sec. 121. Restriction of Public Access To Certain Information Contained in Bankruptcy Case Files.

This section would implement Judicial Conference policy regarding protection of certain information contained in bankruptcy case files from public disclosure by means of four revisions to section 107 of the Bankruptcy Code.

First, the section would transform former subsection (b)(1) regarding protection of trade secret or confidential research, development, or commercial information into a new subsection (b). No substantive change would be made to this provision.

Second, the section would create a new subsection (c) to allow the court for cause to authorize the redaction of personal identifiers to protect a debtor, creditor, or other person from identity theft or other harm. The amendment incorporates by reference section 3(d) of the Identity Theft and Assumption Deterrence Act of 1998 with regard to the types of personal identifiers that may be redacted. These include the debtor's or other person's name, social security account number, date of birth, driver's license number, alien registration number, government passport number, employee or taxpayer identification number, unique biometric data, unique electronic identification number, electronic address or routing code, and telecommunication identifying information or access device. The amendment would also permit the court to exercise its discretion to protect personal identifiers by means other than redaction where appropriate in the circumstances of the case.

Third, this new subsection (c) would have the effect of striking from the current provision ''scandalous defamatory matter'' as a basis for protection of a person and instead allow the court for cause to seal or redact ''information that could cause undue annoyance, embarrassment, oppression or risk of injury to person or property.'' This language is drawn from Federal Rule of Civil Procedure 26 regarding the issuance of protective orders in the course of discovery. This new provision would expand the authority of the bankruptcy court to allow the court to protect information, such as the home or employment address of a debtor, because of a personal security risk, including fear of injury by a former spouse or stalker. It would also allow the court to protect other information normally considered private, such as medical information which, if publicly disclosed, could result in untoward consequences to the debtor or others.

Finally, this provision would allow the protection of information under subsection (c) ''contained in a paper filed, or to be filed,'' in a bankruptcy case. This provision is intended to provide persons the opportunity to request protection of the information not only after it is filed with the court, but prior to filings as well. This authority would be especially useful in an electronic filing environment, where information once filed is immediately available to the public.

Sec. 122. Security of Social Security Account Number of Debtor in Notice Debtor Provides to Creditor.

This provision would implement Judicial Conference policy that social security account numbers be protected from public disclosure in court documents.

Section 342(c) of title 11, United States Code, currently requires a debtor to include his or her taxpayer identification number, which for an individual is almost uniformly his or her social security account number, on any notice the debtor gives to his or her creditors. Debtors are required to give such notice in various contexts, including the filing of adversary proceedings, such as a compliant to determine the dischargeability of a debt, or contested matters, such as a motion to avoid a lien impairing an exemption.

As a copy of such notice is required to be filed with the court, court files routinely include unredacted social security numbers of debtors. By requiring only the last four digits of a taxpayer identification number to appear on the notice, the debtor's full social security number will no longer appear in the court file and thus be protected from public disclosure.

TITLE II—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 201. Disability Retirement and Cost-of-Living Adjustments of Annuities for Territorial Judges.

The judges of the district courts of Guam, the Northern Mariana Islands, and the Virgin Islands are appointed by the President and confirmed by the Senate for ten-year

terms. Retirement benefits for territorial judges are set forth in 28 U.S.C. §373. Under this provision, a territorial judge may retire from office under any of the following three circumstances: (1) after meeting the same ''rule of 80'' age and service requirements applicable to Article III judges; (2) after serving at least 10 years, if removed by the President solely on grounds of mental or physical disability; or (3) at the end of a term, if not reappointed. An annuity equal to the pre-retirement salary, or prorated, in cases of disability or failure of reappointment, for judges with less than 15 years of service, is payable beginning at the time of retirement or upon attaining the age of 65 years, whichever is later. For judges who retire under the ''rule of 80'', the annuity is subject to the same cost-of-living adjustments (COLAs) as annuities payable under the Civil Service Retirement System, provided that such adjustments cannot result in a total annuity greater than 95 percent of an Article II judge's salary.

The retirement arrangements for these four territorial judges compare unfavorably with analogous provisions for bankruptcy judges, magistrate judges, and judges of the Court of Federal Claims (compare 28 U.S.C. §373 with 28 U.S.C. §§178 and 377) in that (1) territorial judges cannot retire if removed from office by the President on disability grounds before completing 10 years of service (as compared with five years of other non-Article III judges) and, even then, no annuity is payable until age 65 (no age restriction for other judges) and (2) territorial judges not retired at age 65 or older with combined age and service equal to eighty (''rule of 80'') do not get COLAs and even those retired under the ''rule of 80'' do not get COLAs until salaries of active judges have increased enough to accommodate the 95 percent limitation. There is no rationale for perpetuating these differences between territorial judges and other non-Article III judges.

In addition, 28 U.S.C. §373(c)(4) currently appears to permit only those recalled territorial judges who retired on a ''rule of 80'' basis to receive the same compensation, travel, and other expenses as a judge on active duty with the court, in lieu of their annuities.

Accordingly, subsection (1) of this section makes a technical amendment to section 373(c)(4) that reflects the fact that any territorial judge retiring under 28 U.S.C. §373 may elect to be a ''senior judge'' eligible for recall service and, therefore, should be eligible to receive the same compensation as an active judge on the court being served.

Subsection (2) of this section eliminates existing inequities between territorial judges and magistrate judges and bankruptcy judges by permitting territorial judges with five or more years of service to retire on an immediate disability annuity. The annuity would be equal to 40 percent of salary if the judge has less than ten years of service, and is adjusted upward in the proportion that the number of years of service bears to fifteen for service of ten years or more.

Subsection (3) of this section applies the COLA provision of title 5 to all retired territorial judges, subject only to the limitation that the annuity may not exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.

Sec. 202. Federal Judicial Center Personnel Matters.

This section would restore the historic parity in the salary levels of the Federal Judicial Center's senior staff and that of the Administrative Office of the United States Courts by authorizing the Director of the Center to set the compensation of a limited number of Center professional employees at levels equivalent to Level IV of the Executive Schedule pay rates. The proposed language would limit the Federal Judicial Center to increases in four positions. The section also corrects a misspelling in the original statute.

Sec. 203. Annual Leave Limit for Judicial Branch Executives.

The amendment in this section is designed to afford senior executives in the courts and the Federal Judicial Center the same right to leave carryover (720 hours) as employees in comparable positions in the executive branch and in the Administrative Office. It would make applicable to these executives the 720-hour maximum carryover amount of annual leave established for members of the executive branch's Senior Executive Services, in Government Management Reform Act of 1994 (Pub. L. No. 103–356), and for senior executives in the Administrative Office, as a result of the Administrative Office of the United States Courts Personnel Act of 1990, Pub. L. No. 101–474.

The amendment would affect approximately 400 court unit executives, including circuit executives, clerks of the courts of appeals, district court clerks, district court executives, bankruptcy court clerks, clerk of the Court of International Trade, clerk of the United States Court of Federal Claims, chief probation officers, chief pretrial services officers, senior staff attorneys, chief preargument attorneys, bankruptcy administrators, and circuit librarians. It would also affect five positions in the Federal Judicial Center.

Sec. 204. Supplemental Benefits Program.

The purpose of this section is to authorize the judiciary to provide its employees with a benefits package that is more competitive with those already provided throughout the private sector, state governments, colleges and universities, and the banking agencies in the executive branch. The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation recognized the need to improve benefits and were granted authority by Congress to offer these same enhanced benefits.

In January 2001 the General Accounting Office issued a report, ''High-Risk Series: An Update'' (GAO–01–263) which describes four key challenges to the federal government as an employer, paramount among them was ''acquiring and developing staffs whose size, skills, and deployment meet agency needs.'' The Judiciary, like the rest of the federal government, must recruit and retain employees with the proper skill mix in a competitive labor market. Over the next five years, the judiciary is at risk to lose 40 percent of its employee population to retirement. Also, the judiciary faces the additional challenges of recruiting staff nationwide, including in competitive labor markets in major urban areas.

The Judicial Conference of the United States has concluded that a comprehensive benefit program which responds to the current and future needs of the judiciary's workforce is essential to allow the judiciary to compete for the skilled employees that make up that workforce. The need for this authority is urgent. Severe budget constraints will only allow this program to be gradually implemented over a period of years. The personnel management problem it is intended to ameliorate is fast approaching.

Sec. 205. Student Loan Forgiveness for Federal Defenders.

This provision amends section 465(a)(2)(F) of the Higher Education Act of 1965, as amended by the Crime Control Act of 1990 (20 U.S.C. §1087ee(a)(2)(F)), to extend the categories of borrowers eligible for loan cancellation to include full-time federal defenders. Under section 465(a)(2)(F), a borrower is entitled to cancellation of up to 100 percent (phased in over five years of employment in a qualifying agency) of a Perkins Loan made on or after November 15, 1990, for full-time service as a qualifying law enforcement or corrections officer. While the Department of Education has interpreted the Federal Perkins Loan Program regulations to include prosecuting attorneys under the category of law enforcement officer, it has declined to extend the cancellation benefit administratively to public defenders.

Providing federal defenders with the same eligibility for student loan forgiveness as is held by their counterparts in United States attorney offices would be consonant with the parity established in the Criminal Justice Act between their salaries. See 18 U.S.C. §3006A(g)(2)(A) (the compensation of the Federal Public Defender shall be fixed at a rate not to exceed the compensation received by the United States attorney for that district, and the compensation for attorneys in a Federal Public Defender Organization shall be fixed at a rate not to exceed that paid to attorneys with similar qualifications and experience in the office of the United States attorney for that district). The underlying principle supporting the eligibility of prosecutors for student loan forgiveness—i.e., that the fundamental fairness, integrity, and credibility of the criminal justice system require the recruitment and retention of persons of the highest intellect, capability, character, and commitment to public service—applies with equal force to the men and women who serve as federal defenders. They should qualify for the same benefit.

Sec. 206. Law Clerk Loan Deferment.

Federal judges and Supreme Court Justices depend on the work of their law clerks. For that reason, each judge and Justice attempts to hire young attorneys with, among other qualities, records of high academic achievement. These same individuals have employment opportunities in the private sector which pay far higher salaries than a judge can offer. Because recent law school graduates frequently have significant amounts of student loan debt, judges face increasingly strong competition to secure highly capable law clerks.

Executive Branch agencies are authorized to pay up to six thousand dollars a year to repay an employee's student loan in certain circumstances. Congress has authorized this program to assist agencies to recruit and retain highly qualified individuals as employees. See 5. U.S.C. §5379. The proposal in this section is considerably less ambitious. It would only authorize judicial law clerks to defer payment of principal and interest on a federally insured loan during the period they serve as clerks.

Sec. 207. Inclusion of Judicial Branch Personnel in Organ Donor Leave Program.

In 1999, the Organ Donor Leave Act increased the amount of paid leave to serve as an organ donor from seven days to 30 days each calendar year. The purpose of the law was to enhance the federal government's leadership role in encouraging organ donations by making it easier for federal employees to become donors. The organ donor statute at 5 U.S.C. §6327(a) currently applies only to executive branch employees. This amendment extends the statute to the judicial branch.

Sec. 208. Transportation and Subsistence for Criminal Justice Act Defendants.

This section would amend 18 U.S.C. §4285 to give courts the authority to order the

United States Marshals Service to furnish transportation and subsistence for defendants returning home from court proceedings, and subsistence while attending such proceedings, including successive court appearances. The statute currently authorizes courts to order the United States Marshals Service to provide a released defendant with noncustodial transportation and subsistence to the court where that individual's appearance is required, when the interests of justice would be served and the client is financially unable to pay transportation costs.

This proposal would eliminate the present anomaly. While there is authority to bring non-custodial indigent defendants to court, there is no authority to provide the wherewithal to allow them to return to their homes, or obtain food and lodging during court proceedings or on the return trip. This section would provide the presiding judge with discretion to order the payment of reasonable travel and subsistence expenses for a defendant who may need the assistance. A preliminary estimate indicates that the cost of such travel and subsistence would be approximately $600,000 annually. When so ordered, such expenses would be paid by the United States Marshals Service from funds authorized by the Attorney General for such expenses.

Sec. 209. Maximum Amounts of Compensation for Attorneys.

The courts are required to pay private attorneys for indigent defendants' representation in criminal cases in situations where Federal Defenders are not available. These attorneys file vouchers for approval by the trial judges to obtain these payments. The Criminal Justice Act in 1986 established certain new ''maximums'' or thresholds which, when exceeded, require that the voucher be approved for payment by the chief judge of the circuit in addition to the trial court. 18 U.S.C. §3006A(d)(2)–(3). At that time, the hourly compensation rate was $60 in-court/$40 out-of-court which yielded an average of $45.

The Federal Courts Improvement Act of 2000 raised the case ''maximums'' for compensation for two reasons. In the previous 14 years, the per hour rates had been increased to $75 in-court and $55 out-of-court. Secondly, the 1987 adoption of the Sentencing Guidelines significantly increased attorney time per case.

As of May 1, 2002, the hourly rate for indigent attorney representation was increased to $90 per hour for in-court and out-of-court work. The proposal in this section would realign the case ''maximums'' in light of this increase in hourly rates. The percent of increase tracks the percent of increase in the hourly rate. The goal is to ensure that approximately the same percentage of vouchers are sent on to the court of appeals for approval as were sent on when Congress set the ''maximums'' in 1986 and 2000.

The purpose of this proposal is to provide prompt as possible payment to the attorneys who volunteer to the court to do representation work. Even at $90 per hour, well more than half of this compensation constitutes reimbursement to an attorney for overhead and operating expenses. It is only fair to these volunteer attorneys to keep the number of vouchers which are delayed by two judge approval to a reasonable portion of the total number. A secondary goals is to relieve administration burdens on court of appeals judges to the maximum extent reasonable.

Sec. 210. Maximum Amounts of Compensation for Services Other Than Counsel.

This section increases the approval thresholds for payment vouchers for services of investigators, experts, and other service providers by approximately the rate of wage inflation since 1986 (63%), the last year the thresholds were increased. It increases from $300 to $500 the amount which could be expended for investigative, expert, and other services without prior judicial approval, and increases from $1,000 to $1,600 the amount which cannot be paid out for such services without the approval of the chief judge of the court of appeals or an active judge of the court of appeals to whom the chief judge has delegated this authority. (18 U.S.C. §3006A(e).) The cost of professional services has risen since 1986, resulting in a much greater percentage of vouchers being submitted to the chief judges of the courts of appeals for review. This delays payment to service providers and increases the administrative burden of judicial officers.

Sec. 211. Excess Compensation Delegation Authority.

This section expands the delegation authority of the chief judge of the court of appeals with respect to approving vouchers in excess of the statutory maximums submitted by panel attorneys and investigative, expert, and other service providers. Chief judges of the circuits currently review and approve vouchers in excess of the statutory maximums after the court before which the services were provided certifies that the excess amount is necessary to provide fair compensation. The proposed amendments would widen the pool (now limited to active circuit judges) of possible individuals to whom the chief judge may delegate such approval authority to include any senior circuit judge or an ''appropriate non-judicial officer qualified by training and legal experience.'' The amendments also provide that a claimant may seek review by the circuit chief judge of a reduction made by any delegate in the amount that had been certified as necessary for fair compensation by the court before which the services were provided. The judiciary believes that the expanded delegation will accomplish the goal of enhanced supervision without compromising judicial responsibility for ensuring fair compensation for panel attorneys and other service providers.

In 1986, in response to a request from the circuit chief judges, the judiciary proposed and Congress enacted amendments to subsections (d)(3) and (e)(3) of the Criminal Justice Act, 18 U.S.C. §3006A, to provide that the chief judge of the circuit may delegate the excess compensation approval authority to an active circuit judge. At that time, the chief judges had expressed concern regarding the administrative burden of reviewing excess claim vouchers. Currently, with the large growth in the number of excess compensation claims, the circuit chief judges have indicated that the administration of the compensation system would be further enhanced by expanded delegation authority. By broadening the pool of persons to whom the chief judge may delegate his or her excess compensation approval authority, the chief judge will be better able to designate a person whose background fully equips him or her to decide upon the appropriate amounts of compensation for the services rendered. Moreover, in requiring that any non-judge designee be qualified by training and legal experience, the proposed amendments ensure accountability and effectiveness in voucher review. As a further safeguard for fair compensation, the amendments permit an attorney or other services provider to seek the circuit chief judge's review of a reduction made by the delegate.

Sec. 212. Protection Against Malicious Recording of Fictitious Liens Against Federal Judges.

In recent years, members of the federal judiciary have been victimized by persons seeking to intimidate or harass them by the filing of false liens against the judge's real or personal property. These liens are usually filed in an effort to harass a judge who has presided over a criminal or civil case involving the filer, or who has otherwise acted against the interests or perceived interests of the filer, his family, or his acquaintances. These liens are also filed to harass a judge against whom a civil action has been initiated by the individual who has filed the lien. Often, such liens are placed on the property of judges based on the allegation that the property is at issue in the lawsuit. While the incidences of filing such liens have occurred in all regions of the country, they are most prevalent in Washington and other western states.

The responsibility to initiate legal action to remove these liens typically falls upon Assistant United States Attorneys (''AUSA''), who represent the judges. The forms of response vary according to the state law and the circumstances. It is sometimes necessary for the AUSA to bring action in state court for the removal of liens. In some circumstances, an action to remove the liens may be brought in federal court, and in others, state court proceedings are commenced and removed to federal court under the provisions of 28 U.S.C. §1452. In some cases, the AUSA may seek an injunction against further filing of liens by the litigant. All of these methods are difficult and time consuming.

The pendency of these liens prior to their removal has caused some judges great inconvenience and personal financial difficulty. There is no current federal statute under which persons engaging in this tactic may be prosecuted. Thus, a new federal criminal sanction is needed to deter the practice. This proposal would create a new provision in the federal criminal code, punishing any person who files a false lien or encumbrance against the property of any federal Judge. The new statute would provide a maximum sentence on the first offense of up to five years.

Sec. 213. Appointing Authority for Circuit Librarians.

This section amends Section 713 of title 28, United States Code, to provide that circuit librarians shall be selected and hired by the circuit council rather than the circuit court of appeals. In recognition of the fact that circuit librarians assist judges and clerks from all courts, including district, bankruptcy and magistrate judges as well as appellate court judges, it is more appropriate for the circuit judicial council to hire the circuit librarian, rather than the appellate court.

Sec. 214. Judicial Branch Security Requirements.

This section would enhance the ability of the Judicial Conference to determine the security required for the protection of judges, court employees, law enforcement officers, jurors and other members of the public who are regularly in federal courthouses and other buildings used by the Judicial Branch. The judiciary has the ability to make a determination of its requirements in all other areas of operations. Only in security, perhaps the most critical area, does the judiciary lack the authority to determine basic requirements.

Currently, the U.S. Marshals Service (USMS) and the General Services Administration (GSA) share the responsibility for judiciary security. In recent years, the judiciary has been transferring to the USMS increasing amounts of funding for court security officers and courthouse security equipment from the judiciary court security appropriation. Yet, the Judicial Conference currently lacks sufficient information from

the USMS to fully participate in assessing the effectiveness of the security program upon which the judiciary so heavily depends.

The judiciary seeks to work cooperatively with the USMS in setting security requirements, as required by statute. In order for the judiciary to participate in the determination of security requirements, the judiciary will need information from the USMS including, for example, the current security standards, the allocation of personnel, analyses regarding equipment, and resource needs. This information is necessary to help the judiciary determine weaknesses and potential improvements in its security. It will also help the judiciary to provide support for the USMS budget throughout each funding cycle.

This section would not alter the responsibility of the USMS for protection of the judiciary in buildings occupied by the courts, pursuant to a memorandum of understanding between the GSA and the USMS, under which authority has been delegated to the USMS for the security of federal courthouses. The USMS would still be responsible for the security of the judges and the court facilities. Examples of security requirements which the judiciary could determine include the need for deputy marshals in certain proceedings and whether electronic devices should be allowed into courthouses.

With this authority, the judiciary will have a relationship with the USMS that is similar to the one it has with the GSA. The Director of the Administrative Office of the U.S. Courts has the statutory authority to provide accommodations to the courts, but lacks real property authority. Therefore, the judiciary identifies and defines space requirements for the courts and helps to support the GSA budget request for courthouse construction. The GSA determines how to fulfill the judiciary's space requirements and actually constructs the courthouses. The judiciary seeks this same arrangement with the USMS—a partnership in achieving an end that is agreed to and supported by the judiciary.

This section provides the Judiciary Conference with the authority to ''determine'' judiciary security needs. That determination is obviously not intended to mean the USMS is required by law to implement what the determination or assessment may be. It also, obviously, does not mean that Congress is under some obligation to fund what the judiciary ''determines'' it needs. However, it is important for the judiciary to have a voice in setting its own security requirements. This provision would give the judiciary that voice.

Sec. 215. Bankruptcy, Magistrate, and Territorial Judges Life Insurance.

Prior to October 1998, Article III judges had the exclusive right to carry full Federal Employees' Group Life Insurance (FEGLI) coverage into retirement, and many judges relied on this coverage in developing their financial and estate plans. In 1998, after Congress enacted legislation expanding this benefit to all federal employees, the Office of Personnel Management proposed rate changes in FEGLI premiums that would significantly increase for judges the cost of maintaining the insurance and, for older judges, make continued coverage prohibitively expensive. To minimize the impact of this regulatory change, Congress enacted legislation, Public Law No. 106–113 (the ''FEGLI fix''), authorizing the Director of the Administrative Office, on direction of the Judicial Conference, to pay the cost of any increase.

Public Law No: 106–518, the Federal Courts Improvement Act of 2000, included a provision extending the ''FEGLI fix'' to the Court of Federal Claims by providing that a retired Claims Court judge is a ''judge of the United States'' for purposes of Federal Employees' Group Life Insurance (FEGLI) coverage. This section would extend that benefit to Bankruptcy, Magistrate, and Territorial Judges.

Sec. 216. Health Insurance for Surviving Family and Spouses of Judges.

Federal retirees (executive branch and Congressional employees) and their surviving spouses retain their eligibility for Federal Employees Health Benefits (FEHB) health coverage at the same cost as current employees. In order to carry FEHB coverage into retirement, retirees must have been continuously enrolled (or covered as a family member) in any FEHB plan(s) for the 5 years of service immediately before the date the annuity starts, or for the full period(s) of service since the retiree's first opportunity to enroll (if less than 5 years).

Unlike surviving family and spouses of federal employees (and retirees) in the executive branch and Congressional branch, the surviving spouses of Article III judges (not enrolled in the Judicial Survivors' Annuities System) are not eligible to continue Federal Employees Health Benefits (FEHB) in the event of the judge's death. The surviving spouses of employees who have been enrolled for five years or more immediately before their deaths may elect to continue FEHB coverage. The surviving family and spouses of deceased federal judges are not eligible to continue to receive health benefits unless the judge, within the first six months of entering service, elects to participate in a survivors' annuity program.

This section would provide the same benefit regarding the FEHB program to surviving family (the spouse or unmarried dependent child under 22 years of age) of a Justice, judge, territorial judge, judge of the Court of Federal Claims, bankruptcy judge or full-time magistrate judge.

Mr. LEAHY. Mr. President, today, I am pleased to introduce a bill that would greatly improve the administration and efficiency of our Federal court system. The Federal Courts Improvement Act of 2004 is an attempt to assist our hard working Federal judiciary by replacing antiquated processes and bureaucratic hurdles with the necessary tools for the 21st century.

I thank my colleagues for joining Senator HATCH and me in supporting this bipartisan measure.

In recent years, the job of the Federal judge has changed considerably. Today, Federal judges at both the trial and appellate level are hearing more cases with fewer available judicial resources. We have a responsibility to pass legislation that helps them keep up with changing times and circumstances.

The judicial branch of Government occupies a place in the constitutional scheme of equal responsibility and importance as the Congress and the Presidency. Just like it is the judiciary's duty to mete out justice in a neutral and unbiased means, it is this branch's duty to provide the requisite tools so that the Federal judiciary can maintain its prominent place in the American system of Government.

For the last 20 years I have served on the Senate Judiciary Committee and I have worked hard to preserve a fair, independent and efficient judiciary. To further this goal, this body has passed a number of important judicial reforms over the past decade. The legislation under consideration today, like those passed in recent years, assists the Federal judiciary in achieving its goals and fulfilling its constitutional duties. While I am pleased with many of the reforms that have been implemented in recent years, other necessary measures that have been considered have not been implemented.

For example, last year I introduced legislation that would have provided Federal judges with a substantial pay raise as an attempt to rectify the fact that Federal judges earn far less than their counterparts in the private sector. I feel that it is completely unreasonable that judges do not automatically receive an annual cost-of-living adjustment that nearly every other Federal employee receives. Chief Justice Rehnquist has observed that, ''inadequate compensation seriously compromises the judicial independence fostered by life tenure. That low salaries might force judges to return to the private sector rather than stay on the bench risks affecting judicial performance—instead of serving for life, those judges would serve the terms their finances would allow.'' It was for these reasons that I was very disappointed that the legislation was not enacted after it was reported favorably by the Judiciary Committee. While I understand that we are now in a time of record deficits, we should not be so constrained as to jeopardize the independence of our Federal judiciary.

I am disappointed that the legislation introduced today does not seek to rectify the inadequacy of judicial pay. Nevertheless, it will assist the Federal judiciary by addressing some of its institutional inefficiencies and disparities. For example, this bill will strengthen the jury system, establish parity in judicial benefits, protect against identity theft, respond to changes in technology, and recognize the important role of magistrate judges in our Federal justice system. I am happy to respond to these requests made by the Judicial Conference of the United States.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2397. A bill to adjust the boundary of the John Muir National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, today I am introducing a bill with my colleague, Senator FEINSTEIN, to adjust the boundary of the John Muir National Historic Site. This bill, which is identical to legislation introduced in the House by Representative GEORGE MILLER, would allow the Park Service to obtain a small parcel of property to create a parking area for the John Muir National Historic Site. This would make access to the site much easier.

Naturalist John Muir lived in Martinez, CA, from 1890 until his death in 1914. While living in Martinez, Muir served as the first president and one of the founders of the Sierra Club, played a prominent role in the creation of several national parks, and wrote numerous articles and books on the importance of conservation. In 1964, John Muir's former residence became part of the National Park Service. Designated as a National Historic Site, John Muir's estate provides valuable open space in the San Francisco Bay area.

In 1988, Congress enacted legislation to expand the John Muir Historic Site. Included in this site expansion was a 3.3 acre parcel of land owned by the city of Martinez, which was donated by the city to the National Park Service. Following a survey conducted as part of the development of the General Management Plan, the Park Service discovered that a two-tenths acre triangle adjacent to the acquired parcel did not appear to have an owner.

Enactment of this legislation would allow the Park Service to either acquire the land, if an heir or owner is identified, or condemn the property if an heir or owner is not found. When the title to the land is clear, the Park Service wants to construct a parking area in order to meet the growing needs of the site users. This 9,500 square foot addition to the John Muir National Historic Site would allow the proposed parking area to accommodate school busses and provide 12 additional parking spaces.

This bill authorizes a noncontroversial boundary adjustment and is supported by Contra Costa County and the city of Martinez. I urge my colleagues to support this legislation.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 2398. A bill to designate the Federal building located at 324 Twenty-fifth Street in Ogden, Utah, as the James V. Hansen Building; to the Committee on Environment and Public Works.

Mr. HATCH. Mr. President, I am introducing legislation along with Senator BENNETT to designate the Federal building located at 324 Twenty-fifth Street in Ogden, Utah, as the James V. Hansen Federal Building.

I am pleased to introduce this measure today to honor my friend from Utah, former Congressman Jim Hansen. I am joined by my colleague Senator BENNETT, who has also worked extensively with Congressman Hansen on issues important to the people of Utah.

Congressman Hansen retired last year after serving in the United States House of Representatives, representing Utah's First Congressional District, for 22 years. Before his 11 terms in Congress, he served in the Utah State Legislature for 8 years, where he ascended to the role of speaker of the Utah House of Representatives. For 12 years, he served on the Farmington City Council. He is a veteran of the Korean War and served in the United States Navy.

Congressman Hansen has served the people of Utah with great distinction in the House of Representatives. He served as the Chairman of the House Resources Committee, as a senior member on the Armed Services Committee, and as a member of the House Ethics Committee,. He is one of the three founders of the Western Caucus and served as its chairman from 1988 to 1999.

While serving as the Chairman of the Resources Committee, Congressman Hansen guided hundreds of difficult and complex bills through the legislative process. He sponsored numerous pieces of legislation to protect land in Utah and the Arizona Strip, and designate wilderness lands in Wyoming and Montana.

Congressman Hansen proved to be an effective broker in the Congress, as he crafted numerous agreements that provided sensible policies to encourage multiple use of public lands, preservation of the environment, and sound economic principles. As the Resources Committee Chairman, Congressman Hansen facilitated compromises and negotiated many agreements among diverse parties.

Congressman Hansen also rose to the role of the ranking member of the House Armed Services Committee. He was instrumental in helping preserve Hill Air Force Base through three rounds of base closures. While on the Committee, he led the effort to stop President Clinton's attempt to transfer work being conducted at Hill Air Force Base to California. He came to be known as an expert leader on defense issues, and he has a distinguished reputation for speaking with authority on intricate military topics.

Congressman Hansen served longer than any member to date on the House Committee on Standards of Official Conduct. His colleagues in the House reappointed him three times, and in the third term he served as Chairman. When Hansen was a freshman in Congress, he worked with President Ronald Regan to establish the Presidential Commission on Drunk Driving. In the first year of the program, the number of deaths resulting from drunk driving declined by 4,700.

Over the course of his life, Congressman Hansen has built a reputation as a decent, commonsense, hard-working public servant. He is respected by members on both sides of the aisle as a straightforward, rational lawmaker who works hard to reach sensible solutions.

Mr. President, it is only fitting that the Federal building in Ogden bear Congressman Hansen's name. He devoted time, energy, and talent to improving the State of Utah. The name of Jim Hansen will bring a level of trust, a level of fairness, and a level of understanding to all who enter this building. His name will continue to be synonymous with excellence in public service in Utah.

Congressman Hansen advocated what was best for his constituents and what was best for the Nation. I thank Congressman Hansen, and I wish him the best in the activities he chooses to pursue.

Senator BENNETT and I are pleased to introduce this companion legislation in the Senate. I note that Representative CANNON has introduced a companion bill which has been passed by the House of Representatives. I hope this measure will be approved by the Senate in short order.

By Mr. FITZGERALD (for himself and Mr. KENNEDY):

S. 2399. A bill to provide for the improvement of physical activity and nutrition and the prevention of obesity for all Americans; to the Committee on Health, Education, Labor, and Pensions.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Healthy Lifestyles Act of 2004 with Senator KENNEDY. This bill places the crafting of the Dietary Guidelines for Americans squarely on the shoulders of the independent Institute of Medicine of the National Academies of Sciences. This bill also establishes several grant programs to help curb the obesity epidemic that plagues more than one-third of Americans.

In the United States, approximately 300,000 of our citizens die each year as a result of being overweight or obese. This information becomes even more dire when you consider that 64 percent of adults and 13 percent of children and adolescents are overweight, according to the Centers for Disease Control and Prevention. More staggering, twice as many children and three times as many adolescents are characterized as overweight today as in 1980—when the Federal Government, through the U.S. Department of Agriculture, first published the Dietary Guidelines. In 1990, Congress took a larger role in the establishment of these Guidelines and passed legislation requiring the USDA and HHS to review, and, if necessary, revise the Guidelines every 5 years.

According to the CDC, in 1985, in no State in the union were more than 14 percent of the resident's obese, but in 2001, in every State but Colorado more than 15 percent of residents were obese. My own State of Illinois dramatically demonstrates this disturbing trend. According to CDC, in 1985, less than 10 percent of Illinois residents were obese. By 2001, between 20 and 24 percent of Illinois residents were obese.

Furthermore, according to the CDC, the medical expenses of the overweight and obese accounted for 9.1 percent of total U.S. medical expenditures in 1998 and may have reached as high as $78.5 billion. Approximately half of these costs were paid by Medicaid and Medicare.

It is time to fix this dysfunctional system. By placing the IOM in charge of drafting the Dietary Guidelines, we can help to ensure that the Guidelines

are based upon unbiased, sound, scientific evidence rather than which organization has the greatest influence. When dealing with the health and welfare of Americans, we can expect no less.

Additionally, this measure directs the IOM to examine nutrition programs run by the Federal Government, an important step to discern whether USDA, HHS, and other Federal agencies are properly conducting nutrition research.

While many factors contribute to this growing health crisis, the problem, in part, may be attributed to a lack of nutrition and fitness information available to the public, especially among low-income groups. This bill will help our communities to a better job of educating Americans about proper nutrition and the serious risks associated with obesity. The Federal Government can fund all the research that it wants, but that research will do no good unless it is properly communicated to the public.

This legislation empowers schools, local and State governments, and employers, through grant programs, to establish obesity-prevention initiatives. We can only limit the prevalence of obesity in America by empowering the individual through grassroots and community programs to change their eating and exercise behaviors. Obesity is not only a preventable disease, it is a curable disease. By encouraging more physical activity and better eating habits, we can help reduce the size of waistbands in America and help curb heart disease, type II diabetes rates, and other obesity-related diseases.

In communities at risk for poor nutrition, this legislation provides grant funding to help promote the consumption of foods that are consistent with the Dietary Guidelines and to promote water as the main daily drink choice for people. The measure provides grants to train health professionals and health science students in identifying, preventing, and treating obesity-related conditions.

With 64 percent of the people in our country classified as overweight or obese, it is obvious that the Dietary Guidelines and Federal nutrition monitoring programs have failed. I thank Senator KENNEDY for joining me today to introduce the Healthy Lifestyles Act of 2004. We owe it to the American people to disseminate unbiased, sound, scientific nutrition information. I urge my colleagues to support this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2399

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 ''Healthy Lifestyles Act of 2004''.

SEC. 2. ACTIVITIES RELATING PHYSICAL ACTIVITY.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

''SEC. 399O. INCREASING PHYSICAL ACTIVITY.

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, the Secretary of Labor, and the Director of the Federal Highway Administration, shall establish and implement activities for the purpose of increasing physical activity in schools, worksites, and communities.

''(b) SCHOOLS.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary of Education shall award grants to public elementary and secondary schools for programs that support—

''(1) the provision of daily physical education for students in kindergarten through grade 12 through programs that are consistent with the Guidelines for Physical Activity as reported by Centers for Disease Control and Prevention and the American College of Sports Medicine and National Physical Education Standards;

''(2) the implementation of comprehensive school curricula and school-based physical activity programs that provide education about lifelong physical activity;

''(3) training for school personnel that provides the knowledge and skills needed to effectively teach lifelong physical activity; and

''(4) evaluations of school physical education programs and facilities at annual intervals to determine the extent to which national guidelines described in paragraph (1) are met.

''(c) WORKSITES.—The Director of the Centers for Disease Control and Prevention and the Secretary of Labor, shall award grants to eligible entities as determined by the Director, which may include labor organizations, trade associations, trade groups, and businesses for the establishment of projects that include—

''(1) the development of activity friendly worksites (which may include the provision of facilities for physical activity, accessible and attractive stairwells, walking trails, and supportive management practices) that encourage employee participation in physical activity;

''(2) the development of worksite wellness programs that improve physical activity by increasing the knowledge, attitudes, skills, and behaviors of employees; and

''(3) the development of employee incentive programs (such as cafeteria discounts, health club memberships, small cash bonuses, and time off) to increase the participation of employees in worksite health promotion programs that increase physical activity.

''(d) COMMUNITIES.—The Director of the Centers for Disease Control and Prevention, the Secretary of Transportation, and Secretary of the Interior shall award grants for the implementation and evaluation of activities that may include—

''(1) projects to design pedestrian zones and construct safe walkways and cycling paths;

''(2) projects that create greenways and open-space areas linking parks, nature preserves, and cultural or historic sites with each other and with populated areas such as residential communities and business locations;

''(3) initiatives to increase the use of walking and bicycling as a transportation mode by creating or enhancing informational outreach to parks or community recreation centers; and

''(4) community-wide campaigns designed to increase physical activity as part of multicomponent efforts that include strategies such as support of self help groups, physical activity counseling, risk factor screening and education, and environmental or policy changes such as the creation of walking trails.

''(g) EVALUATION.—Not later than 2 years after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds receive under the grant and the effectiveness of such activities in increasing physical activity.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.''.

SEC. 3. IMPROVING NUTRITIONAL INTAKE.

Section 301 of the The National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) is amended to read as follows:

''SEC. 301. DIETARY GUIDELINES.

''(a) IN GENERAL.—Not later than 3 months after the date of enactment of the Healthy Lifestyles Act of 2004, and at least every 5 years thereafter, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the development and publication of a report containing the 'Dietary Guidelines for Americans'.

''(b) GUIDELINES.—Each report under subsection (a) shall—

''(1) be complete within 1 year of the date on which the contract was entered into under such subsection for such report; and

''(2) contain—

''(A) an evaluation of scientific and medical knowledge relating to healthy diets and nutrition;

''(B) dietary guidelines for Americans, with specifications for different ages and other segments of the population as determined appropriate by the Institute of Medicine.

''(c) SUBMISSION.—The Institute of Medicine shall submit a final report under each contract under subsection (a) to the Secretary of Health and Human Services, appropriate committees of Congress, and the general public.

''(d) USE.—The Secretary of Health and Human Services shall ensure that dietary guidelines established under this section serve as the basis of any food, nutrition or health program conducted or operated by each Federal health agency.

''(e) FOOD GUIDE PYRAMID.—In accordance with the dietary guidelines published in the report under subsection (b), the Secretary shall publish revisions to the guide commonly known as the 'food guide pyramid' or any successor to such guide.''.

SEC. 4. IMPROVING THE USE OF DIETARY INFORMATION AND GUIDELINES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study and the making of recommendations concerning the implementation and dissemination of dietary information and nutrition guidelines.

(b) CONTENT.—The recommendations made under subsection (a) shall address the following:

(1) The implementation of nutrition guidelines and dietary information in Federal programs.

(2) The dissemination of nutrition guidelines and dietary information to the public.

(3) The coordination, collaboration, and integration of nutrition activities within and across the Federal agencies and programs.

(4) A means for ensuring scientific integrity in the implementation and dissemination of dietary information and nutrition guidelines.

(5) A means for evaluating the impact of nutrition guidelines and dietary information.

(6) Other issues determined appropriate by the Institute of Medicine.

(c) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the Institute of Medicine shall submit to the Secretary of Health and Human Services, the appropriate committees of Congress, and the public, a report that contains the findings of the study and recommendations under subsection (a).

(d) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 1 year after the submission of the report under subsection (c), the Secretary of Health and Human Services, in collaboration with the Secretary of Agriculture, shall prepare and publish a plan relating to the strategy of the Secretary to implement the recommendations made pursuant to subsection (a).

(2) PUBLIC COMMENT.—The Secretary of Health and Human Services shall request public review and comment during the development of the plan under paragraph (1). The final plan shall describe the comments received and how comments were incorporated into the plan.

(3) IMPLEMENTATION REPORTS.—Not later than 3 years after the date of enactment of this Act, and biennially thereafter, the Secretary of Health and Human Services shall evaluate and report to Congress on the efforts of the Department of Health and Human Services to implement the recommendations made pursuant to subsection (a).

SEC. 5. INCREASING THE INTAKE OF NUTRITIONAL FOODS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 2, is further amended by adding at the end the following:

"SEC. 399P. INCREASING THE INTAKE OF NUTRITIONAL FOODS.

''(a) IN GENERAL.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention, the Secretary of Education, and the Secretary of Agriculture, shall establish and implement activities to improve the consumption of nutritional foods (such as fruits and vegetables, and foods that are low in fat, sugar, and salt) in communities.

''(b) COMMUNITIES.—The Secretary, acting through the Director of the Centers of Disease Control and Prevention, shall award grants for projects that—

''(1) implement campaigns, in communities at risk for poor nutrition, that are designed to promote the intake of foods consistent with established dietary guidelines through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings;

''(2) implement campaigns, in communities at risk for poor nutrition, that promote water as the main daily drink choice through the use of different types of media including television, radio, newspapers, movie theaters, billboards, and mailings;

''(3) conduct outreach to commercial food establishments, grocery stores, and other food suppliers, to increase the availability and accessibility of healthy foods and beverages;

''(4) partner with national programs that provide parents and mentors with the skills to help guide and influence healthy meals and snack selections for children and adolescents; and

''(5) partner with national afterschool and summer programs that provide children with the education and skills needed to make healthy meal and snack selections.

''(c) HEALTH PROFESSIONALS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to—

''(1) support the development, implementation, and evaluation of curricula to educate and train health professionals about effective nutrition education and counseling strategies for obese individuals and parents of overweight children, with emphasis on the Dietary Guidelines for Americans or other nationally accepted standards; and

''(2) use information technology to develop, implement, and evaluate the effectiveness of dietary counseling in health care settings.

''(d) EVALUATION.—Not later than 12 months after the date on which a grant is awarded under this section, the grantee shall submit to the Director of the Centers for Disease Control and Prevention a report that describes the activities carried out with funds received under the grant and the effectiveness of such activities in improving the intake of nutritional foods.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.

SEC. 6. FEDERAL OBESITY PREVENTION AND CONTROL ACTIVITIES.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 5, is further amended by adding at the end the following:

"SEC. 399Q. FEDERAL OBESITY PREVENTION AND CONTROL ACTIVITIES.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall directly or through a grant to an eligible entity, conduct, support, and promote the coordination of research, investigations, demonstrations, training, and studies relating to the prevention, control, and surveillance of obesity.

''(b) DUTIES OF THE SECRETARY.—The activities of the Secretary under subsection (a) shall include—

''(1) the collection, publication, and analysis of data on the prevalence and incidence of obesity;

''(2) the development of uniform data sets for public health surveillance and clinical quality improvement activities;

''(3) the identification of evidence-based and cost-effective best practices for the prevention, diagnosis, management, and treatment of obesity;

''(4) research, including research on behavioral interventions to prevent obesity and on other evidence-based best practices relating to obesity prevention, diagnosis, management, and care; and

''(5) demonstration projects, including community-based programs of obesity prevention and control, and similar collaborations with academic institutions, hospitals, health insurers, researchers, health professionals, and nonprofit organizations.

''(c) TRAINING AND TECHNICAL ASSISTANCE.—With respect to the planning, development, and operation of any activity carried out under subsection (a), the Secretary may provide training, technical assistance, supplies, equipment, or services, and may assign any officer or employee of the Department of Health and Human Services to a State or local health agency, or to any public or nonprofit entity designated by a State health agency, in lieu of providing grant funds under this section.

''(d) OBESITY PREVENTION AND CONTROL RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION CENTERS.—The Secretary shall provide additional grant support under this section for research projects at the Centers for Prevention Research of the Centers for Disease Control and Prevention to encourage the expansion of research portfolios at the Centers for Prevention Research to include obesity specific research activities related to the prevention and control of obesity.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.''.

SEC. 7. STATE OBESITY PREVENTION AND CONTROL ACTIVITIES.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 6, is further amended by adding at the end the following:

"SEC. 399R. STATE OBESITY PREVENTION AND CONTROL PROGRAMS.

''(a) IN GENERAL.—The Secretary shall award grants to eligible entities to provide support for comprehensive obesity prevention and control programs and to enable such entities to provide public health surveillance, prevention, and control activities related to obesity.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a State or an Indian tribe; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a comprehensive obesity control and prevention plan that—

''(A) is developed with the advice of stakeholders from the public, private, and nonprofit sectors that have expertise relating to obesity prevention, control, and treatment;

''(B) is intended to reduce the morbidity of obesity, with priority on preventing and controlling obesity in at-risk populations and reducing disparities in obesity prevention, diagnosis, management, and quality of care in underserved populations; and

''(C) describes the obesity-related services and activities to be undertaken or supported by the entity.

''(c) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) to conduct, in a manner consistent with the comprehensive obesity prevention and control plan submitted by the entity in the application under subsection (b)(2)—

''(1) public health surveillance and epidemiological activities relating to the prevalence of obesity and assessment of disparities in obesity prevention, diagnosis, management, and care; and

''(2) public information and education programs.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.''.

SEC. 8. STATE OBESITY PREVENTION AND CONTROL ACTIVITIES.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 7, is further amended by adding at the end the following:

"SEC. 399S. COMPREHENSIVE OBESITY PREVENTION ACTION GRANTS.

''(a) IN GENERAL.—The Secretary shall award grants on a competitive basis to eligible entities to enable such eligible entities to assist in the implementation of a national strategy for obesity prevention and control.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a national public or private nonprofit entity; and

''(2) submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including a description of how funds received

under a grant awarded under this section will—

''(A) supplement or fulfill unmet needs identified in the comprehensive obesity prevention and control plan of a State or Indian tribe; and

''(B) otherwise help achieve the goals of an obesity prevention strategic plan designated by the Secretary.

''(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible entities submitting applications proposing to carry out programs for preventing and controlling obesity in at-risk populations or reducing disparities in underserved populations.

''(d) USE OF FUNDS.—An eligible entity shall use amounts received under a grant awarded under subsection (a) for 1 or more of the following purposes:

''(1) To expand the availability of physical activity programs designed specifically for people with obesity.

''(2) To provide awareness education to patients, family members, and health care providers, to help such individuals recognize risk factors for obesity, and to address the control and prevention of obesity.

''(3) To decrease the long-term consequences of obesity by making information available to individuals with regard to obesity prevention.

''(4) To provide information on nutrition education programs with regard to preventing or mitigating the impact of obesity.

''(e) EVALUATION.—An eligible entity that receives a grant under this section shall submit to the Secretary an evaluation of the operations and activities carried out under such grant that includes an analysis of increased utilization and benefit of public health programs relevant to the activities described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2005 through 2009.''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FITZGERALD in introducing the Healthy Lifestyles Act. This important bill will give families greater access to practical information on nutrition and physical activity and enable Americans of all ages, especially the young, to live healthier, fitter, and longer lives.

Two-thirds of our citizens are overweight. The cost of diseases associated with obesity has been estimated at $117 billion each year. Physical inactivity and unhealthy eating, the two primary causes, are responsible for at least 300,000 preventable deaths each year in the United States, and they increase the risk of many chronic diseases, including cancer, diabetes and cardiovascular diseases.

Environments that promote poor nutrition and sedentary lifestyles are major causes of this public health epidemic. The numerous messages and advertisements from various sources about what and how much to eat have produced serious public confusion about good nutrition. Many citizens would like to be more active but live in ways that discourage exercise and vigorous lifestyles that involve walking, bicycling, or other similar activities.

The Healthy Lifestyles Act is a major step in addressing these challenges. It establishes a partnership between the Department of Health and Human Services and the Institute of Medicine to conduct a comprehensive assessment of what is being done by whom on nutrition guidelines and education. The Institute of Medicine is eminently respected for its scientifically sound opinions on health issues. Its study will provide indispensable oversight for the development and dissemination of national nutrition guidelines, and an independent impartial source of nutrition information for the public.

The legislation also supports community outreach programs to support healthy nutrition and physical activity. Communities will be able to conduct campaigns encouraging consumption of healthy foods, and after-school programs will be available to encourage exercise and good nutrition for children. Support will be available for each state for obesity prevention and control programs, to encourage coordinated ongoing efforts to enhance awareness of guidelines for healthy eating and activity.

Finally, the legislation assures that the information will be widely available to the public and to health professionals. State-of-the-art curricula will be developed to educate and train professionals about nutrition education and counseling.

The Healthy Lifestyles Act is only a first step in preventing unhealthy nutrition environments by ensuring consistency and high quality in dietary information, and improving physical activity in our communities. Working together we can halt this worsening public health epidemic. I commend Senator FITZGERALD for his leadership, and I urge our colleagues in Congress to support the Healthy Lifestyles Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 356—CONDEMNING THE ABUSE OF IRAQI PRISONERS AT ABU GHRAIB PRISON, URGING A FULL AND COMPLETE INVESTIGATION TO ENSURE JUSTICE IS SERVED, AND EXPRESSING SUPPORT FOR ALL AMERICANS SERVING NOBLY IN IRAQ

Mr. FRIST (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of Florida, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 356

Whereas the United States was founded on the principles of representative government, the rule of law, and the unalienable rights of individuals;

Whereas those principles are the birthright of all individuals and the fulfillment of those principals in Iraq would benefit the people of Iraq, the people of the Middle East, and the people of the United States;

Whereas the vast majority of Americans in Iraq are serving courageously and with great honor to promote a free and stable Iraq and through such service are promoting the values and principles that the people of the United States hold dear;

Whereas Americans serving abroad throughout the history of the United States, both military and civilian, have established a reputation for setting the highest standards of personal, professional, and moral conduct;

Whereas in January 2004, a member of the United States Armed Forces reported alleged abuses perpetrated in Abu Ghraib prison during November and December 2003;

Whereas an inquiry into those alleged abuses was ordered in January 2004, and that inquiry is reported to have found numerous incidents of criminal abuses by a small number of Americans based in Iraq;

Whereas the reaction to the alleged abuses is having a negative impact on the United States efforts to stabilize and reconstruct Iraq and to promote democratic values in the Middle East and could affect the security of the United States Armed Forces serving abroad;

Whereas Congress was not informed about the extent of the alleged abuses until reports about the abuses became public through the media;

Whereas success in the national security policy of the United States demands regular communication between the President, the agencies and departments of the executive branch, Congress, and the people of the United States;

Whereas, in an interview on May 5, 2004, the President stated ''First, people in Iraq must understand that I view those practices as abhorrent. They must also understand that what took place in that prison does not represent America that I know. The America I know is a compassionate country that believes in freedom. The America I know cares about every individual. The America I know has sent troops into Iraq to promote freedom—good, honorable citizens that are helping the Iraqis every day.'';

Whereas in that interview the President further stated ''It's also important for the

people of Iraq to know that in a democracy, everything is not perfect, that mistakes are made. But in a democracy, as well, those mistakes will be investigated and people will be brought to justice. We're an open society. We're a society that is willing to investigate, fully investigate in this case, what took place in that prison. That stands in stark contrast to life under Saddam Hussein. His trained torturers were never brought to justice under his regime. There were no investigations about mistreatment of people. There will be investigations. People will be brought to justice.''; and

Whereas the pursuit of truth and justice are core principles of the United States, and if the Government of the United States conducts a full investigation of the alleged abuses and holds accountable the individuals who are responsible for such abuses, the people of Iraq and of the Middle East will witness how a democracy upholds the rule of law and protects the rights of individuals by administering justice in a swift, transparent, and fair manner: Now, therefore, be it

Resolved, That the Senate—

(1) commends all Americans serving nobly abroad who are advancing the ideals of freedom and democracy, and working, through the individual and collective actions of such individuals, to improve the lives of all the people of Iraq;

(2) condemns in the strongest possible terms the despicable acts at Abu Ghraib prison and joins with the President in expressing apology for the humiliation suffered by the prisoners in Iraq and their families;

(3) urges the Government of the United States to take appropriate measures to ensure that such acts do not occur in the future;

(4) believes that it is in the interests of the United States and of the people of the United States that the appropriate committees of the Senate, exercising the oversight responsibilities of such committees, and the President, through the appropriate departments or agencies of the executive branch, conduct a full investigation of the abuses alleged to have occurred at Abu Ghraib; and

(5) urges that all individuals responsible for such despicable acts be held accountable.

SENATE CONCURRENT RESOLUTION 105—DESIGNATING THE SECOND WEEK OF MARCH 2005 AS ''EXTENSION LIVING WELL WEEK''

Mr. GRASSLEY submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 105

Whereas the health and well-being of the family is crucial to the functioning of the Nation and to providing adults and youth with the necessary skills and knowledge to help them achieve the best quality of life possible;

Whereas psychologically, socially, and emotionally strong families provide strength for future generations;

Whereas Extension is a nationwide educational network through the land-grant universities, funded cooperatively through the Department of Agriculture, State governments, and local county, city, and parish governments;

Whereas Extension provides non-biased, research-based information through informal education to help adults, youth, families, farms, businesses, and communities;

Whereas Extension education programs are developed at the grassroots level to meet local needs, and are available in nearly every county and parish in the United States and its territories, from the biggest to the smallest;

Whereas information offered by Extension is provided by scientists and researchers at land-grant universities, and is made practical and relevant by Extension educators working at the local level;

Whereas Extension Family and Consumer Sciences educators are advocates for education for families so that the families might gain skills for a full and productive life; and

Whereas the designation of the second week of March 2005 as ''Extension Living Well Week'' is a fitting tribute to the National Extension Association for Family and Consumer Sciences professionals who provide education that is critical to the quality of life of adults, youth, individuals, and families, including food preparation, food safety, nutrition, financial management, healthy lifestyles, home and work environment and safety, relationship and parenting skills, and much more: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates the second week of March 2005 as ''Extension Living Well Week'';

(2) encourages the people of the United States to take advantage of the educational opportunities that Extension Family and Consumer Sciences educators provide, education that can help them in raising kids, eating right, spending smart, and living well; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for Extension Family and Consumer Sciences educators as they teach adults and youth and promote optimum health and wellness of families in the United States through the ''Living Well'' campaign.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3121. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 3122. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3123. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3124. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3125. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3126. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3127. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3128. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3129. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3130. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3131. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3132. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3133. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3134. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3135. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3136. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3137. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3138. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3139. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3140. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 3141. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3121. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 441, strike line 1 through page 446, line 4, and insert the following:

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard

employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

''(1) the actual compensation amount with respect to such employee for such taxable year, or

''(2) $30,000.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

''(e) PORTION OF CREDIT REFUNDABLE.—

''(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term 'qualified first responder' means any person who is—

''(A) employed as a law enforcement official, a firefighter, or a paramedic, and

''(B) a Ready Reserve-National Guard employee.''.

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45H(a),'' after ''45A(a),''.

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) APPLICATION OF ANNUAL EXCLUSION LIMIT UNDER SECTION 911 TO HOUSING COSTS.—

(1) IN GENERAL.—Section 911(c) (relating to housing cost amount) is amended by adding at the end the following new paragraph:

''(4) LIMIT ON EXCLUSION FOR EMPLOYER PROVIDED HOUSING COSTS.—The housing cost amount for any individual for any taxable year attributable to employer provided amounts shall not exceed the excess (if any) of—

''(A) the product of—

''(i) the exclusion amount determined under subsection (b)(2)(D) for the taxable year, and

''(ii) a fraction equal to the number of days of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1) divided by the number of days in the taxable year, over

''(B) the foreign earned income of the individual excluded under subsection (a)(1) for the taxable year.''.

(2) CONFORMING AMENDMENT.—Section 911(c)(1) is amended by striking ''The'' and inserting ''Except as provided in paragraph (4), the''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2004.

SA 3122. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 441, strike line 1 through page 446, line 4, and insert the following:

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the actual compensation amount with respect to such employee for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

''(e) PORTION OF CREDIT REFUNDABLE.—

''(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term 'qualified first responder' means any person who is—

''(A) employed as a law enforcement official, a firefighter, or a paramedic, and

''(B) a Ready Reserve-National Guard employee.''.

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45H(a),'' after ''45A(a),''.

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) APPLICATION OF ANNUAL EXCLUSION LIMIT UNDER SECTION 911 TO HOUSING COSTS.—

(1) IN GENERAL.—Section 911(c) (relating to housing cost amount) is amended by adding at the end the following new paragraph:

''(4) LIMIT ON EXCLUSION FOR EMPLOYER PROVIDED HOUSING COSTS.—The housing cost amount for any individual for any taxable year attributable to employer provided amounts shall not exceed the excess (if any) of—

''(A) the product of—

''(i) the exclusion amount determined under subsection (b)(2)(D) for the taxable year, and

''(ii) a fraction equal to the number of days of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1) divided by the number of days in the taxable year, over

''(B) the foreign earned income of the individual excluded under subsection (a)(1) for the taxable year.''.

(2) CONFORMING AMENDMENT.—Section 911(c)(1) is amended by striking ''The'' and inserting ''Except as provided in paragraph (4), the''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2004.

SA 3123. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 441, strike line 1 through page 446, line 4, and insert the following:

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following:

''SEC. 45H. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

''(1) the actual compensation amount with respect to such employee for such taxable year, or

''(2) $30,000.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

''(e) PORTION OF CREDIT REFUNDABLE.—

''(1) IN GENERAL.—In the case of an employer of a qualified first responder, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

''(3) QUALIFIED FIRST RESPONDER.—For purposes of this subsection, the term 'qualified first responder' means any person who is—

''(A) employed as a law enforcement official, a firefighter, or a paramedic, and

''(B) a Ready Reserve-National Guard employee.''.

(2) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following:

''(17) the Ready Reserve-National Guard employee credit determined under section 45H(a).''.

(3) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45H(a),'' after ''45A(a),''.

(4) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45G the following:

''Sec. 45H. Ready Reserve-National Guard employee credit.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding after section 30C the following new section:

''SEC. 30D. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

''(2) EMPLOYMENT CREDIT.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

''(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

''(B) $12,000.

''(b) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

''(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(3) group health plan costs (if any) with respect to the qualified replacement employee.

''(c) QUALIFIED REPLACEMENT EMPLOYEE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which such Ready Reserve-National Guard employee or Ready Reserve-National Guard self-employed taxpayer participates in qualified active duty, including time spent in travel status.

''(2) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45H(d)(3).

''(3) READY RESERVE-NATIONAL GUARD SELF-EMPLOYED TAXPAYER.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

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

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

''(2) SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(3) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45H(d)(1).

''(4) SPECIAL RULES FOR CERTAIN MANUFACTURERS.—

''(A) IN GENERAL.—In the case of any qualified manufacturer—

''(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

''(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

''(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

''(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

''(ii) all of such person's facilities which are used for production in such business are located in the United States.

''(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(6) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(2) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) (relating to rule for employment credits), as amended by this Act, is amended—

(A) by inserting ''or compensation'' after ''salaries'', and

(B) by inserting ''30D,'' before ''45A(a),''.

(3) CONFORMING AMENDMENT.—Section 55(c)(2), as amended by this Act, is amended by inserting ''30D(e)(1),'' after ''30C(e),''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 30C the following new item:

''Sec. 30D. Credit for replacement of activated military reservists.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(c) APPLICATION OF ANNUAL EXCLUSION LIMIT UNDER SECTION 911 TO HOUSING COSTS.—

(1) IN GENERAL.—Section 911(c) (relating to housing cost amount) is amended by adding at the end the following new paragraph:

''(4) LIMIT ON EXCLUSION FOR EMPLOYER PROVIDED HOUSING COSTS.—The housing cost amount for any individual for any taxable year attributable to employer provided amounts shall not exceed the excess (if any) of—

''(A) the product of—

''(i) the exclusion amount determined under subsection (b)(2)(D) for the taxable year, and

''(ii) a fraction equal to the number of days of the taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1) divided by the number of days in the taxable year, over

''(B) the foreign earned income of the individual excluded under subsection (a)(1) for the taxable year.''

(2) CONFORMING AMENDMENT.—Section 911(c)(1) is amended by striking ''The'' and inserting ''Except as provided in paragraph (4), the''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2003.

SA 3124. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 441, strike line 10 through page 442, line 13, and insert the following:

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of an employer is an amount equal to 50 percent of the lesser of—

''(1) the actual compensation amount with respect to such employee for such taxable year, or

''(2) $30,000.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reason other than to participate in qualified active duty).

SA 3125. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 557, between lines 9 and 10, insert the following:

SEC. ___. MODIFICATION OF EXEMPTION FROM SELF-EMPLOYMENT TAX FOR CERTAIN TERMINATION PAYMENTS RECEIVED BY FORMER INSURANCE SALESMEN.

(a) INTERNAL REVENUE CODE.—Paragraph (4) of section 1402(k) of the Internal Revenue Code of 1986 (relating to codification of treatment of certain termination payments received by former insurance salesmen) is amended—

(1) by striking ''during the last year of such agreement'' in subparagraph (A), and

(2) by striking ''length of service or'' in subparagraph (B).

(b) SOCIAL SECURITY ACT.—Paragraph (4) of section 211(j) of the Social Security Act is amended—

(1) by striking ''during the last year of such agreement'' in subparagraph (A), and

(2) by striking ''length of service or'' in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments after the date of the enactment of this Act.

SA 3126. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''Jumpstart Our Business Strength (JOBS) Act''.

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

Sec. 201. Reduction in corporate income tax rate.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Reduction in corporate AMT rate.
Sec. 302. Increase in exemption from AMT for small corporations.
Sec. 303. Foreign tax credit under alternative minimum tax.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions

Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.

Subtitle D—Provisions to Discourage Expatriation

Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders in inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.

Subtitle E—International Tax

Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partnerships and S corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.

PART II—CORPORATIONS AND PARTNERSHIPS

Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.

PART III—DEPRECIATION AND AMORTIZATION

Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Class lives for utility grading costs.
Sec. 473. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 474. Consistent amortization of periods for intangibles.
Sec. 475. Reform of tax treatment of leasing operations.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.

PART IV—ADMINISTRATIVE PROVISIONS

Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485. Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.

PART V—MISCELLANEOUS PROVISIONS

Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Definition of insurance company for section 831.
Sec. 495. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 496. Increase in age of minor children whose unearned income is taxed as if parent's income.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''114 or''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	The phaseout percentage is:
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2004.—The phaseout percentage for 2004 shall be the amount that bears the same ratio to 80 percent as the number of days after the date of the enactment of this Act bears to 366.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the average FSC/ETI benefit for the taxpayer's taxable years beginning in calendar years 2000, 2001, and 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2004 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2004, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

TITLE II—REDUCTION OF TOP CORPORATE TAX RATE

SEC. 201. REDUCTION IN CORPORATE INCOME TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to tax imposed on corporations) is amended by redesignating paragraph (2) as paragraph (6) and by striking paragraph (1) and inserting the following new paragraphs:

''(1) FOR TAXABLE YEARS BEGINNING AFTER 2009.—In the case of taxable years beginning after 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33% of the excess over $75,000.

''(2) FOR TAXABLE YEARS BEGINNING IN 2006, 2007, 2008, OR 2009.—In the case of taxable years beginning in 2006, 2007, 2008, or 2009, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 33.5% of the excess over $75,000.

''(3) FOR TAXABLE YEARS BEGINNING IN 2005.—In the case of taxable years beginning in 2005, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000	$13,750, plus 34% of the excess over $75,000.

''(4) FOR TAXABLE YEARS BEGINNING IN 2004.—In the case of taxable years beginning in 2004, the amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $75,000.	$7,500, plus 25% of the excess over $50,000.
Over $75,000 but not over $10,000,000.	$13,750, plus 34% of the excess over $75,000.
Over $10,000,000	$3,388,250, plus 34.5% of the excess over $10,000,000.

''(5) PHASEOUT OF LOWER RATES FOR CERTAIN TAXPAYERS.—

''(A) GENERAL RULE.—In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under paragraph (1), (2), (3) or (4) for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,000 ($11,750 in the case of taxable years beginning before 2006 and $11,375 in the case of taxable years beginning after 2005 and before 2010).

''(B) HIGHER INCOME CORPORATIONS.—In the case of a corporation which has taxable income in excess of $15,000,000 for taxable years beginning in 2004, the amount of the tax determined under the foregoing provisions of this subsection shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $50,000.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(b)(3)(D)(ii) is amended to read as follows:

''(ii) in the case of a corporation, section 1201(a) applies to such taxable year.''.

(2) Section 1201(a) is amended by striking ''the last 2 sentences of section 11(b)(1)'' and inserting ''section 11(b)(5)''.

(3) Section 1561(a) is amended—

(A) by striking ''the last 2 sentences of section 11(b)(1)'' and inserting ''section 11(b)(5)'', and

(B) by striking ''such last 2 sentences'' and inserting ''section 11(b)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 301. REDUCTION IN CORPORATE AMT RATE.

(a) IN GENERAL.—Section 55(b)(1)(B)(i) (relating to amount of tentative tax for corporations) is amended by striking ''20 percent'' and inserting ''19 percent (19.5 percent for taxable years beginning in 2004 or 2005)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 302. INCREASE IN EXEMPTION FROM AMT FOR SMALL CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 55(e) (relating to exemption for small corporations) is amended—

(1) by striking ''$7,500,000'' in the heading and the text of subparagraph (A) and inserting ''$15,000,000'',

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 303. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking ''and if section 59(a)(2) did not apply''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(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) 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.

In applying subclause (II), 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.

''(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) 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.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) 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 the date of the enactment of this Act.

SEC. 402. 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. 403. 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 ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (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 disqualifying 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. 404. 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(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(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 (2), (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 the date of the enactment of this Act.

SEC. 405. 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. 406. 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. 407. 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, managing, 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) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. 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 listed 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) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) 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. 409. 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. 410. 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. 411. 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. 412. 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. 413. 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. 414. 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 of the representative.''.

(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. 415. 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. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) 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 time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. 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 in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. 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 §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. 422. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

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

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

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

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. 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 subparagraph 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 by a transferor 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 such 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 February 13, 2003.

SEC. 432. 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 (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such 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 in such manner as the Secretary may prescribe.

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 February 13, 2003.

SEC. 433. 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)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) 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).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).''.

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking ''and any regular interest in a FASIT,'', and

(B) by striking ''or FASIT'' each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking ''or a FASIT''.

(12) 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 take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by inserting ''or equity held by the issuer (or any related party) in any other person'' after ''or a related party''.

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. 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 or persons acquire, directly or indirectly, control of 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,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law

which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

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

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11

and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

''(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except

that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

''(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

''(A) obligations of the United States, money, or deposits with—

''(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

''(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;''.

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

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

''(A) subsection (a) and section 331 shall not apply to such distribution, and

''(B) such distribution shall be treated as a distribution to which section 301 applies.

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

''(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

''(i) which is a common parent of an affiliated group,

''(ii) stock of which is directly owned by the distributee foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

''(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

''(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

''(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

''(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.''.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking ''The Secretary'' and inserting:

''(A) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

''Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

''(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

''(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

''(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

''(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

''(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

''(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

''(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

''(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

''(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

''(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.''.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting ''ON DIVIDENDS'' after ''TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.''.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

''(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

''(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

''(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

''(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

''(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

''(A) a debtor corporation transfers stock, or

''(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

''(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

''(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

''(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

''(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.''.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

''(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and'', and

(B) by adding at the end the following new flush sentence:

''The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.''.

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.''.

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

''(A) terminated the position for its fair market value immediately before the settlement, and

''(B) sold the property so delivered by the taxpayer at its fair market value.''.

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Paragraph (3) of section 1092(d) (relating to definitions and special rules) is amended to read as follows:

''(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'personal property' includes—

''(i) any stock which is a part of a straddle at least 1 of the offsetting positions of which is a position with respect to such stock or substantially similar or related property, or

''(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

''(B) RULE FOR APPLICATION.—For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in subparagraph (A)(ii), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.''.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking ''; except that the term 'personal property' shall include stock''.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

''(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking ''is issued by a corporation or a government or political subdivision thereof and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: ''In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.''.

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting ''with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355'' after ''section 368(a)(1)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking ''possessing—'' and all that follows through ''(B)'' and inserting ''possessing''.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

''(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

''(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

''(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).''.

(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. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking '', with respect to which the election provided in section 754 is in effect,'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking ''(as adjusted by section 732(d))'' both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking ''**OPTIONAL**'' in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking ''with respect to which the election provided in section 754 is in effect'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

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

''(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.'', and

(4) by striking ''**OPTIONAL**'' in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking ''section 734(b) (relating to the optional adjustment'' and inserting ''section 734(a) (relating to the adjustment'', and

(B) by striking ''section 743(b) (relating to the optional adjustment'' and inserting ''section 743(a) (relating to the adjustment''.

(3) Section 755(c), as added by this Act, is amended by striking ''section 734(b)'' and inserting ''section 734(a)''.

(4) Section 761(e)(2) is amended by striking ''optional''.

(5) Section 774(a) is amended by striking ''743(b)'' both places it appears and inserting ''743(a)''.

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) 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) initial clearing and grading land improvements with respect to gas utility property.''.

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''.

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

(2) by adding at the end the following new item:

''(F) ..... 25''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting ''(notwithstanding any other subparagraph of this paragraph)'' after ''shall''.

(b) LIMITATION ON DEPRECIATION PERIOD FOR SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

''(C) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3)).''

(c) LEASE TERM TO INCLUDE RELATED SERVICE CONTRACTS.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

''(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

''(II) which is with respect to the property subject to the lease or substantially similar property, and''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

''SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

''(a) LIMITATION ON LOSSES.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

''(b) DISALLOWED LOSS CARRIED TO NEXT YEAR.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

''(c) DEFINITIONS.—For purposes of this section—

''(1) TAX-EXEMPT USE LOSS.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

''(A) the sum of—

''(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

''(ii) the aggregate deductions for interest properly allocable to such property, exceed

''(B) the aggregate income from such property.

''(2) TAX-EXEMPT USE PROPERTY.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3)(C) thereof and determined as if property described in section 167(f)(1)(B) were tangible property).

''(d) EXCEPTION FOR CERTAIN LEASES.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

''(1) PROPERTY NOT FINANCED WITH TAX-EXEMPT BONDS.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into. The Secretary may by regulations provide for a de minimis exception from this paragraph.

''(2) AVAILABILITY OF FUNDS.—

''(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

''(i) subject to any arrangement referred to in subparagraph (B), or

''(ii) otherwise reasonably expected to remain available,

to or for the benefit of the lessor or any lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease.

''(B) ARRANGEMENTS.—The arrangements referred to in this subparagraph are—

''(i) a defeasance arrangement, a loan by the lessee to the lessor or any lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

''(ii) any other arrangement identified by the Secretary in regulations.

''(C) ALLOWABLE AMOUNT.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

''(ii) HIGHER AMOUNT PERMITTED IN CERTAIN CASES.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

''(iii) OPTION TO PURCHASE.—If under the lease the lessee has the option to purchase the property for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

''(3) LESSOR MUST MAKE SUBSTANTIAL EQUITY INVESTMENT.—A lease of property meets the requirements of this paragraph if—

''(A) the lessor—

''(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

''(ii) maintains such investment throughout the term of the lease, and

''(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

''(4) LESSEE MAY NOT BEAR MORE THAN MINIMAL RISK OF LOSS.—

''(A) IN GENERAL.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

''(B) CERTAIN ARRANGEMENTS FAIL REQUIREMENT.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

''(i) any portion of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were 25 percent less than its projected fair market value at the end of the lease term, or

''(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

''(5) REGULATORY REQUIREMENTS.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

''(e) SPECIAL RULES.—

''(1) TREATMENT OF FORMER TAX-EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of any former tax-exempt use property—

''(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

''(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as allowable under subsection (b) with respect to such property in the next taxable year.

''(B) FORMER TAX-EXEMPT USE PROPERTY.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

''(i) is not tax-exempt use property for the taxable year, but

''(ii) was tax-exempt use property for any prior taxable year.

''(2) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

''(3) COORDINATION WITH SECTION 469.—This section shall be applied before the application of section 469.

''(f) OTHER DEFINITIONS.—For purposes of this section—

''(1) RELATED PARTIES.—The terms 'lessor', 'lessee', and 'lender' include any related

party (within the meaning of section 197(f)(9)(C)(i)).

''(2) LEASE TERM.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

''(3) LENDER.—The term 'lender' means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

''(4) LOAN.—The term 'loan' includes any similar arrangement.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section, including regulation which—

''(1) allow in appropriate cases the aggregation of property subject to the same lease, and

''(2) provide for the determination of the allocation of interest expense for purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

''Sec. 470. Limitations on losses from tax-exempt use property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: ''The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''September 30, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

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

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

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

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. 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 31, 2004'' and inserting ''September 30, 2013''.

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

''(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

''(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

''(A) to locate and contact any taxpayer specified by the Secretary,

''(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

''(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

''(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

''(3) prohibits subcontractors from—

''(A) having contacts with taxpayers,

''(B) providing quality assurance services, and

''(C) composing debt collection notices, and

''(4) permits subcontractors to perform other services only with the approval of the Secretary.

''(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

''(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

''(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

''(f) CROSS REFERENCES.—

''(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

''(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting ''6306,'' before ''7651''.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

''Sec. 6306. Qualified Tax Collection Contracts.''.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

''(b) MODIFICATIONS.—For purposes of subsection (a)—

''(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

''(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

''(3) Such civil action shall not be an exclusive remedy with respect to such person.

''(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

''Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.''.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

''(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.''.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

''(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.''.

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

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''May 8, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking ''exceed $350,000 but''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,''.

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

''(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

''(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

''(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

''(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

''(C) QUALIFIED INTEREST.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

''(ii) SECRETARIAL AUTHORITY.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

''(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

''(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.''.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking ''If'' and inserting:

''(1) DISPOSITIONS OF DONATED PROPERTY.—If'',

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

''(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

''(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

''(B) a description, and date of contribution, of the property to which the qualified interest relates,

''(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

''(D) the date and the amount of the payment pursuant to the qualified interest, and

''(E) a description of the terms of the qualified interest.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 6050L is amended by striking ''**CERTAIN DISPOSITIONS OF**''.

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking ''certain dispositions of''.

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3127. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 558, line 1, strike all through page 559, line 5.

SA 3128. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part V of title IV, insert:

SEC. ___. CLARIFICATION OF STATUS OF CERTAIN ORGANIZATIONS AND RETIREMENT PLANS.

(a) IN GENERAL.—For purposes of any provision of law—

(1) the organization described in subsection (c)(5) maintaining the retirement plan of the eligible organization shall be treated as an organization described in section 414(e)(3)(A) of the Internal Revenue Code of 1986 with respect to its maintenance of benefit plans of the eligible organization, and

(2) subject to the provisions of subsection (b), any retirement plan which, as of January 1, 2003, was maintained by the organization described in paragraph (1) shall be treated as a church plan (within the meaning of section 414(e) of such Code) which is maintained by an organization described in section 414(e)(3)(A) of such Code.

(b) SPECIAL RULES RELATING TO RETIREMENT PLANS.—

(1) TAX-DEFERRED RETIREMENT PLAN.—In the case of a retirement plan which allows contributions to be made under a salary reduction agreement and which is treated as a church plan under subsection (a)—

(A) such treatment shall not apply for purposes of section 415(c)(7) of the Internal Revenue Code of 1986, and

(B) any account maintained for a participant or beneficiary of such plan shall be treated as a retirement income account described in section 403(b)(9) of such Code, except that such account shall not, for purposes of section 403(b)(12) of such Code, be treated as a contract purchased by a church for purposes of section 403(b)(1)(D) of such Code.

(2) MONEY PURCHASE PENSION PLAN.—In the case of a retirement plan subject to the requirements of section 401(a) of such Code and treated as a church plan under subsection (a)—

(A) such plan (but not any reserves held by the organization described in subsection (c)(5) maintaining the retirement plan of the eligible organization)—

(i) shall be treated as a defined contribution plan which is a money purchase pension plan, and

(ii) shall be treated as having made an election under section 410(d) of such Code for plan years beginning after December 31, 2005, except that notwithstanding the election—

(I) nothing in the Employee Retirement Income Security Act of 1974 shall prohibit the plan from commingling for investment purposes its assets with any other assets of the organization described in subsection (c)(5) maintaining the retirement plan of the eligible organization (or of plans maintained by it), and

(II) nothing in this section shall be construed as subjecting such other assets to any provision of such Act,

(B) notwithstanding section 401(a)(11) or 417 of such Code or section 205 of such Act, such plan may offer a lump-sum distribution option to participants who have not attained age 55 without offering such participants an annuity option, and

(C) any account maintained for a participant or beneficiary of such plan shall, for purposes of section 401(a)(9) of such Code, be treated as a retirement income account described in section 403(b)(9) of such Code.

(c) ELIGIBLE ORGANIZATION.—For purposes of this section, the term ''eligible organization'' means any organization if, as of January 1, 2003—

(1) more than 1 church recognizes employment at the organization by a duly ordained, commissioned, or licensed minister as service in the exercise of the minister's ministry,

(2) at least 1 nationally or internationally recognized church association includes the organization (or its national or international representative body) in its directory of participating or founding organizations,

(3) such organization or national representative body thereof is part of an ecumenical movement (founded in the nineteenth century) to promote worldwide fellowship united by common loyalty to certain religious values,

(4) such organization's national representative body has chartered at least 1 organization that provides educational, recreational, social and religious support to the armed forces of the United States, and

(5) the organization has a retirement plan which is administered by an organization—

(A) which was established by State law by a special act of the legislature and subject to certain provisions of the State's insurance law,

(B) the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for employees of the eligible organization,

(C) is treated as an entity exempt from tax under section 501(m) of the Internal Revenue Code of 1986 without regard to the application of subsection (a), and

(D) whose organizing documents are amended no later than January 1, 2006, to require that, for plan years beginning on or after such date, the greater of 2 trustees or 10 percent of the membership of its board of trustees be associated with a church.

For purposes of paragraph (5)(D), association with a church may include past or present service as an officer or board member of a church (within the meaning of section 3121(w)(3)(A) of such Code) or a church-controlled organization (within the meaning of section 3121(w)(3)(B) of such Code).

(d) EFFECTIVE DATE.—The provisions of this section shall apply to plan years beginning after December 31, 2003.

SA 3129. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike title VIII.

SA 3130. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 797, line 17, strike all through page 810, line 9.

SA 3131. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 773, line 4, strike all through page 827, line 14.

SA 3132. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''Jumpstart Our Business Strength (JOBS) Act''.

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.
Sec. 102. Deduction relating to income attributable to United States production activities.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

Sec. 201. 20-year foreign tax credit carryover; 1-year foreign tax credit carryback.
Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
Sec. 203. Foreign tax credit under alternative minimum tax.
Sec. 204. Recharacterization of overall domestic loss.
Sec. 205. Interest expense allocation rules.
Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

Subtitle B—International Tax Simplification

Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 212. Expansion of de minimis rule under subpart F.
Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
Sec. 214. Application of uniform capitalization rules to foreign persons.
Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Subtitle C—Additional International Tax Provisions

Sec. 221. Active leasing income from aircraft and vessels.
Sec. 222. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
Sec. 223. Look-thru treatment for sales of partnership interests.
Sec. 224. Election not to use average exchange rate for foreign tax paid other than in functional currency.
Sec. 225. Treatment of income tax base differences.
Sec. 226. Modification of exceptions under subpart F for active financing.
Sec. 227. United States property not to include certain assets of controlled foreign corporation.
Sec. 228. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.
Sec. 229. Clarification of treatment of certain transfers of intangible property.
Sec. 230. Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of United States real property interests.
Sec. 231. Toll tax on excess qualified foreign distribution amount.
Sec. 232. Exclusion of income derived from certain wagers on horse races and dog races from gross income of nonresident alien individuals.
Sec. 233. Limitation of withholding tax for Puerto Rico corporations.
Sec. 234. Report on WTO dispute settlement panels and the appellate body.
Sec. 235. Study of impact of international tax laws on taxpayers other than large corporations.
Sec. 236. Consultative role for Senate Committee on Finance in connection with the review of proposed tax treaties.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

Sec. 301. Expansion of qualified small-issue bond program.
Sec. 302. Expensing of broadband Internet access expenditures.
Sec. 303. Exemption of natural aging process in determination of production period for distilled spirits under section 263A.
Sec. 304. Modification of active business definition under section 355.
Sec. 305. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness.
Sec. 306. Modified taxation of imported archery products.
Sec. 307. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 308. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 309. Temporary suspension of personal holding company tax.
Sec. 310. Increase in section 179 expensing.
Sec. 311. Three-year carryback of net operating losses.

Subtitle B—Manufacturing Relating to Films

Sec. 321. Special rules for certain film and television productions.
Sec. 322. Modification of application of income forecast method of depreciation.

Subtitle C—Manufacturing Relating to Timber
Sec. 331. Expensing of certain reforestation expenditures.
Sec. 332. Election to treat cutting of timber as a sale or exchange.
Sec. 333. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 334. Modification of safe harbor rules for timber REITS.
TITLE IV—ADDITIONAL PROVISIONS
Subtitle A—Provisions Designed To Curtail Tax Shelters
Sec. 401. Clarification of economic substance doctrine.
Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.
Subtitle B—Other Corporate Governance Provisions
Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Signing of corporate tax returns by chief executive officer.
Sec. 423. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 424. Disallowance of deduction for punitive damages.
Sec. 425. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.
Subtitle C—Enron-Related Tax Shelter Provisions
Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.
Subtitle D—Provisions To Discourage Expatriation
Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders of inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
Sec. 445. Reporting of taxable mergers and acquisitions.
Subtitle E—International Tax
Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
Subtitle F—Other Revenue Provisions
PART I—FINANCIAL INSTRUMENTS
Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partnerships and S corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.
PART II—CORPORATIONS AND PARTNERSHIPS
Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
Sec. 469. Mandatory basis adjustments in connection with partnership distributions and transfers of partnership interests.
PART III—DEPRECIATION AND AMORTIZATION
Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Services contracts treated in the same manner as leases for rules relating to tax-exempt use of property.
Sec. 473. Class lives for utility grading costs.
Sec. 474. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 475. Consistent amortization of periods for intangibles.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.
PART IV—ADMINISTRATIVE PROVISIONS
Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
Sec. 485. Extension of customs user fees.
Sec. 486. Deposits made to suspend running of interest on potential underpayments.
Sec. 487. Qualified tax collection contracts.
PART V—MISCELLANEOUS PROVISIONS
Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Definition of insurance company for section 831.
Sec. 495. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 496. Repeal of 10-percent rehabilitation tax credit.
Sec. 497. Increase in age of minor children whose unearned income is taxed as if parent's income.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	The phaseout percentage is:
2004	80
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

''SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

''(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

''Taxable years beginning in:	The transition percentage is:
2003 or 2004	1
2005	2
2006	3
2007 or 2008	6.

''(b) DEDUCTION LIMITED TO WAGES PAID.—

''(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

''(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

''(3) SPECIAL RULES.—

''(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

''(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

''(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

''(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

''(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

''(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

''(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

''(3) SPECIAL RULES FOR DETERMINING COSTS.—

''(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

''(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

''(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas,

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) utility services, or

''(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

''(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

''(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

''(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

''(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

''(ii) additional reporting requirements.

''(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

''(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

''(7) POSSESSIONS, ETC.—

''(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

''(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

''(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

''(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

''(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

''(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Income attributable to domestic production activities.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking ''in the second preceding taxable year,'', and

(2) by striking '', and in the first, second, third, fourth, or fifth'' and inserting ''and in any of the first 20''.

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended—

(1) by striking ''in the second preceding taxable year,'',

(2) by striking '', and in the first, second, third, fourth, or fifth'' and inserting ''and in any of the first 20'', and

(3) by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) CARRYBACK.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) CARRYOVER.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

''(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

''(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

''(i) the portion of earnings and profits attributable to income described in such subparagraph, to

''(ii) the total amount of earnings and profits.

''(B) EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) EARNINGS AND PROFITS.—

''(I) IN GENERAL.—The rules of section 316 shall apply.

''(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

''(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

''(iii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

''(iv) LOOK-THRU WITH RESPECT TO CARRYOVER OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding ''and'' at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: ''Such term does not include any financial services income.''.

(4) Section 904(d)(2)(E) is amended—

(A) by inserting ''or (4)'' after ''paragraph (3)'' in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking ''(D), or (E)'' and inserting ''or (D)''.

(6) Section 864(d)(5)(A)(i) is amended by striking ''(C)(iii)(III)'' and inserting ''(C)(iii)(II)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking ''and if section 59(a)(2) did not apply''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

''(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

''(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

''(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

''(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

''(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

''(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

''(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

''(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

''(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

''(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 535(d)(2) is amended by striking ''section 904(g)(6)'' and inserting ''section 904(h)(6)''.

(2) Subparagraph (A) of section 936(a)(2) is amended by striking ''section 904(f)'' and inserting ''subsections (f) and (g) of section 904''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

''(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

''(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

''(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

''(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

''(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

''(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

''(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

''(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

''(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

''(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

''(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

''(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

''(B) DESCRIPTION.—A corporation is described in this subparagraph if—

''(i) such corporation is a financial institution described in section 581 or 591,

''(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

''(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

''(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

''(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

''(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

''(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

''(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

''(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

''(i) are members of such worldwide affiliated group, but

''(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

''(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

''(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

''(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

''(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

''(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

''(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

''(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

''(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

''(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

''(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

''(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

''(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

''(ii) preventing assets or interest expense from being taken into account more than once, and

''(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

''(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.''.

(b) EXPANSION OF REGULATORY AUTHORITY.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) ''and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection'', and

(2) by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

''(F) preventing assets or interest expense from being taken into account more than once, and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

''(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

''(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign

corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or''.

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

''(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

''(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

''(i) is a hedging transaction as defined in section 1221(b)(2), determined—

''(I) without regard to subparagraph (A)(ii) thereof,

''(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

''(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

''(ii) is clearly identified as such in accordance with section 1221(a)(7).

''(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.''.

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting ''and transactions involving physical settlement'' after ''(including hedging transactions''.

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

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

''(5) a foreign corporation,'',

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting ''and'' at the end of paragraph (7) (as so redesignated), and

(D) by striking ''; and'' at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) TREATMENT OF INCOME FROM PERSONAL SERVICE CONTRACTS.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

''(I) PERSONAL SERVICE CONTRACTS.—

''(i) Amounts received under a contract under which the corporation is to furnish personal services if—

''(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

''(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

''(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting ''and'' at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking ''a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or'' in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by this Act, is amended by striking ''which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''which is a controlled foreign corporation (as defined in section 957) or''.

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking '', or by a foreign personal holding company, as defined in section 552'', and

(B) by striking '', or foreign personal holding company''.

(4) Paragraph (2) of section 245(a) is amended by striking ''foreign personal holding company or''.

(5) Section 267(a)(3)(B), as amended by this Act, is amended by striking ''to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or'' and inserting ''to a controlled foreign corporation (as defined in section 957) or''.

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking '', a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)''.

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking ''or a foreign personal holding company described in section 552''.

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking ''subsection (a), (b), or (c)'' in subsection (c) (as so redesignated) and inserting ''subsection (a) or (b)''.

(13) Subsection (d) of section 751 is amended by adding ''and'' at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking ''paragraph (1), (2), or (3)'' in paragraph (3) (as so redesignated) and inserting ''paragraph (1) or (2)''.

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

''(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and''.

(B) Subparagraph (B) of section 898(b)(2) is amended by striking ''and sections 551(f) and 554, whichever are applicable,''.

(C) Paragraph (3) of section 898(b) is amended to read as follows:

''(3) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).''.

(D) Subsection (c) of section 898 is amended to read as follows:

''(c) DETERMINATION OF REQUIRED YEAR.—

''(1) IN GENERAL.—The required year is—

''(A) the majority U.S. shareholder year, or

''(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

''(2) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

''(3) MAJORITY U.S. SHAREHOLDER YEAR.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

''(i) each United States shareholder described in subsection (b)(2)(A), and

''(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

''(B) TESTING DAY.—The testing days shall be—

''(i) the first day of the corporation's taxable year (determined without regard to this section), or

''(ii) the days during such representative period as the Secretary may prescribe.''.

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

''(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).''.

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding ''or'' at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking ''FOREIGN PERSONAL HOLDING OR''.

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking '', 551(a),''.

(20) Paragraph (5) of section 1014(b) is amended by inserting ''and before January 1, 2005,'' after ''August 26, 1937,''.

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

''(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

''(A) for which it is a regulated investment company (as defined in section 851), or

''(B) for which it is a real estate investment trust (as defined in section 856).''.

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking ''551(d), 959(a),'' and inserting ''959(a)''.

(B) Subsection (e) of section 1291 is amended by inserting ''(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)'' after ''section 1246''.

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

''(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.''.

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

''(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.''.

(31) Subsection (a) of section 6679 is amended—

(A) by striking ''6035, 6046, and 6046A'' in paragraph (1) and inserting ''6046 and 6046A'', and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking ''556(b)(2),'' each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(2) Clause (i) of section 881(c)(5)(A) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.''.

(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking ''any individual'' and inserting ''any person''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

''(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENT.—Section 1441(g) is amended is amended by striking ''section 871(a)(3)'' and inserting ''section 871(a)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) IN GENERAL.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN RENTS, ETC.—

''(i) IN GENERAL.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

''(ii) QUALIFIED LEASING INCOME.—For purposes of this subparagraph, the term 'qualified leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—

''(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

''(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.''.

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B) is amended by inserting ''or (2)(D)'' after ''paragraph (2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2006, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) IN GENERAL.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

''(5) LOOK-THRU IN THE CASE OF RELATED CONTROLLED FOREIGN CORPORATIONS.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952).

The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

''(6) LOOK-THRU RULE FOR CERTAIN PARTNERSHIP SALES.—

''(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

''(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) ELECTIVE EXCEPTION FOR TAXES PAID OTHER THAN IN FUNCTIONAL CURRENCY.—

''(i) IN GENERAL.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

''(ii) APPLICATION TO QUALIFIED BUSINESS UNITS.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

''(iii) ELECTION.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) IN GENERAL.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.—

''(i) IN GENERAL.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

''(ii) ELECTION IRREVOCABLE.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(3) is amended by adding at the end the following:

''(E) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

''(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

''(ii) the activity is performed in the home country of the related person, and

''(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking ''and'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

''(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

''(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

''(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

''(M) an obligation of a United States person which—

''(i) is not a domestic corporation, and

''(ii) is not—

''(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

''(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.''.

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking ''and (K)'' in the last sentence and inserting '', (K), and (L)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) 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 new subparagraph:

''(C) in the case of a foreign partnership in which United States persons do not hold directly or indirectly 20 percent or more of either the capital or profits interests, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: ''For purposes of applying section 904(d), any such amount shall be treated in the same manner as if such amount were a royalty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

''(i) shall not be included in computing such shareholder's long-term capital gains, and

''(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.''.

(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. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

''(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

''(1) the taxpayer's excess qualified foreign distribution amount, and

''(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

''(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

''(A) the aggregate dividends received by the taxpayer during the taxable year which are—

''(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

''(ii) described in a domestic reinvestment plan which—

''(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

''(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

''(B) the base dividend amount.

''(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

''(3) FIXED BASE PERIOD.—

''(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

''(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

''(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

''(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

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

''(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

''(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

''(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

''(A) the excess qualified foreign distribution amount,

''(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

''(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

''(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

''(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

''(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

''(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

''(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

''(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

''(d) ELECTION.—

''(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

''(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

''(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

''(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.''.

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking ''(5), (6), and (7)'' and inserting ''(6), (7), and (8)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wagers made after the date of the enactment of this Act.

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

''(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

''(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.''.

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes'', and

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

''(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

''(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

''(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking ''GUAM AND VIRGIN ISLANDS CORPORATIONS'' in the heading and inserting ''POSSESSIONS''.

(2) Paragraph (1) of section 881(b) is amended by striking ''IN GENERAL'' in the heading and inserting ''GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid after the date of the enactment of this Act.

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. CONSULTATIVE ROLE FOR SENATE COMMITTEE ON FINANCE IN CONNECTION WITH THE REVIEW OF PROPOSED TAX TREATIES.

Paragraph 1(j) of Rule XXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(3)(A) Notwithstanding any other rule of the Senate, the Committee on Foreign Relations shall consult with the Committee on Finance with respect to any proposed treaty on taxation prior to reporting such treaty to the Senate.

''(B) The Committee on Foreign Relations shall request in writing the views of the Committee on Finance with respect to any proposed treaty on taxation which is referred to the Committee on Foreign Relations. Not less than 120 days after the date on which such request is made, the Committee on Finance shall respond to such request in writing. If the Committee on Finance does not provide such written response during such 120 day period, the Committee on Finance shall be deemed to have waived the opportunity to submit such views.

''(C) The Committee on Foreign Relations shall consider the views submitted by the Committee on Finance and shall include such views in any report of the treaty to the Senate.''.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) IN GENERAL.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

''(F) ADDITIONAL CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

''SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

''(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

''(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred during 2004 and properly taken into account for such taxable year with respect to—

''(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

''(B) the connection of such qualified equipment to any qualified subscriber.

''(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

''(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after December 31, 2003.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2003, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(16) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(23) UNDERSERVED AREA.—The term 'underserved area' means—

''(A) any census tract which is located in—

''(i) an empowerment zone or enterprise community designated under section 1391, or

''(ii) the District of Columbia Enterprise Zone established under section 1400, or

''(B) any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

''(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) SPECIAL RULES.—

''(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—

''(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

''(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).''.

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 191.''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 191(f)(2).''.

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

''Sec. 191. Broadband expenditures.''.

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

''(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production periods beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

''(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

''(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

''(A) it is engaged in the active conduct of a trade or business,''.

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. EXCLUSION OF CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES FROM ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) (relating to acquisition indebtedness) is amended by adding at the end the following new paragraph:

''(10) CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES.—For purposes of this section, the term 'acquisition indebtedness' does not include any indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(A) issued by such company under section 303(a) of such Act, and

''(B) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any indebtedness incurred after December 31, 2003, by a small business investment company described in section 514(c)(10) of the Internal Revenue Code of 1986 (as added by this section) with respect to property acquired by such company after such date.

SEC. 306. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

''(i) section 6416(b)(3) shall not apply, and

''(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

''(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

''(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting ''(other than broadheads)'' after ''point'', and

(2) by striking ''ARROWS.—'' in the heading and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2003.

SEC. 307. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING INVOLVING ANIMALS.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.''.

(b) CONFORMING AMENDMENT.—Section 521(b) is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of value-added processing involving animals, see section 1388(k).''.

(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. 308. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking ''or'' at the end of subparagraph (B) and by adding at the end the following new subparagraph:

''(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 309. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 310. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting ''50 percent of'' before ''the amount''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 311. THREE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(I) SPECIAL RULE FOR 2003.—In the case of a net operating loss for any taxable year ending during 2003, subparagraph (A)(i) shall be applied by substituting '3' for '2'.''.

(b) ELECTION TO DISREGARD 3-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ELECTION TO DISREGARD 3-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 3-year carryback under subsection (b)(1)(I) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(I). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—

(1) IN GENERAL.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(A) by striking ''or 2002'' and inserting '', 2002, or 2003'', and

(B) by striking ''and 2002'' and inserting '', 2002, and 2003''.

(d) TECHNICAL CORRECTIONS.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking ''a taxpayer which has''.

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking ''before January 1, 2003'' and inserting ''after December 31, 1990''.

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking ''attributable to carryovers''.

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking ''for taxable years'' and inserting ''from taxable years'', and

(ii) by striking ''carryforwards'' and inserting ''carryovers''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) ELECTION.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before April 15, 2004, and

(B) any election made under section 172(k) (as added by this section) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

''SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

''(a) ELECTION TO TREAT CERTAIN COSTS OF QUALIFIED FILM AND TELEVISION PRODUCTIONS AS EXPENSES.—

''(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

''(B) HIGHER DOLLAR LIMITATION FOR PRODUCTIONS IN CERTAIN AREAS.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

''(i) a low-income community under section 45D, or

''(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting '$20,000,000' for '$15,000,000'.

''(b) AMORTIZATION OF REMAINING COSTS.—

''(1) IN GENERAL.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

''(2) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

''(c) ELECTION.—

''(1) IN GENERAL.—An election under subsection (a) with respect to any qualified film or television production shall be made in

such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

''(2) REVOCATION OF ELECTION.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

''(d) QUALIFIED FILM OR TELEVISION PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified film or television production' means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

''(2) PRODUCTION.—

''(A) IN GENERAL.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

''(B) EXCEPTION.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

''(3) QUALIFIED COMPENSATION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified compensation' means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

''(B) PARTICIPATIONS AND RESIDUALS EXCLUDED.—The term 'compensation' does not include participations and residuals (as defined in section 167(g)(7)(B)).

''(e) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

''(f) TERMINATION.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

''Sec. 181. Treatment of qualified film and television productions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

''(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

''(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

''(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term 'participations and residuals' means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

''(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting 'for each taxable year in such period' for 'for such period'.

''(D) OTHER SPECIAL RULES.—

''(i) PARTICIPATIONS AND RESIDUALS.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

''(ii) COORDINATION WITH OTHER RULES.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

''(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the look-back method for the additional amounts allowable as a deduction solely by reason of this paragraph.''.

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

''(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) IN GENERAL.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

''(b) TREATMENT AS EXPENSES.—

''(1) ELECTION TO TREAT CERTAIN REFORESTATION EXPENDITURES AS EXPENSES.—

''(A) IN GENERAL.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

''(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 7703)).''.

(b) NET AMORTIZABLE BASIS.—Section 194(c)(2) (defining amortizable basis) is amended by inserting ''which have not been taken into account under subsection (b)'' after ''expenditures''.

(c) CONFORMING AMENDMENTS.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking ''paragraph (1)'' both places it appears and inserting ''paragraph (1)(B)''.

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

''(4) TREATMENT OF TRUSTS AND ESTATES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

''(B) AMORTIZATION DEDUCTION ALLOWED TO ESTATES.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

''(5) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer .''.

(4) The heading for section 194 is amended by striking ''**AMORTIZATION**'' and inserting ''**TREATMENT**''.

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking ''Amortization'' and inserting ''Treatment''.

(d) REPEAL OF REFORESTATION CREDIT.—

(1) IN GENERAL.—Section 46 (relating to amount of credit) is amended—

(A) by adding ''and'' at the end of paragraph (1),

(B) by striking '', and '' at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking ''this subsection'' in paragraph (5) of subsection (a) and inserting ''subsection (a)'', and

(iii) by redesignating such paragraph (5) as subsection (b).

(B) The heading for section 48 is amended by striking '' **REFORESTATION CREDIT**''.

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking '', reforestation credit''.

(D) Section 50(c)(3) is amended by striking ''or reforestation credit''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking ''retains an economic interest in such timber'' and inserting ''either retains an economic interest in such timber or makes an outright sale of such timber''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking ''The date of disposal'' and inserting ''In the case of disposal of timber with a retained economic interest, the date of disposal''.

(2) The heading for section 631(b) is amended by striking ''WITH A RETAINED ECONOMIC INTEREST''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

''(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

''(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

''(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

''(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

''(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

''(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

''(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

''(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

''(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

''(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(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) 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.

In applying subclause (II), 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.

''(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) 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.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) 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 the date of the enactment of this Act.

SEC. 402. 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. 403. 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 ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (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 disqualifying 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. 404. 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(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(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 (2), (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 the date of the enactment of this Act.

SEC. 405. 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. 406. 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. 407. 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, managing, 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) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. 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 listed 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) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) 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. 409. 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. 410. 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. 411. 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. 412. 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. 413. 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. 414. 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 of the representative.''.

(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. 415. 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. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) 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 time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. 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 in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. 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 §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. 422. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by inserting after the first sentence the following new sentences: ''The return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer ensures that such return complies with this title and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

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

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

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

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. 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 subparagraph 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 by a transferor 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 such 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 February 13, 2003.

SEC. 432. 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 (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such 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 in such manner as the Secretary may prescribe.

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 February 13, 2003.

SEC. 433. 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)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result

of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) 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).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).''.

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(10) Section 1272(a)(6)(B) is amended by adding at the end the following new flush sentence:

''For purposes of clause (iii), the Secretary shall prescribe regulations permitting the use of a current prepayment assumption, determined as of the close of the accrual period (or such other time as the Secretary may prescribe during the taxable year in which the accrual period ends).''.

(11) 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).

(12) 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 take effect on February 14, 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 to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(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. 434. 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) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. 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 or persons acquire, directly or indirectly, control of 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,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former

partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

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

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2003, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes

United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

''CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

''Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

''SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

''(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

''(b) VALUE.—For purposes of subsection (a)—

''(1) IN GENERAL.—The value of specified stock compensation shall be—

''(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

''(B) in any other case, the fair market value of such compensation.

''(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

''(A) in the case of specified stock compensation held on the inversion date, on such date,

''(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

''(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

''(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

''(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

''(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

''(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

''(e) DEFINITIONS.—For purposes of this section—

''(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

''(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) INVERTED CORPORATION; INVERSION DATE.—

''(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

''(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

''(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

''(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

''(3) SPECIFIED STOCK COMPENSATION.—

''(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

''(B) EXCEPTIONS.—Such term shall not include—

''(i) any option to which part II of subchapter D of chapter 1 applies, or

''(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

''(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(f) SPECIAL RULES.—For purposes of this section—

''(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

''(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

''(A) shall be treated as specified stock compensation, and

''(B) shall not be allowed as a deduction under any provision of chapter 1.

''(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

''(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

''(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting ''48,'' after ''46,''.

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

''(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.''.

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period ''or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A''.

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

''Chapter 48. Stock compensation of insiders in inverted corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking ''source and character'' and inserting ''amount, source, or character''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

''SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

''(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

''(1) a description of the acquisition,

''(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

''(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

''(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

''(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

''(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

''(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such shareholder, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.''.

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

''(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),''.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

''(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

''Sec. 6043A. Returns relating to taxable mergers and acquisitions.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

''(A) obligations of the United States, money, or deposits with—

''(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

''(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;''.

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

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

''(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

''(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

''(A) subsection (a) and section 331 shall not apply to such distribution, and

''(B) such distribution shall be treated as a distribution to which section 301 applies.

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

''(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

''(i) which is a common parent of an affiliated group,

''(ii) stock of which is directly owned by the distributee foreign corporation,

''(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

''(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

''(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

''(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

''(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.''.

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking ''The Secretary'' and inserting:

''(A) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new subparagraph:

''(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

''(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

''Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

''(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

''(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

''(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

''(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

''(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

''(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

''(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

''(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

''(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

''(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

''(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

''(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

''(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

''(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

''(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.''.

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting ''ON DIVIDENDS'' after ''TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.''.

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

''(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

''(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

''(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

''(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

''(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

''(A) a debtor corporation transfers stock, or

''(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

''(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

''(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

''(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

''(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.''.

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

''(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and'', and

(B) by adding at the end the following new flush sentence:

''The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.''.

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle.''

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is

part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

''(A) terminated the position for its fair market value immediately before the settlement, and

''(B) sold the property so delivered by the taxpayer at its fair market value.''.

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking ''; except that the term 'personal property' shall include stock''.

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

''(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking ''is issued by a corporation or a government or political subdivision thereof and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: ''In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.''.

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting ''with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355'' after ''section 368(a)(1)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: ''Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking ''possessing—'' and all that follows through ''(B)'' and inserting ''possessing''.

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

''(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

''(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

''(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).''.

(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. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking '', with respect to which the election provided in section 754 is in effect,'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking ''(as adjusted by section 732(d))'' both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking ''**OPTIONAL**'' in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking ''with respect to which the election provided in section 754 is in effect'' in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

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

''(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.'', and

(4) by striking ''**OPTIONAL**'' in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking ''section 734(b) (relating to the optional adjustment'' and inserting ''section 734(a) (relating to the adjustment'', and

(B) by striking ''section 743(b) (relating to the optional adjustment'' and inserting ''section 743(a) (relating to the adjustment''.

(3) Section 761(e)(2) is amended by striking ''optional''.

(4) Section 774(a) is amended by striking ''743(b)'' both places it appears and inserting ''743(a)''.

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking ''Optional''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. SERVICE CONTRACTS TREATED IN SAME MANNER AS LEASES FOR RULES RELATING TO TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Section 168(h)(7) (defining lease) is amended by adding at the end the

following: ''Such term shall also include any service contract or other similar arrangement.''.

(b) LEASE TERM.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In the case of any service contract or other similar arrangement treated as a lease under subsection (h)(7), the lease term shall be determined in the same manner as a lease.''.

(c) CONFORMING AMENDMENTS.—Section 168(g)(3)(A) is amended—

(1) by inserting ''(as defined in subsection (h)(7)'' after ''lease'' the first place it appears, and

(2) by inserting ''(as determined under subsection (i)(3))'' after ''term''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or other similar arrangements entered into after the date of the enactment of this Act.

SEC. 473. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) 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) initial clearing and grading land improvements with respect to gas utility property.''.

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

''(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.''.

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting ''or (E)(iv)'' after ''(E)(iii)'', and

(2) by adding at the end the following new item:

''(F) ..... 25''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

''(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

''(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

''(I) is manufactured primarily for use on public streets, roads, and highways,

''(II) is not subject to section 280F, and

''(III) is rated at not more than 14,000 pounds gross vehicle weight.

''(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

''(I) does not have the primary load carrying device or container attached,

''(II) has a seating capacity of more than 12 individuals,

''(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

''(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

''(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 475. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

''(i) the amount of start-up expenditures with respect to the active trade or business, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

''(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking ''AMORTIZE'' and inserting ''DEDUCT'' in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

''(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

''(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

''(A) the amount of organizational expenditures with respect to the taxpayer, or

''(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

''(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.''.

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

''(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

''(i) the amount of organizational expenses with respect to the partnership, or

''(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

''(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

''(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.''.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking ''AMORTIZATION'' and inserting ''DEDUCTION'' in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

''SEC. 470. DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

''(a) GENERAL RULE.—The aggregate amount of deductions otherwise allowable to the taxpayer with respect to tax-exempt use property for any taxable year shall not exceed the aggregate amount of income includible in gross income of the taxpayer for the taxable year with respect to such property.

''(b) DISALLOWED DEDUCTION CARRIED TO NEXT YEAR.—Except as otherwise provided in this section, any deduction with respect to any tax-exempt use property which is disallowed under subsection (a) shall, subject to the limitation under subsection (a), be treated as a deduction with respect to such property in the next taxable year.

''(c) TAX-EXEMPT USE PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-exempt use property' has the meaning given such term by section 168(h), except that such section shall be applied without regard to paragraphs (2)(C)(ii) and (3).

''(2) SPECIAL RULES FOR SERVICE CONTRACTS AND SIMILAR ARRANGEMENTS.—If tangible property is subject to a service contract or other similar arrangement between a taxpayer (or any related person) and any tax-exempt entity, such contract or arrangement shall be treated in the same manner as if it were a lease for purposes of determining whether such property is tax-exempt use property under paragraph (1).

''(d) SPECIAL RULES.—

''(1) ALLOCABLE DEDUCTIONS.—Subsection (a) shall apply to—

''(A) any deduction directly allocable to any tax-exempt use property, and

''(B) a proper share of other deductions that are not directly allocable to such property.

''(2) PROPERTY CEASING TO BE TAX-EXEMPT USE PROPERTY.—If property of a taxpayer ceases to be tax-exempt use property in the hands of the taxpayer—

''(A) any unused deduction allocable to such property under subsection (b) shall only be allowable as a deduction for any taxable year to the extent of any net income of the taxpayer allocable to such property, and

''(B) any portion of such unused deduction remaining after application of subparagraph (A) shall, subject to the limitation of subparagraph (A), be treated as a deduction allocable to such property in the next taxable year.

''(3) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property, rules similar to the rules of section 469(g) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

''Sec. 470. Deductions allocable to property used by governments or other tax-exempt entities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or similar arrangements entered into after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: ''The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''September 30, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

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

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

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

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(B) by inserting ''full or partial'' after ''facilitate''.

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. 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 31, 2004'' and inserting ''September 30, 2013''.

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

''SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

''(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

''(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

''(A) to locate and contact any taxpayer specified by the Secretary,

''(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

''(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

''(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

''(3) prohibits subcontractors from—

''(A) having contacts with taxpayers,

''(B) providing quality assurance services, and

''(C) composing debt collection notices, and

''(4) permits subcontractors to perform other services only with the approval of the Secretary.

''(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

''(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

''(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

''(f) CROSS REFERENCES.—

''(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

''(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting ''6306,'' before ''7651''.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

''Sec. 6306. Qualified Tax Collection Contracts.''.

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

''SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

''(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

''(b) MODIFICATIONS.—For purposes of subsection (a)—

''(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

''(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

''(3) Such civil action shall not be an exclusive remedy with respect to such person.

''(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

''Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.''.

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

''(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.''.

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

''(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.— An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.''.

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

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''May 8, 2003''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking ''exceed $350,000 but''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,''.

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

''(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section

with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

''(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

''(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

''(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

''(C) QUALIFIED INTEREST.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

''(ii) SECRETARIAL AUTHORITY.—

''(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

''(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

''(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.''.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking ''If'' and inserting:

''(1) DISPOSITIONS OF DONATED PROPERTY.—If'',

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

''(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

''(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

''(B) a description, and date of contribution, of the property to which the qualified interest relates,

''(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

''(D) the date and the amount of the payment pursuant to the qualified interest, and

''(E) a description of the terms of the qualified interest.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 6050L is amended by striking ''**CERTAIN DISPOSITIONS OF**''.

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking ''certain dispositions of''.

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

''(e) TERMINATION.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.''.

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking ''age 14'' and inserting ''age 18''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3133. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 13, insert ''section 453(a) of'' after ''by''.

On page 60, line 3, insert ''section 453(a) of'' after ''by''.

On page 68, strike lines 10 through 14, and insert the following:

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) SUBSECTION (c)(29).—The amendments made by subsection (c)(29) shall apply to disclosures of return or return information with respect to taxable years beginning after December 31, 2004.

On page 98, line 3, strike ''September 24, 2004'' and insert ''December 31, 2004''.

On page 98, between lines 3 and 4, insert the following:

SECTION 237. INTEREST PAYMENTS DEDUCTIBLE WHERE DISQUALIFIED GUARANTEE HAS NO ECONOMIC EFFECT.

(a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating to exceptions to disqualified guarantee) is amended—

(1) by striking ''or'' at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting '', or'',

(3) by inserting after subclause (II) the following new subclause:

''(III) in the case of a guarantee by a foreign person, to the extent of the amount that the taxpayer establishes to the satisfaction of the Secretary that the taxpayer could have borrowed from an unrelated person without the guarantee.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued on or after the date of the enactment of this Act.

On page 125, line 25, strike ''December 31, 2003'' and insert ''the date which is 30 days after the date of the enactment of this Act''.

Beginning on page 135, line 17, strike all through page 136, line 2, and insert the following:

''(i) which is—

''(I) described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct research, or

''(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

On page 137, lines 18 and 19, strike ''which is energy research''.

On page 139, lines 9 and 10, strike ''Energy Tax Incentives Act of 2003'' and insert ''Jumpstart Our Business Strength (JOBS) Act''.

On page 14, line 18, of Senate amendment number 3118, as passed, strike ''2'' and insert ''3''.

On page 14, line 21, of Senate amendment number 3118, as passed, insert ''for such taxable year'' after ''United States''.

Beginning on page 212, line 9, strike all through page 213, line 3, and insert the following:

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

On page 225, line 14, strike ''paragraph (3)(A)'' and insert ''this subparagraph''.

On page 228, line 1, strike ''(c)'' and insert ''(d)''.

On page 228, line 8, strike ''(d)'' and insert ''(e)''.

On page 230, line 17, add a period at the end.

On page 245, strike lines 5 through 7, and insert the following:

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

On page 286, strike lines 6 through 10, and insert the following:

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by redesignating clauses (ii) through (xviii) as clauses (iii) through (xix), respectively, and by inserting after clause (i) the following new clause:

On page 286, strike lines 14 through 18, and insert the following:

(2) Paragraph (2) of section 6724(d) (relating to definitions) is amended by redesignating subparagraphs (F) through (BB) as subparagraphs (G) through (CC), respectively, and by inserting after subparagraph (E) the following new subparagraph:

On page 301, line 7, strike ''168(j)'' and insert ''163(j)''.

On page 311, line 10, insert beginning double quotation marks before the beginning single quotation mark.

On page 311, line 14, insert beginning double quotation marks before the beginning single quotation mark.

On page 311, line 19, insert beginning double quotation marks before the beginning single quotation mark.

On page 345, strike lines 13 through 19, and insert the following:

''(c) FEES AND EXPENSES.—The Secretary may retain and use—

''(1) an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract, and

''(2) an amount not in excess of 25 percent of such amount collected for collection enforcement activities of the Internal Revenue Service.

The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

On page 346, between lines 4 and 5, insert the following:

''(f) APPLICATION OF SECTION.—In no event may the term of any qualified tax collection contract extend beyond the date which is 5 years after the date of the enactment of this section.

On page 346, line 5, strike ''(f)'' and insert ''(g)''.

On page 349, between lines 11 and 12, insert the following:

(e) BIENNIAL REPORT.—The Secretary of the Treasury shall biennially submit (beginning in 2005) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report with respect to qualified tax collection contracts under section 6306 of the Internal Revenue Code of 1986 (as added by this section) which includes—

(1) a complete cost benefit analysis,

(2) the impact of such contracts on collection enforcement staff levels in the Internal Revenue Service,

(3) the amounts collected and the collection costs incurred (directly and indirectly),

(4) an evaluation of contractor performance,

(5) a disclosure safeguard report in a form similar to that required under section 6103(p)(5) of such Code, and

(6) a measurement plan which includes a comparison of the best practices used by the private collectors with the Internal Revenue Service's own collection techniques) and mechanisms to identify and capture information on successful collection techniques used by the contractors which could be adopted by the Internal Revenue Service.

On page 349, line 12, strike ''(e)'' and insert ''(f)''.

Beginning on page 349, line 15, strike all through page 353, line 24, and insert the following:

SEC. 488. WHISTLEBLOWER REFORMS.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'',

(2) by striking ''and'' at the end of paragraph (1) and inserting ''or'',

(3) by striking ''(other than interest)'', and

(4) by adding at the end the following new subsections:

''(b) AWARDS TO WHISTLEBLOWERS.—

''(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

''(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

''(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

''(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

''(3) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1) or (2) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

''(4) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

''(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

''(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

''(5) ADDITIONAL RULES.—

''(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

''(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

''(C) AWARD NOT SUBJECT TO INDIVIDUAL ALTERNATIVE MINIMUM TAX.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

''(c) WHISTLEBLOWER OFFICE.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

''(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

''(B) shall monitor any action taken with respect to such matter,

''(C) shall inform such individual that it has accepted the individual's information for further review,

''(D) may require such individual and any legal representative of such individual to not disclose any information so provided,

''(E) may ask for additional assistance from such individual or any legal representative of such individual, and

''(F) shall determine the amount to be awarded to such individual under subsection (b).

''(2) FUNDING FOR OFFICE.—From the amounts available for expenditure under subsection (a), the Whistleblower Office shall be credited with an amount equal to the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

''(3) REQUEST FOR ASSISTANCE.—

''(A) IN GENERAL.—Any assistance requested under paragraph (1)(E) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n).

''(B) FUNDING OF ASSISTANCE.—From the funds made available to the Whistleblower Office under paragraph (2), the Whistleblower Office may reimburse the costs incurred by any legal representative in providing assistance described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

On page 354, line 12, strike ''May 8, 2003'' and insert ''the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act''.

Beginning on page 355, line 17, strike all through page 357, line 24, and insert the following:

SEC. 493. MODIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) PREMIUMS AS PERCENTAGE OF GROSS RECEIPTS INCREASED.—Section 501(c)(15)(A)(i)(II) is amended by striking ''50 percent'' and inserting ''60 percent''.

(b) LIMITATION ON NET WRITTEN PREMIUMS INCREASED.—Section 831(b)(2) (relating to companies to which this subsection applies) is amended—

(1) by striking ''$1,200,000'' and inserting ''$1,890,000'', and

(2) by adding at the end the following new subparagraph:

''(C) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, the dollar amount in subparagraph (A)(i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar

year in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If the amount in subparagraph (A)(i) as increased under clause (i) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(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, 2004.

(2) TRANSITION RULE FOR COMPANIES IN RECEIVERSHIP OR LIQUIDATION.—In the case of a company or association which—

(A) for the taxable year which includes April 1, 2004, meets the requirements of section 501(c)(15)(A) of the Internal Revenue Code of 1986, as in effect for the last taxable year beginning before January 1, 2004, and

(B) on April 1, 2004, is in a receivership, liquidation, or similar proceeding under the supervision of a State court,

the amendments made by this section shall apply to taxable years beginning after the earlier of the date such proceeding ends (or, if later, December 31, 2004) or December 31, 2007.

Beginning on page 358, line 1, strike all through page 363, line 21, and insert the following:

SEC. 494. TREATMENT OF CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) IN GENERAL.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property, or applications or registrations of such property,''.

(b) ADDITIONAL DEDUCTION FOR CERTAIN CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) ADDITIONAL DEDUCTION FOR CERTAIN CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.—

''(A) IN GENERAL.—In the case of a charitable contribution of any property described in paragraph (1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in paragraph (1)(B)(ii)), if—

''(i) the lesser of—

''(I) 5 percent of the fair market value of such property (determined at the time of such contribution), or

''(II) $1,000,000, exceeds

''(ii) the amount of such contribution as determined under paragraph (1),

then the amount of the charitable contribution of such property otherwise taken into account under this section shall equal the amount determined under clause (i).''.

(c) CERTAIN DONEE INCOME FROM INTELLECTUAL PROPERTY TREATED AS AN ADDITIONAL CHARITABLE CONTRIBUTION.—Section 170 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CERTAIN DONEE INCOME FROM INTELLECTUAL PROPERTY TREATED AS AN ADDITIONAL CHARITABLE CONTRIBUTION.—

''(1) TREATMENT AS ADDITIONAL CONTRIBUTION.—In the case of a taxpayer who makes a qualified intellectual property contribution, the deduction allowed under subsection (a) for each taxable year of the taxpayer ending on or after the date of such contribution shall be increased (subject to the limitations under subsection (b)) by the applicable percentage of qualified donee income with respect to such contribution which is properly allocable to such year under this subsection.

''(2) QUALIFIED DONEE INCOME.—For purposes of this subsection, the term 'qualified donee income' means any net income received by or accrued to the donee which is properly allocable to the qualified intellectual property.

''(3) ALLOCATION OF QUALIFIED DONEE INCOME TO TAXABLE YEARS OF DONOR.—For purposes of this subsection, qualified donee income shall be treated as properly allocable to a taxable year of the donor if such income is received by or accrued to the donee for the taxable year of the donee which ends within or with such taxable year of the donor.

''(4) 10-YEAR LIMITATION.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the 10-year period beginning on the date of the contribution of such property.

''(5) BENEFIT LIMITED TO LIFE OF INTELLECTUAL PROPERTY.—Income shall not be treated as properly allocable to qualified intellectual property for purposes of this subsection if such income is received by or accrued to the donee after the expiration of the legal life of such property.

''(6) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined under the following table which corresponds to a taxable year of the donor ending on or after the date of the qualified intellectual property contribution:

"Taxable Year of Donor Ending On or After Date of Contribution:	Applicable Percentage:
1st or 2d	100
3rd	90
4th	80
5th	70
6th	60
7th	50
8th	40
9th	30
10th	20
11th or 12th	10.

''(7) QUALIFIED INTELLECTUAL PROPERTY CONTRIBUTION.—For purposes of this subsection, the term 'qualified intellectual property contribution' means any charitable contribution of qualified intellectual property—

''(A) the amount of which taken into account under this section—

''(i) is reduced by reason of subsection (e)(1), or

''(ii) determined under subsection (e)(7), and

''(B) with respect to which the donor informs the donee at the time of such contribution that the donor intends to treat such contribution as a qualified intellectual property contribution for purposes of this subsection and section 6050L.

''(8) QUALIFIED INTELLECTUAL PROPERTY.—For purposes of this subsection, the term 'qualified intellectual property' means property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)).

''(9) OTHER SPECIAL RULES.—

''(A) APPLICATION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Any increase under this subsection of the deduction provided under subparagraph (a) shall be treated for purposes of subsection (b) as a deduction which is attributable to a charitable contribution to the donee to which such increase relates.

''(B) NET INCOME DETERMINED BY DONEE.—The net income taken into account under paragraph (2) shall not exceed the amount of such income reported under section 6050L(b)(1).

''(C) DEDUCTION LIMITED TO 12 TAXABLE YEARS.—Except as may be provided under subparagraph (D)(i), this subsection shall not apply with respect to any qualified intellectual property contribution for any taxable year of the donor after the 12th taxable year of the donor which ends on or after the date of such contribution.

''(D) REGULATIONS.—The Secretary may issue regulations or other guidance to carry out the purposes of this subsection, including regulations or guidance—

''(i) modifying the application of this subsection in the case of a donor or donee with a short taxable year, and

''(ii) providing for the determination of an amount to be treated as net income of the donee which is properly allocable to qualified intellectual property in the case of a donee who uses such property to further a purpose or function constituting the basis of the donee's exemption under section 501 (or, in the case of a governmental unit, any purpose described in section 170(c)) and does not possess a right to receive any payment from a third party with respect to such property.''.

(d) REPORTING REQUIREMENTS.—Section 6050L (relating to returns relating to certain dispositions of donated property) is amended to read as follows:

"SEC. 6050L. RETURNS RELATING TO CERTAIN DONATED PROPERTY.

''(a) DISPOSITIONS OF DONATED PROPERTY.—

''(1) IN GENERAL.—If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

''(A) the name, address, and TIN of the donor,

''(B) a description of the property,

''(C) the date of the contribution,

''(D) the amount received on the disposition, and

''(E) the date of such disposition.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds $5,000.

''(B) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

''(b) QUALIFIED INTELLECTUAL PROPERTY CONTRIBUTIONS.—

''(1) IN GENERAL.—Each donee with respect to a qualified intellectual property contribution shall make a return (at such time and in such form and manner as the Secretary may by regulations prescribe) with respect to each specified taxable year of the donee showing—

''(A) the name, address, and TIN of the donor,

''(B) a description of the qualified intellectual property contributed,

''(C) the date of the contribution, and

''(D) the amount of net income of the donee for the taxable year which is properly allocable to the qualified intellectual property (determined without regard to paragraph (9)(B) of section 170(m) and with the modifications described in paragraphs (4) and (5) of such section).

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) IN GENERAL.—Terms used in this subsection which are also used in section 170(m) have the respective meanings given such terms in such section.

''(B) SPECIFIED TAXABLE YEAR.—The term 'specified taxable year' means, with respect to any qualified intellectual property contribution, any taxable year of the donee any portion of which is part of the 10-year period beginning on the date of such contribution.

''(c) STATEMENT TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) or (b) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.''.

(e) PROCESSING FEE.—Section 170, as amended by subsection (b), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) PROCESSING FEE.—In the case of a deduction allowed for any taxable year under this section with respect to a charitable contribution of any property described in subsection (e)(1)(B)(iii) (other than copyrights described in section 1221(a)(3) or 1231(b)(1)(C) or property contributed to or for the use of an organization described in subsection (e)(1)(B)(ii)), the taxpayer shall include, with the taxpayer's return of tax including such deduction, a fee equal to 1 percent of the amount of such deduction. Such fee shall be credited by the Secretary to the operations of the Exempt Organizations unit within the Internal Revenue Service.''.

(f) MODIFICATION OF SUBSTANTIAL VALUATIONS MISSTATEMENT PENALTY FOR CHARITABLE CONTRIBUTIONS OF PROPERTY.—

(1) SUBSTANTIAL MISSTATEMENTS.—Section 6662(e)(1)(A) (relating to substantial valuation misstatements under chapter 1) is amended by inserting ''(50 percent or more in the case of a charitable contribution of any property described in section 170(e)(1)(B)(iii))'' after ''200 percent or more''.

(2) GROSS MISSTATEMENTS.—Section 6662(h)(2)(A) (defining gross valuation misstatements) is amended by striking clause (ii) and inserting the following new clauses:

''(ii) '100 percent or more' for '50 percent or more',

''(iii) '25 percent or less' for '50 percent or less', and''.

(g) ANTI-ABUSE RULES.—The Secretary of the Treasury—

(1) may prescribe such regulations or other guidance as may be necessary or appropriate to prevent the avoidance of the purposes of paragraphs (1)(B)(iii) and (7) of section 170(e) of the Internal Revenue Code of 1986 (as added by subsections (a) and (b)), including preventing—

(A) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(B) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(C) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply, and

(2) shall prescribe guidance on appraisal standards for contributions of property described in section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by this section).

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

Beginning on page 363, line 22, strike all through page 364, line 3.

On page 420, strike lines 1 through 8, and insert the following:

''(A) IN GENERAL.—The term 'motorsports entertainment complex' means a racing track facility which—

''(i) is permanently situated on land, and

''(ii) during the 36-month period following the first day of the month in which the asset is placed in service, is scheduled to host 1 or more racing events for automobiles (of any type), trucks, or motorcycles which are open to the public for the price of admission.

On page 421, at the end of line 9, add end quotation marks and a period.

On page 421, strike lines 10 through 20.

On page 421, line 24, strike ''Act.'' and insert ''Act and before January 1, 2008.''.

On page 425, line 19, strike ''45E'' and insert ''45D''.

On page 425, line 20, strike ''45d'' and insert ''45e''.

On page 438, in the matter following line 22, strike ''Native American new markets tax credit'' and insert ''New markets tax credit for Native American reservations''.

On page 440, line 1, strike ''(f)'' and insert ''(h)''.

On page 484, line 4, strike ''45F'' and insert ''45H''.

On page 488, line 2, strike ''grade'' and insert ''at grade''.

On page 488, line 5, strike ''rail'' and insert ''train''.

On page 502, line 19, strike ''3(20)'' and insert ''103(20)''.

On page 502, line 20, strike ''1974'' and insert ''1994''.

On page 504, between lines 6 and 7, insert the following:

SEC. 639. CREDIT FOR INVESTMENT IN TECHNOLOGY TO MAKE MOTION PICTURES MORE ACCESSIBLE TO THE DEAF AND HARD OF HEARING.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45T. EXPENDITURES TO PROVIDE ACCESS TO MOTION PICTURES FOR THE DEAF AND HARD OF HEARING.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the motion picture accessibility credit for any taxable year shall be an amount equal to 50 percent of the qualified expenditures made by the eligible taxpayer during the taxable year.

''(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means a taxpayer who is in the business of—

''(1) showing motion pictures to the public in theaters, or

''(2) producing or distributing such motion pictures.

''(c) QUALIFIED EXPENDITURES.—For purposes of this section, the term 'qualified expenditures' means amounts paid or incurred by the taxpayer for the purpose of making motion pictures accessible to individuals who are deaf or hard of hearing through the use of captioning technology.

''(d) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the credit so allowed.

''(e) NO DOUBLE BENEFIT.—In the case of the credit determined under this section, no deduction or credit shall be allowed for such amount under any other provision of this chapter.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) the motion picture accessibility credit determined under section 45T(a).''.

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting '', and'', and by adding at the end the following new paragraph:

''(40) in the case of property with respect to which a credit was allowed under section 45T, to the extent provided in section 45T(d).''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF MOTION PICTURE ACCESSIBILITY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the motion picture accessibility credit determined under section 45T may be carried to a taxable year beginning before January 1, 2004.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45S the following new item:

''Sec. 45T. Expenditures to provide access to motion pictures for the deaf and hard of hearing.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

On page 504, line 14, insert '', as amended by this Act,'' after ''income)''.

On page 504, line 16, strike ''(18)'' and insert ''(19)''.

On page 522, line 17, strike ''(18)'' and insert ''(19)''.

On page 524, line 18, insert ''or a claim made under section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A))'' after ''Code''.

On page 535, line 8, strike ''December 31, 2003'' and insert ''December 31, 2001''.

On page 557, between lines 9 and 10, insert the following:

SEC. 660. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking ''(C), or (F)'' in subparagraph (E) and inserting ''or (C)''.

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking ''made by a lender to a qualified continuing care facility pursuant to a continuing care contract'' in paragraph (1) and inserting ''owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and'',

(2) by striking ''increased personal care services or'' in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

''The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.'',

(4) by inserting ''independent living unit'' after ''all of the'' in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking ''CERTAIN'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2004.

On page 559, strike lines 6 through 17, and insert the following:

SEC. 663. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking ''1-year period (18-month period in the case of taxable years beginning before January 1, 2004)'' both places it appears and inserting ''18-month period''.

(b) EXCEPTION FOR GROSS MISSTATEMENT.—Section 6404(g)(2) (relating to exceptions) is amended by striking ''or'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or''.

(c) EXCEPTION FOR LISTED AND REPORTABLE TRANSACTIONS.—Section 6404(g)(2) (relating to exceptions), as amended by subsection (b), is amended by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any interest, penalty, addition to tax, or additional amount with respect to any reportable transaction or listed transaction (as defined in 6707A(c)); or''.

(d) EFFECTIVE DATES.—

(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 REPORTABLE OR LISTED TRANSACTIONS.—The amendments made by subsection (c) shall apply with respect to interest accruing after May 5, 2004.

Beginning on page 559, line 20, strike all through page 578, line 16, and insert the following:

SEC. 671. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by adding at the end the following new section:

''SEC. 409A. INCLUSION IN GROSS INCOME OF DEFERRED COMPENSATION UNDER NONQUALIFIED DEFERRED COMPENSATION PLANS.

''(a) RULES RELATING TO CONSTRUCTIVE RECEIPT.—

''(1) IN GENERAL.—

''(A) GROSS INCOME INCLUSION.—If at any time during a taxable year a nonqualified deferred compensation plan—

''(i) fails to meet the requirements of paragraphs (2), (3), (4), and (5), or

''(ii) is not operated in accordance with such requirements,

all compensation deferred under the plan for the taxable year and all preceding taxable years shall be includible in gross income for the taxable year to the extent not subject to a substantial risk of forfeiture and not previously included in gross income.

''(B) INTEREST AND ADDITIONAL TAX PAYABLE WITH RESPECT TO PREVIOUSLY DEFERRED COMPENSATION.—

''(i) IN GENERAL.—If compensation is required to be included in gross income under subparagraph (A) for a taxable year, the tax imposed by this chapter for the taxable year of inclusion shall be increased by the sum of—

''(I) the amount of interest determined under clause (ii), and

''(II) an amount equal to 10 percent of the compensation which is required to be included in gross income.

''(ii) INTEREST.—For purposes of clause (i), the interest determined under this clause for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

''(2) DISTRIBUTIONS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that compensation deferred under the plan may not be distributed earlier than—

''(i) except as provided in subparagraph (B)(i), separation from service (as determined by the Secretary),

''(ii) the date the participant becomes disabled (within the meaning of subparagraph (C)),

''(iii) death,

''(iv) a specified time (or pursuant to a fixed schedule) specified under the plan as of the date of the deferral of such compensation,

''(v) to the extent provided by the Secretary, a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation, or

''(vi) the occurrence of an unforeseeable emergency.

''(B) SPECIAL RULES.—

''(i) SEPARATION FROM SERVICE OF SPECIFIED EMPLOYEES.—In the case of specified employees, the requirement of subparagraph (A)(i) is met only if distributions may not be made earlier than 6 months after the date of separation from service. For purposes of the preceding sentence, a specified employee is a key employee (as defined in section 416(i)) of a corporation the stock in which is publicly traded on an established securities market or otherwise.

''(ii) CHANGES IN OWNERSHIP OR CONTROL.—In the case of a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, the requirement of subparagraph (A)(v) is met only if distributions may not be made earlier than 1 year after the date of the change in ownership or effective control.

''(iii) UNFORESEEABLE EMERGENCY.—For purposes of subparagraph (A)(vi)—

''(I) IN GENERAL.—The term 'unforeseeable emergency' means a severe financial hardship to the participant or beneficiary resulting from a sudden and unexpected illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152(a)), loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

''(II) LIMITATION ON DISTRIBUTIONS.—The requirement of subparagraph (A)(vi) is met only if, as determined under regulations of the Secretary, the amounts distributed with respect to an emergency do not exceed the amounts necessary to satisfy such emergency plus amounts necessary to pay taxes reasonably anticipated as a result of the distribution, after taking into account the extent to which such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise or by liquidation of the participant's or beneficiary's assets (to the extent the liquidation of such assets would not itself cause severe financial hardship).

''(C) DISABLED.—For purposes of subparagraph (A)(ii), a participant shall be considered disabled if the participant—

''(i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or

''(ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the participant's employer.

''(3) INVESTMENT OPTIONS.—The requirements of this paragraph are met if the plan provides that the investment options a participant may elect under the plan—

''(A) are comparable to the investment options which a participant may elect under the defined contribution plan of the employer which—

''(i) meets the requirement of section 401(a) and includes a trust exempt from taxation under section 501(a), and

''(ii) has the fewest investment options, or

''(B) if there is no such defined contribution plan, meet such requirements as the Secretary may prescribe (including requirements limiting such options to permissible investment options specified by the Secretary).

''(4) ACCELERATION OF BENEFITS.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule of any payment under the plan, except as provided by the Secretary in regulations.

''(5) ELECTIONS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the requirements of subparagraphs (B) and (C) are met.

''(B) INITIAL DEFERRAL DECISION.—The requirements of this subparagraph are met if the plan provides that compensation for services performed during a taxable year may be deferred at the participant's election only if the election to defer such compensation is made during the preceding taxable year or at such other time as provided in regulations. In the case of the first year in which a participant becomes eligible to participate in the plan, such election may be made with respect to services to be performed subsequent to the election within 30 days after the date the participant becomes eligible to participate in such plan.

''(C) CHANGES IN TIME AND FORM OF DISTRIBUTION.—The requirements of this subparagraph are met if, in the case of a plan which permits under a subsequent election a delay in a payment or a change in the form of payment—

''(i) the plan requires that such election may not take effect until at least 12 months after the date on which the election is made,

''(ii) in the case an election related to a payment not described in clause (ii), (iii), or (vi) of paragraph (2)(A), the plan requires that the first payment with respect to which such election is made be deferred for a period of not less than 5 years from the date such payment would otherwise have been made, and

''(iii) the plan requires that any election related to a payment described in paragraph (2)(A)(iv) may not be made less than 12 months prior to the date of the first scheduled payment under such paragraph.

A plan shall be treated as failing to meet the requirements of this subparagraph if the plan permits more than 1 subsequent election to delay any payment.

''(b) RULES RELATING TO FUNDING.—

''(1) OFFSHORE PROPERTY IN A TRUST.—In the case of assets set aside (directly or indirectly) in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation under a nonqualified deferred compensation plan, such assets shall be treated for purposes of section 83 as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors—

''(A) at the time set aside if such assets are located outside of the United States, or

''(B) at the time transferred if such assets are subsequently transferred outside of the United States.

This paragraph shall not apply to assets located in a foreign jurisdiction if substantially all of the services to which the nonqualified deferred compensation relates are performed in such jurisdiction.

''(2) EMPLOYER'S FINANCIAL HEALTH.—In the case of a nonqualified deferred compensation plan, there is a transfer of property within the meaning of section 83 as of the earlier of—

''(A) the date on which the plan first provides that assets will become restricted to the provision of benefits under the plan in connection with a change in the employer's financial health, or

''(B) the date on which assets are so restricted.

''(3) INCOME INCLUSION FOR OFFSHORE TRUSTS AND EMPLOYER'S FINANCIAL HEALTH.—For each taxable year that assets treated as transferred under this subsection remain set aside in a trust or other arrangement subject to paragraph (1) or (2), any increase in value in, or earnings with respect to, such assets shall be treated as an additional transfer of property under this subsection (to the extent not previously included in income).

''(4) INTEREST ON TAX LIABILITY PAYABLE WITH RESPECT TO TRANSFERRED PROPERTY.—

''(A) IN GENERAL.—If amounts are required to be included in gross income by reason of paragraph (1) or (2) for a taxable year, the tax imposed by this chapter for such taxable year shall be increased by the sum of—

''(i) the amount of interest determined under subparagraph (B), and

''(ii) an amount equal to 10 percent of the amounts required to be included in gross income.

''(B) INTEREST.—For purposes of subparagraph (A), the interest determined under this subparagraph for any taxable year is the amount of interest at the underpayment rate on the underpayments that would have occurred had the amounts so required to be included in gross income by paragraph (1) or (2) been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such amounts are not subject to a substantial risk of forfeiture.

''(c) NO INFERENCE ON EARLIER INCOME INCLUSION.—Nothing in this section shall be construed to prevent the inclusion of amounts in gross income under any other provision of this chapter or any other rule of law earlier than the time provided in this section. Any amount included in gross income under this section shall not be required to be included in gross income under any other provision of this chapter or any other rule of law later than the time provided in this section.

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

''(1) NONQUALIFIED DEFERRED COMPENSATION PLAN.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation, other than—

''(A) a qualified employer plan, and

''(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

''(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

''(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

''(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of an employer described in section 457(e)(1)(A).

''(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

''(4) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

''(5) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income (whether actual or notional) attributable to such compensation or such income.

''(6) EXCEPTION FOR NONELECTIVE DEFERRED COMPENSATION.—This section shall not apply to any nonelective deferred compensation to which section 457 does not apply by reason of section 457(e)(12), but only if such compensation is provided under a nonqualified deferred compensation plan which was in existence on May 1, 2004, and which was providing nonelective deferred compensation described in section 457(e)(12) on such date. If, after May 1, 2004, a plan described in the preceding sentence adopts a plan amendment which provides a material change in the classes of individuals eligible to participate in the plan, this paragraph shall not apply to any nonelective deferred compensation provided under the plan on or after the date of the adoption of the amendment.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) providing for the determination of amounts of deferral in the case of a nonqualified deferred compensation plan which is a defined benefit plan,

''(2) relating to changes in the ownership and control of a corporation or assets of a corporation for purposes of subsection (a)(2)(A)(v),

''(3) exempting arrangements from the application of subsection (b) if such arrangements will not result in an improper deferral of United States tax and will not result in assets being effectively beyond the reach of creditors,

''(4) defining financial health for purposes of subsection (b)(2), and

''(5) disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.''.

(b) APPLICATION OF GOLDEN PARACHUTE PAYMENT PROVISIONS.—Section 280G of such Code (relating to golden parachute payments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR CERTAIN PAYMENTS FROM NONQUALIFIED DEFERRED COMPENSATION PLANS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, an applicable payment shall be treated as an excess parachute payment for purposes of this section and section 4999.

''(2) COORDINATION WITH OTHER PAYMENTS.—

''(A) APPLICABLE PAYMENTS WHICH ARE PARACHUTE PAYMENTS.—If any applicable payment is a parachute payment (determined without regard to subsection (b)(2)(A)(ii))—

''(i) except as provided in paragraph (4), this section shall be applied to such payment in the same manner as if this subsection had not been enacted, and

''(ii) if such application results in an excess parachute payment, any tax under section 4999 on the excess parachute payment shall be in addition to the tax imposed by reason of paragraph (1).

''(B) APPLICABLE PAYMENTS WHICH ARE NOT PARACHUTE PAYMENTS.—An applicable payment not described in subparagraph (A) shall be taken into account in determining whether any payment described in subparagraph (A) or any payment which is not an applicable payment is a parachute payment under subsection (b)(2).

''(3) APPLICABLE PAYMENT.—For purposes of this subsection, the term 'applicable payment' means any distribution (including any distribution treated as a parachute payment without regard to this subsection) from a nonqualified deferred compensation plan (as defined in section 409A(d)) which is made—

''(A) to a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, and

''(B) during the 1-year period following a change in the ownership or effective control of the corporation or in the ownership of a substantial portion of the assets of the corporation.

Such terms shall not include any distribution by reason of the death of the participant or the participant becoming disabled (within the meaning of section 409A(a)(2)(C)).

''(4) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this subsection to prevent a deduction from being disallowed more than once.''.

(c) W–2 FORMS.—

(1) IN GENERAL.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by inserting after paragraph (12) the following new paragraph:

''(13) the total amount of deferrals under a nonqualified deferred compensation plan (within the meaning of section 409A(d)).''.

(2) THRESHOLD.—Subsection (a) of section 6051 is amended by adding at the end the following: ''In the case of the amounts required to be shown by paragraph (13), the Secretary may (by regulation) establish a minimum amount of deferrals below which paragraph (13) does not apply.''.

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 414(b) is amended by inserting ''409A,'' after ''408(p),''.

(2) Section 414(c) is amended by inserting ''409A,'' after ''408(p),''.

(3) The table of sections for such subpart A is amended by adding at the end the following new item:

''Sec. 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts deferred

in taxable years beginning after December 31, 2004.

(2) EARNINGS ATTRIBUTABLE TO AMOUNT PREVIOUSLY DEFERRED.—The amendments made by this section shall apply to earnings on deferred compensation only to the extent that such amendments apply to such compensation.

(f) GUIDANCE RELATING TO CHANGE OF OWNERSHIP OR CONTROL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance on what constitutes a change in ownership or effective control for purposes of section 409A of the Internal Revenue Code of 1986, as added by this section.

(g) GUIDANCE RELATING TO TERMINATION OF CERTAIN EXISTING ARRANGEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which an individual participating in a nonqualified deferred compensation plan adopted on or before December 31, 2004, may, without violating the requirements of paragraphs (2), (3), (4), and (5) of section 409A(a) of the Internal Revenue Code of 1986 (as added by this section), terminate participation or cancel an outstanding deferral election with regard to amounts earned after December 31, 2004, if such amounts are includible in income as earned.

SEC. 672. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

''(i) PROHIBITION ON ADDITIONAL DEFERRAL THROUGH DEFERRED COMPENSATION ARRANGEMENTS.—If a taxpayer exchanges—

''(1) an option to purchase employer securities—

''(A) to which subsection (a) applies, or

''(B) which is described in subsection (e)(3), or

''(2) employer securities or any other property based on employer securities transferred to the taxpayer,

for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer.''.

(b) CONTROLLED GROUP RULES.—Section 414(t)(2) is amended by inserting ''83(i),'' after ''79,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any exchange after December 31, 2004.

On page 581, strike lines 1 through 20, and insert the following:

SEC. 675. APPLICATION OF BASIS RULES TO EMPLOYER AND EMPLOYEE CONTRIBUTIONS ON BEHALF OF NONRESIDENT ALIENS.

(a) IN GENERAL.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) and by inserting after subsection (v) the following new subsection:

''(w) APPLICATION OF BASIS RULES TO EMPLOYER AND EMPLOYEE CONTRIBUTIONS MADE ON BEHALF OF NONRESIDENT ALIENS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution which is includible in gross income of a distributee who is a citizen or resident of the United States, the investment in the contract shall not include any applicable nontaxable contributions.

''(2) APPLICABLE NONTAXABLE CONTRIBUTION.—For purposes of this subsection, the term 'applicable nontaxable contribution' means any employer or employee contribution—

''(A) which was made with respect to compensation for labor or personal services by an employee who, at the time the services were performed, was a nonresident alien for purposes of the laws of the United States in effect at such time, but only if such compensation is treated as from sources without the United States, and

''(B) which was not subject to income tax under the laws of the United States or any foreign country.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations treating contributions as not subject to tax under the laws of any foreign country where appropriate to carry out the purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

On page 596, strike lines 8 through 10, and insert the following:

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

On page 596, line 22, strike ''Section 904(h)'' and insert ''Section 904(i), as redesignated by this Act,''.

Beginning on page 598, line 17, strike all through 601, line 7, and insert the following:

(a) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Pension Funding Equity Act of 2004'' and inserting ''Jumpstart Our Business Strength (JOBS) Act''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Pension Funding Equity Act of 2004'' and inserting ''Jumpstart Our Business Strength (JOBS) Act''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended by striking ''Pension Funding Equity Act of 2004'' and inserting ''Jumpstart Our Business Strength (JOBS) Act''.

(b) MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Section 420(c)(3)(E) is amended by adding at the end the following new clause:

''(ii) INSIGNIFICANT COST REDUCTIONS PERMITTED.—

''(I) IN GENERAL.—An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

''(II) ELIGIBLE EMPLOYER.—For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts.''.

(2) CONFORMING AMENDMENT.—Section 420(c)(3)(E) is amended by striking ''The Secretary'' and inserting:

''(i) IN GENERAL.—The Secretary''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

On page 606, line 18, insert '', as amended by section 882(c) of this Act,'' after ''penalties)''.

On page 606, line 21, strike ''6717'' and insert ''6720a''.

On page 607, line 18, insert '', as amended by section 882(c) of this Act,'' after ''chapter 68''.

On page 607, in the matter after line 20, strike ''6717'' and insert ''6720A''.

On page 608, line 4, insert '', as amended by this Act,'' after ''vaccine)''.

On page 608, line 6, strike ''(M)'' and insert ''(N)''.

On page 608, strike lines 8 through 11.

On page 612, line 10, strike the end quotation marks and second period.

On page 624, line 7, strike ''or''.

On page 624, line 11, strike the period and insert '', or''.

On page 624, between lines 11 and 12, insert the following:

''(VI) the Tennessee Valley Authority.

On page 624, lines 13 and 14, strike ''A person described in subparagraph (A)(ii)'' and insert ''A person described in subclause (I), (II), (III), (IV), or (V) of subparagraph (A)(ii)''.

On page 625, between lines 21 and 22, insert the following:

''(D) USE BY TVA.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(ii)(VI), any credit to which subparagraph (A)(i) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(ii) TREATMENT OF CREDITS.—The aggregate amount of credits described in subparagraph (A)(i) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(iii) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described subparagraph (A)(i) with respect to such person exceeds the aggregate amount of payment obligations described in clause (i), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this subparagraph.

On page 625, line 22, strike ''(D)'' and insert ''(E)''.

On page 626, line 3, strike ''(E)'' and insert ''(F)''.

On page 626, line 8, strike ''(g)'' and insert ''(f)''.

On page 627, line 14, insert '', as amended by this Act,'' after ''etc.)''.

On page 627, line 16, strike ''30B'' and insert ''30C''.

On page 652, strike lines 2 through 17, and insert the following:

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 30C(f)(4).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30(b)(2),''.

(3) Section 6501(m) is amended by inserting ''30C(f)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by

On page 658, line 3, strike ''30C'' and insert ''30D''.

On page 659, line 21, strike ''30B'' and insert ''30C''.

Beginning on page 662, line 21, strike all through page 663, line 9, and insert the following:

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 30D(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30D(e),'' after ''30C(e),''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Clean-fuel vehicle refueling property credit.''.

(e) EFFECTIVE DATE.—The amendments made by

On page 665, line 7, strike ''section 30B(d)(4)'' and insert ''section 30C(d)(4)''.

On page 670, line 12, insert '', as amended by this Act,'' after the end parenthetical.

On page 670, line 14, strike ''(k)'' and insert ''(l)''.

On page 702, line 3, strike ''Section 904(h)'' and insert ''Section 904(i), as redesignated and amended by this Act,''.

On page 702, strike lines 8 through 15, and insert the following:

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

On page 715, line 22, strike ''(30)'' and insert ''(34)''.

On page 715, line 23, strike ''(31)'' and insert ''(35)''.

On page 716, line 1, strike ''(32)'' and insert ''(36)''.

On page 716, strike lines 9 through 15, and insert the following:

(4) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179B.''.

On page 717, line 13, insert '', as amended by this Act,'' after ''rules)''.

On page 717, line 15, strike ''(15)'' and insert ''(16)''.

On page 719, line 7, strike ''(16)'' and insert ''(17)''.

On page 734, lines 16 and 17, strike ''Section 904(h), as amended by this Act,'' and insert ''Section 904(i), as redesignated and amended by this Act,''.

On page 734, line 25, strike ''(31)'' and insert ''(35)''.

On page 735, line 1, strike ''(32)'' and insert ''(36)''.

On page 735, line 3, strike ''(33)'' and insert ''(37)''.

Beginning on page 747, line 23, strike all through page 748, line 5, and insert the following:

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the qualifying advanced clean coal technology unit credit.''.

On page 780, strike lines 16 through 21, and insert the following:

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

''(iii) any natural gas gathering line, and''.

On page 781, line 3, strike ''(17)'' and insert ''(18)''.

On page 782, in the matter following line 2, strike ''(C)(ii)'' and insert ''(C)(iii)''.

On page 783, line 22, strike the end quotation marks and second period.

On page 784, line 4, strike ''(H)'' and insert ''(I)''.

On page 784, line 5, strike ''(I)'' and insert ''(J)''.

On page 784, line 7, strike ''(J)'' and insert ''(K)''.

On page 784, line 17, strike ''(32)'' and insert ''(36)''.

On page 784, line 18, strike ''(33)'' and insert ''(37)''.

On page 784, line 20, strike ''(34)'' and insert ''(38)''.

On page 785, line 1, strike ''(5)'' and insert ''(6)''.

On page 793, line 15, strike ''(33)'' and insert ''(37)''.

On page 793, line 16, strike ''(34)'' and insert ''(38)''.

On page 793, line 19, strike ''(35)'' and insert ''(39)''.

On page 795, line 5, insert '', as amended by this Act,'' after ''production)''.

On page 805, line 3, strike the semicolon and insert a colon.

On page 805, line 8, insert ''of subsection (f)'' before ''owned''.

On page 805, line 11, strike the end quotation marks and second period.

On page 807, line 2, insert '', as amended by this Act,'' after ''38(b)''.

On page 808, strike lines 8 through 12, and insert the following:

(G) Subsection (a) of section 772, as amended by this Act, is amended by striking paragraph (10) and by redesignating paragraphs (11) and (12) as paragraphs (10) and (11), respectively.

On page 810, strike lines 12 through 18, and insert the following:

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and by inserting '', and'', and by adding at the end the following new clause:

''(v) any natural gas distribution line.''.

On page 810, in the matter after line 23, strike ''(E)(iv)'' and insert ''(E)(v)''.

On page 814, line 5, strike ''(18)'' and insert ''(19)''.

On page 818, strike lines 19 through 25, and insert the following:

(a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-year property), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) any Alaska natural gas pipeline, and''.

On page 819, line 5, strike ''(18)'' and insert ''(19)''.

On page 820, line 2, strike ''(C)(ii)'' and insert ''(C)(iii)''.

On page 820, in the matter following line 2, strike ''(C)(iii)'' and insert ''(C)(iv)''.

On page 820, line 3, strike the beginning quotation marks.

On page 840, line 14, insert '', as amended by this Act,'' after ''modifications)''.

On page 840, line 17, strike ''(18)'' and insert ''(20)''.

On page 849, line 20, strike ''5211 and 5242'' and insert ''871 and 880''.

On page 855, lines 1 and 2, strike '', as amended by section 5101 of this Act,''.

On page 862, line 3, insert '', as amended by this Act,'' after ''credit)''.

On page 862, strike lines 10 through 19, and insert the following:

(1)(A) Section 87, as amended by this Act, is amended—

(i) by striking ''and'' at the end of paragraph (1),

(ii) by striking the period at the end of paragraph (2) and inserting '', and'',

(iii) by adding at the end the following new paragraph:

''(3) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40B(a).'', and

(iv) by striking ''**FUEL CREDIT**'' in the heading and inserting ''**AND BIODIESEL FUELS CREDITS**''.

Beginning on page 862, line 24, strike all through page 863, line 5, and insert the following:

(2) Section 196(c), as amended by this Act, is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding at the end the following new paragraph:

''(13) the biodiesel fuels credit determined under section 40B(a).''.

On page 872, strike lines 1 through 8, and insert the following:

(M) Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by striking clause (xvi) and by redesignating clauses (xvii), (xviii), and (xix) as clauses (xvi), (xvii), and (xviii), respectively.

(N) Paragraph (2) of section 6724(d), as amended by this Act, is amended by striking subparagraph (X) and by redesignating subparagraphs (Y), (Z), (AA), (BB), and (CC) as subparagraphs (X), (Y), (Z), (AA), and (BB), respectively.

On page 878, line 8, strike ''PENALTY—'' and insert ''PENALTY.—''.

On page 883, line 7, strike ''section 5211 of''.

On page 883, lines 17 and 18, strike ''section 5211 of''.

On page 884, lines 6 and 7, strike ''section 5221 of''.

On page 885, lines 8 and 9, strike ''section 5211 of''.

On page 885, lines 21 and 22, strike ''section 5221 of''.

On page 886, line 18, strike ''section 5232 of''.

On page 888, line 10, strike ''section 5232 of''.

On page 889, line 13, strike ''section 5241 of''.

On page 890, line 11, strike ''section 5241 of''.

On page 890, line 16, strike the second period.

On page 890, line 18, strike ''section 5242 of''.

On page 890, line 22, strike the second period.

On page 891, line 22, strike ''section 5242 of''.

On page 892, line 17, strike ''section 5242 of''.

On page 895, lines 18 and 19, strike ''section 5245 of''.

On page 898, lines 20 and 21, strike ''section 5102 of''.

On page 902, lines 24 and 25, strike ''section 5152 of''.

On page 903, line 10, strike ''section 5251 of''.

On page 904, line 15, strike ''section 5251 of''.

On page 906, lines 12 and 13, strike '', as amended by section 5001 of this Act,''.

On page 907, lines 12 and 13, strike '', as amended by section 5001 of this Act,''.

On page 909, line 19, strike ''section 5211 of''.

On page 910, lines 20 and 21, strike ''section 5211 of''.

On page 912, lines 9 and 10, strike ''section 5243 of''.

On page 912, lines 12 through 14, strike ''as added by section 5242 of this Act and redesignated by section 5243 of this Act'' and insert ''as added and redesignated by this Act''.

On page 912, lines 20 and 21, strike ''section 5241 of''.

On page 912, line 24, strike the space after the beginning quotation marks.

On page 913, strike lines 1 and 2, and insert the following:

(II) in the heading, by inserting ''OR REPORTABLE LIQUIDS'' after ''TAXABLE FUEL''.

On page 913, line 5, strike ''section 5241 of''.

On page 914, line 8, strike ''section 5252 of''.

On page 919, strike lines 3 through 9, and insert the following:

''(C) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of subparagraph (A), the use-based test shall be determined without regard to any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a).''.

On page 931, after line 18, add the following:

SEC. 899B. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) ALLOWANCE OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, 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 adding at the end the following new paragraph:

''(4) the qualifying pollution control equipment credit.''.

(b) AMOUNT OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following new section:

''SEC. 48B. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

''(b) QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

''(c) QUALIFYING FACILITY.—For purposes of this section, the term 'qualifying facility' means any facility which produces not less than 1,000,000 gallons of ethanol during the taxable year.

''(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.''.

(c) RECAPTURE OF CREDIT WHERE EMISSIONS REDUCTION OFFSET IS SOLD.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48B(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.''.

(d) SPECIAL RULE FOR BASIS REDUCTION; RECAPTURE OF CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property), as amended by this Act, is amended by inserting ''or qualifying pollution control equipment credit'' after ''energy credit''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3134. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, beginning with line 25, strike through line 3 on page 98 and insert the following:

''(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

''(b) DEDUCTION LIMITED TO WAGES PAID.—

''(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

''(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

''(3) SPECIAL RULES.—

''(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

''(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

''(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

''(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

''(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

''(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

''(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

''(3) SPECIAL RULES FOR DETERMINING COSTS.—

''(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference

between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

''(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

''(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas,

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) utility services, or

''(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

''(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

''(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

''(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

''(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

''(ii) additional reporting requirements.

''(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

''(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

''(7) POSSESSIONS, ETC.—

''(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

''(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

''(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

''(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

''(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

''(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Income attributable to domestic production activities.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

SA 3135. Mr. COLEMAN submitted an amendment intended to be proposed by

him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IX—NON-REVENUE PROVISIONS

SEC. 901. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking ''(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),'' and inserting:

''(1) IN GENERAL.—

''(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),''; and

(2) by adding at the end the following:

''(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.''.

SA 3136. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. TAXATION OF CERTAIN SETTLEMENT FUNDS.

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows:

''(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

''(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

''(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

''(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

''(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

''(D) upon termination, any remaining funds will be disbursed upon instructions by such government entity in accordance with applicable law.

For purposes of this paragraph, the term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 3137. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. NEGOTIATIONS REGARDING CURRENCY VALUATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The currency of the People's Republic of China, known as the yuan or renminbi, is artificially pegged at a level significantly below its market value. Economists estimate the yuan to be undervalued by between 15 percent and 40 percent or an average of 27.5 percent.

(2) The undervaluation of the yuan provides the People's Republic of China with a significant trade advantage by making exports less expensive for foreign consumers and by making foreign products more expensive for Chinese consumers. The effective result is a significant subsidization of China's exports and a virtual tariff on foreign imports.

(3) The Government of the People's Republic of China has intervened in the foreign exchange markets to hold the value of the yuan within an artificial trading range. China's foreign reserves are estimated to be over $350,000,000,000 as of September 2003, and have increased by over $110,000,000,000 in the last 12 months.

(4) China's undervalued currency, China's trade advantage from that undervaluation, and the Chinese Government's intervention in the value of its currency violates the spirit and letter of the world trading system of which the People's Republic of China is now a member.

(5) The Government of the People's Republic of China has failed to promptly address concerns or to provide a definitive timetable for resolution of these concerns raised by the United States and the international community regarding the value of its currency.

(6) Article XXI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which it considers necessary for the protection of its essential security interests. Protecting the United States manufacturing sector is essential to the interests of the United States.

(b) NEGOTIATIONS AND CERTIFICATION REGARDING THE CURRENCY VALUATION POLICY OF THE PEOPLE'S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Notwithstanding the provisions of title I of Public Law 106–286 (19 U.S.C. 2431 note), on and after the date that is 180 days after the date of enactment of this Act, unless a certification described in paragraph (2) has been made to Congress, in addition to any other duty, there shall be imposed a rate of duty of 27.5 percent ad valorem on any article that is the growth, product, or manufacture of the People's Republic of China, imported directly or indirectly into the United States.

(2) CERTIFICATION.—The certification described in this paragraph means a certification by the President to Congress that the People's Republic of China is no longer acquiring foreign exchange reserves to prevent the appreciation of the rate of exchange between its currency and the United States dollar for purposes of gaining an unfair competitive advantage in international trade. The certification shall also include a determination that the currency of the People's Republic of China has undergone a substantial upward revaluation placing it at or near its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

(4) NEGOTIATIONS.—Beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the United States Trade Representative, shall begin negotiations with the People's Republic of China to ensure that the People's Republic of China adopts a process that leads to a substantial upward currency revaluation within 180 days after the date of enactment of this Act. Because various Asian governments have also been acquiring substantial foreign exchange reserves in an effort to prevent appreciation of their currencies for purposes of gaining an unfair competitive advantage in international trade, and because the People's Republic of China has concerns about the value of those currencies, the Secretary shall also seek to convene a multilateral summit to discuss exchange rates with representatives of various Asian governments and other interested parties, including representatives of other G–7 nations.

SA 3138. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, between lines 11 and 12, insert the following:

SEC. 103. DEDUCTION FOR UNITED STATES PRODUCTION ACTIVITIES INCLUDES INCOME RELATED TO CERTAIN ARCHITECTURAL AND ENGINEERING SERVICES.

(a) IN GENERAL.—Paragraph (1) of section 199(e) (relating to domestic production gross receipts), as added by section 102, is amended to read as follows:

''(1) IN GENERAL.—

''(A) RECEIPTS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(i) any sale, exchange, or other disposition of, or

''(ii) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(B) RECEIPTS FROM CERTAIN SERVICES.—

''(i) IN GENERAL.—Such term also includes the applicable percentage of gross receipts of the taxpayer which are derived from any engineering or architectural services performed in the United States for construction projects in the United States.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined under the following table:

"In the case of any taxable year beginning in—	The applicable percentage is—
2004, 2005, 2006, 2007, or 2008	25
2009, 2010, 2011, or 2012	50
2013 or thereafter	100.

(b) LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES WITH RESPECT TO COVERED EMPLOYEES.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities—

''(A) in the case of a covered employee (within the meaning of section 162(m)(3)), to the extent that the expenses do not exceed the amount of the expenses treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such covered employee on the taxpayer's return of tax under this chapter and as wages to such covered employee for purposes of chapter 24 (relating to withholding of income tax at source on wages), and

''(B) in the case of any other employee, to the extent that the expenses are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to such employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act, and section 15 of the Internal Revenue Code of 1986 shall apply to the amendment made by this subsection as if it were a change in the rate of tax.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to expenses incurred after the date of the enactment of this Act and before January 1, 2006.

SA 3139. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, between lines 11 and 12, insert the following:

SEC. 103. MANUFACTURER'S TAX EQUITY CREDIT AGAINST PAYROLL TAXES IN LIEU OF DEDUCTION.

(a) IN GENERAL.—Subchapter C of chapter 21 is amended by redesignating section 3128 as section 3129 and inserting after section 3127 the following new section:

"SEC. 3128. MANUFACTURER'S TAX EQUITY CREDIT.

''(a) GENERAL RULE.—In the case of a qualified manufacturer who elects application of this section for any taxable year, there shall be allowed a credit against the taxes imposed by this chapter during the taxable year an amount equal to 10 percent of qualified health benefit plan costs paid during the taxable year.

''(b) QUALIFIED MANUFACTURER.—For purposes of this section, the term 'qualified manufacturer' means any taxpayer 50 percent or more of whose gross receipts from activities performed within the United States during the taxable year were domestic production gross receipts (within the meaning of section 199(e)).

''(c) QUALIFIED HEALTH BENEFIT PLAN COSTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health benefit plan costs' means any costs paid by the qualified manufacturer for a qualified health benefit plan with respect to qualified plan participants and their spouses and dependents (as defined by section 152), but only if the amount of costs paid by the qualified manufacturer is equal to or greater than 50 percent of the cost of coverage for such qualified plan participants under such plan.

''(2) QUALIFIED HEALTH BENEFIT PLAN.—The term 'qualified health benefit plan' means an employee welfare benefit plan (within the meaning of section 3(3) of the Employee Retirement Income Security Act of 1974) which provides health benefits.

''(3) QUALIFIED PLAN PARTICIPANTS.—The term 'qualified plan participants' means employees and former employees of the qualified manufacturer—

''(A) who participate in a qualified health benefit plan of the qualified manufacturer,

''(B) who are between the ages of 55 and 64, and

''(C)(i) in the case of a participant who is an employee of such qualified manufacturer during the taxable year, whose services for such qualified manufacturer for such year are performed predominantly in the United States, and

''(ii) in the case of a participant who is a former employee of such qualified manufacturer, whose services for such qualified manufacturer were performed predominantly in the United States during the period such participant was an employee.

''(d) DENIAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION.—No deduction shall be allowed under section 199 for any qualified manufacturer for any taxable year for which such qualified manufacturer elects the application of this section.

''(e) SPECIAL RULE FOR AFFILIATED GROUPS.—Rules similar to the rules of section 199(h)(3) shall apply for purposes of this section.''.

(b) TRANSFER OF FUNDS.—The Secretary of the Treasury shall transfer from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of the trust funds under section 201 of the Social Security Act are not reduced as a result of the application of the amendment made by subsection (a).

(c) DETERMINATION OF BENEFITS.—In making any determination of benefits under title II of the Social Security Act and part A of title XVIII of such Act, the Commissioner of Social Security shall disregard the effect of the amendment made by subsection (a) on any individual's earnings record.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 21 is amended by striking the last 2 items and inserting the following:

''Sec. 3128. Manufacturer's tax equity credit.
''Sec. 3129. Short title.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 3140. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IX—OFFICE OF FEDERAL PROCUREMENT POLICY ACT IMPROVEMENTS

SEC. 901. PREFERENCE FOR DOMESTIC BIDDERS.

The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 43. PREFERENCE FOR DOMESTIC BIDDERS.

''(a) The head of an executive agency entering into a contract shall give preference to a company submitting an offer on the contract that manufactures in the United States the article, material, or supply for which the offer is solicited, if—

''(1) that company's offer is substantially the same as an offer made by a company that does not manufacture the article, material, or supply in the United States; or

''(2) that company is the only company that manufactures in the United States the article, material, or supply for which the offer is solicited.

''(b)(1) Not later than 60 days after the end of each fiscal year, the head of each executive agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by such executive agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.).

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) The head of each executive agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

SEC. 902. REQUIREMENTS FOR WAIVERS.

(a) PUBLIC INTEREST WAIVER UNDER BUY AMERICAN ACT.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended by adding at the end the following new subsection (e):

''(e) LIMITATION ON PUBLIC INTEREST WAIVER UNDER BUY AMERICAN ACT.—A determination under section 2(a) of the Buy American Act (41 U.S.C. 10a(a)) that it is not in the public interest to enter into a contract in accordance with such Act may not be made after a notice of solicitation of offers for the contract is published in accordance with this section and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).''.

(b) REQUIREMENTS UNDER BUY AMERICAN ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

''SEC. 44. REQUIREMENTS UNDER BUY AMERICAN ACT.

''(a) USE OUTSIDE THE UNITED STATES.—(1) Section 2(a) of the Buy American Act (41 U.S.C. 10a(a)) shall apply without regard to whether the articles, materials, or supplies to be acquired are for use outside the United States if the articles, materials, or supplies are not needed on an urgent basis or if they are acquired on a regular basis.

''(2) In any case in which the articles, materials, or supplies are to be acquired for use outside the United States and are not needed on an urgent basis, before entering into a contract an analysis shall be made of the difference in the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies in the United States (including the cost of shipping) and the cost for acquiring the articles, materials, or supplies from a company manufacturing the articles, materials, or supplies outside the United States (including the cost of shipping).

''(b) DOMESTIC AVAILABILITY.—The head of an executive agency may not make a determination under section 2(a) of the Buy American Act (41 U.S.C. 10a) that an article, material, or supply is not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality, unless the head of that executive agency has conducted a study and, on the basis of such study, determined that—

''(1) domestic production cannot be initiated to meet the procurement needs; and

''(2) a comparable article, material, or supply is not available from a company in the United States.''.

SEC. 903. DUAL-USE TECHNOLOGIES.

The head of an executive agency (as defined in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)) may not enter into a contract, nor permit a subcontract under a contract of the executive agency, with a foreign entity that involves giving the foreign entity plans, manuals, or other information related to a dual-use item or technology on the Commerce Control List unless approval for providing such plans, manuals, or information has been obtained in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Export Administration Regulations (15 C.F.R. part 730 et seq.).

SEC. 904. CLERICAL AMENDMENT.

The table of contents in section 1(b) of the Office of Federal Procurement Policy Act is amended by adding at the end the following new items:

''Sec. 43. Preference for domestic bidders.
''Sec. 44. Requirements under Buy American Act.''.

SA 3141. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 557, between lines 9 and 10, insert the following:

SEC. 660. SENSE OF CONGRESS REGARDING THE WORLD TRADE ORGANIZATION DECISION ON INTERNET GAMBLING.

(a) FINDINGS.—Congress finds the following:

(1) Gambling through the Internet, which has grown rapidly, opens up the possibility of immediate, individual, 24-hour access in every home to the full range of wagering opportunities on sporting events or casino-like contests.

(2) The number of Internet gambling websites has increased from about 2 dozen to over 2,000 in the last 9 years, with an estimated $5,000,000,000 wagered over the Internet in 2003 alone.

(3) Internet gambling fosters criminal activity, as up to 90 percent of pathological gamblers commit crimes to pay off their wagering debts.

(4) The Department of State has noted that Internet gambling ''represents yet another powerful vehicle for criminals to launder funds from illicit sources as well as to evade taxes'' and the chief of the Federal Bureau of Investigation's Financial Crimes Section has testified that Internet gambling is a ''haven for money laundering activities''.

(5) There are Federal and State laws in the United States which restrict Internet gambling services, and these laws are consistent with the World Trade Organization obligations of the United States.

(6) The United States is currently involved in World Trade Organization proceedings in which the nation of Antigua and Barbuda has challenged these laws.

(7) A World Trade Organization panel has ruled, as a result of these proceedings, that the United States must allow access to the United States market by foreign Internet gambling businesses.

(8) The World Trade Organization is likely to authorize Antigua and Barbuda to impose tariffs on products from the United States unless the United States agrees to change its antigambling laws.

(9) The United States benefits from participating in international organizations such as the World Trade Organization, but the United States must also be vigilant about protecting American interests when decisions by such organizations encroach upon United States sovereignty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States disagrees with the decision of the World Trade Organization panel regarding the Internet gambling laws of the United States, and

(2) the United States should vigorously defend its right to enact legislation protecting United States interests against organized crime and money laundering and protecting the integrity of United States sporting events.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Forestry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on May 11, 2004, in SD–628 at 10 a.m. The purpose of this hearing will be to examine conservation programs of the 2002 Farm Bill.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on May 13, 2004, in SD–106 at 10 a.m. The purpose of this hearing will be to conduct a review of the Commodity Futures Trading Commission regulatory issues. Dr. James E. Newsome, Chairman of the Commodity Futures Trading Commission, will testify before the committee.

UNANIMOUS CONSENT AGREEMENT—S. 1637

Mr. FRIST. Mr. President, I ask unanimous consent immediately following the period for morning business on Tuesday, the time until 12 noon be equally divided between the two leaders or their designees prior to the cloture vote on S. 1637, the FSC JOBS bill. I further ask consent that if cloture is invoked, notwithstanding the provisions of rule XXII, the Senate then proceed immediately to a vote in relation to the pending Cantwell amendment, No. 3114, with no amendment in order to the amendment prior to the vote. Further, I ask consent that if a point of order is raised and the motion to waive is subsequently agreed to, then the Cantwell amendment be agreed to.

Mr. REID. That is without any intervening action.

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

ORDERS FOR TUESDAY, MAY 11, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 11. 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 of morning business for up to 60 minutes, with the first half hour under the control of the Democratic leader or his designee, and the second half hour under the control of the majority leader or his designee; provided that following morning business, the Senate proceed to S. 1637, as under the previous order.

I further ask consent that the Senate recess from 12:30 p.m., or upon conclusion of the vote in relation to the Cantwell amendment, until 2:15 p.m. for the weekly party luncheons.

Mr. REID. Mr. President, as happens around here a lot of the time, the real

substance of what we do does not appear out here. What we have done is extremely important. We should be able to finish this bill tomorrow.

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

Mr. FRIST. Mr. President, I appreciate the comments of the assistant Democratic leader. We made real progress over the course of the weekend and have a real understanding of how we will finish the bill in an orderly way. We will be working jointly to see, with the managers of the bill, it is finished tomorrow if at all possible.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume debate on the FSC JOBS bill. The vote on the motion to invoke cloture will be the first vote of the day. That vote will begin at noon. If cloture is invoked, we will then immediately proceed to a vote in relation to the Cantwell amendment regarding unemployment insurance.

Following disposition of the Cantwell amendment, we will continue to work through the remaining germane amendments to the bill. Additional votes, therefore, can be expected during tomorrow's session as we work toward completion of the JOBS bill sometime later tomorrow.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Tuesday, May 11, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 2004:

THE JUDICIARY

THOMAS B. GRIFFITH, OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE PATRICIA M. WALD, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RANDALL M. ASHMORE, 0000
ADAM G. BEARDEN, 0000
SCOTT T. BROWN, 0000
MICHAEL H. BRUMMETT, 0000
DREXEL G. DEFORD JR., 0000
DEAN E. DOERING, 0000
KIRK W. EDENS, 0000
ROBERT R. EDWARDS JR., 0000
LARRY T. EPPLER, 0000
MARK D. EVANS, 0000
KURTIS W. FAUBION, 0000
TIMOTHY L. FITZGERALD, 0000
JOHN A. GRAVES, 0000
D. SCOTT GUERMONPREZ, 0000
JASON T. HALL, 0000
KENNETH A. HILL, 0000
SCOTT J. HILMES, 0000
THOMAS M. HUNTER, 0000
BRIAN K. JEFFERSON, 0000
DAVID W. JOHNSON, 0000
CYNTHIA A. JONES, 0000
JEFFERY F. JONES, 0000
SHOMELA R. LABEE, 0000
HEATHER M. LANDON, 0000
THOMAS A. LERNER, 0000
CRAIG E. MAUCH, 0000
CHARLES J. MCCLOUD JR., 0000
JOSEPH B. MIRROW, 0000
CATHERINE M. NELSON, 0000
JOHN W. POWERS III, 0000
PATRICK S. REESE, 0000
STEVEN B. REESE, 0000
RICHARD J. REISER, 0000
ELMO J. ROBISON III, 0000
R. BRUCE ROEHM, 0000
RICHARD L. ROWE JR., 0000
PHILIP E. RUTLEDGE II, 0000
HERBERT C. SCOTT, 0000
JAMES A. SPERL, 0000
LUTHER W. SURRATT II, 0000
MARYELLEN M. WINKLER, 0000
JAMES O. WOOTEN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

LOZANO NOEMI ALGARIN, 0000
BARBARA A. ANDERSON, 0000
BERNADETTE A. ANDERSON, 0000
BETTY L. ANDERSON, 0000
JANETTE L. BAGGETT, 0000
SUSAN F. BALL, 0000
SHERI L. BALLARD, 0000
LEOLYN A. BISCHEL, 0000
YOLANDA D. BLEDSOE, 0000
KEVIN J. BOHAN, 0000
KELLY J. BREITBACH, 0000
BEVERLY J. CANFIELD, 0000
KAREN L. CHURCH, 0000
KIMBERLY G. COLTMAN, 0000
DOUGLAS G. COOK, 0000
BARBARA M. COPPEDGE, 0000
MICHAEL A. DEBROECK, 0000
MARLA J. DEJONG, 0000
STEPHEN K. DONALDSON, 0000
TAMMY J. DOYLE, 0000
CARRIE L. DUNNE, 0000
STEVEN P. EBY, 0000
SUSAN M. FEDRO, 0000
DARLENE L. FOLEY, 0000
ANNETTE S. GABLEHOUSE, 0000
DANIEL E. GERKE, 0000
JERRY E. GLATTFELT, 0000
WILLIAM D. * GLOVER, 0000
PENELOPE F. GORSUCH, 0000
JERRY R. HARVEY JR., 0000
LYNN M. HARVEY, 0000
LISA M. HELMSGUBA, 0000
RHONDA D. HOLDER, 0000
MARY F. HORNBACK, 0000
CHERYL Y. HOWARD, 0000
MADELINE D. HOWELL, 0000
KARI W. HOWIE, 0000
SUSANNE M. HUMPHREYS, 0000
ROBERT G. HUNT, 0000
AMELIA L. HUTCHINS, 0000
BILLYE G. HUTCHISON, 0000
SUSAN JANO, 0000
TRACY J. KAESLIN, 0000
MARISSA KOCH, 0000
GUYLENE D. KRIEGHFLEMING, 0000
JULIE A. LEAL, 0000
LAURA A. LEIGHNER, 0000
JOHN R. LEITNAKER, 0000
LEIGH A. LINDQUIST, 0000
JANET K. LOGAN, 0000
BONNIE L. MACK, 0000
DEBORAH R. MARCUS, 0000
STEPHEN J. MAZER, 0000
MARY A. MCCUBBINS, 0000
CHARLES M. MCDANNALD III, 0000
BERNADETTE T. MCDERMOTT, 0000
WANDA J. MCFATTER, 0000
TERENCE J. MCMANUS, 0000
CAROL L. MCTAGGART, 0000
EDDIE T. MILLER, 0000
JODY D. MILLER, 0000
VIVIAN L. MILLER, 0000
GLENDA M. MITCHELL, 0000
MARGUERITE T. MITCHELL, 0000
ROBYN A. MITCHELL, 0000
DIANA R. MITTELSTEADT, 0000
ANNETTE MOORE, 0000
LOURDES D. R. MOORE, 0000
PATRICIA R. MOORE, 0000
LYNN P. MURPHY, 0000
MARY J. NACHREINER, 0000
ELEANOR C. NAZARSMITH, 0000
PATRICK R. ONEILL, 0000
BEVERLY D. OSTERMEYER, 0000
KAREN L. OTTINGER, 0000
BRENDA L. OWEN, 0000
JANE K. PALMISANO, 0000
CHRISTINE M. PETERS, 0000
DEAN L. PRENTICE, 0000
JAMES E. REINEKE, 0000
DOMINICA R. RICE, 0000
DIANE W. ROBINSON, 0000
JULIETTE ROBINSON, 0000
THERESA D. RODRIGUEZ, 0000
JODY L. SABATINO, 0000
KEVIN D. SCHARFF, 0000
LISA A. SCHMIDT, 0000
ROBIN L. SCHULTZE, 0000
KAREN L. SCLAFANI, 0000
JAMES L. SENN, 0000
KIMBERLY D. SEUFERT, 0000
LISA C. SHEEHAN, 0000
RYAN M. SHERCLIFFE, 0000
CHERRI L. SHIREMAN, 0000
WILLIAM L. SHOPP, 0000
LAWRENCE M. SHOVELTON, 0000
CONSTANCE L. * SMITH, 0000
GREGORY A. SMITH, 0000
PATRICIA A. SMITH, 0000
PETER A. SORENSEN, 0000
CARLA M. SPIKOWSKI, 0000
MARIA STANEK, 0000
SHARION L. STONEULRICH, 0000
JULIA G. STOSHAK, 0000
JAIME E. SUAREZ, 0000
DENISE M. TABARY, 0000
TAMMY R. TENACE, 0000
PATRICIA A. TOLES, 0000
CHERYL SCHARNELL TROCK, 0000
BARBARA A. TUITELE, 0000
CHRISTINE S. UEBEL, 0000
EUGENE J. J. WALL JR., 0000
JUDY L. WARD, 0000
NINA A. WATSON, 0000
LIDIA P. WEBB, 0000
MARY M. WHITEHEAD, 0000
PATRICK J. WILLIAMS, 0000
JANET L. WILSON, 0000
BARBARA L. WRIGHT, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONALD W. MYERS, 0000
TERRY W. SWAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

EDWARD L ALEXSONSHK, 0000
MATTHEW T ALLAIRE, 0000
TIMOTHY J ALLEN, 0000
TRISTAN K ATKINS, 0000
THOMAS N BAKER JR., 0000
DARRYL J BALCAO, 0000
JOHN K BEERS, 0000
DAVID L BENSON, 0000
ELLIOTT M BENSON, 0000
WILLIAM S BITTNER JR., 0000
GARY A BLACKHURST, 0000
RICHARD A BLAIN, 0000
FRANK E BLAKELY, 0000
STEVEN E BLANTON, 0000
RICHARD N BOPP JR., 0000
MARK W BORRESON, 0000
JEFFREY H BOTHEN, 0000
JOHN W BUCKLEY, 0000
THOMAS L BUCY, 0000
CHARLES D BULLOCK, 0000
ROGER D CAGLE, 0000
MICHAEL D CAREY, 0000
JOHN P CARPENTER, 0000
STEVEN W CARTER, 0000
EDWARD P CASTLE, 0000
CURTIS A CHAMBELLAN, 0000
JOE F CHARSAGUA, 0000
MARK L CHRISTENSEN, 0000
ROBERT R CHURCH, 0000
EDWARD S CLARK, 0000
TONY L CLARK, 0000
TODD C CONORMON, 0000
ROBERT L COONEY, 0000
ZANDREW F COVINGTON, 0000
JOHN R CRESWELL, 0000
JOHN R DABROWSKI, 0000
EDWARD L DAVIS, 0000
BARRY A DEFOOR, 0000
JAMES E DICKEY, 0000
JOHN M DOLAN, 0000
ROBERT L DOMENICI, 0000
TIMOTHY J DORN, 0000
JAMES H DOTY JR., 0000
STEVEN C EDGE, 0000
RICHARD C EDWARDS, 0000
DALE N EGGER, 0000
STEVEN J ELLIOTT, 0000
JONATHAN E FARNHAM, 0000
MARK S FENICE, 0000
HUGO J FISCHER, 0000
ERIC G FLAXMAN, 0000
LAWRENCE I FLEISHMAN, 0000
BURTON K FRANCISCO, 0000
EDWARD G FRIAR, 0000
WILLIAM E FULMER, 0000
RICHARD S GEBELEIN, 0000
ROBERT T GILBERT, 0000
ROBERT D GLOVER, 0000
THEODORE R GRAHL II, 0000
DARYL A GRAY, 0000
VERNON E GREENE JR., 0000
CARY C GRIFFITH, 0000
ROBIE B GRIGSBY, 0000
ANDREW M GRIMALDA, 0000
JAMES G HAMPTON JR., 0000
GRADY F HANNAH, 0000
RAYMOND L HAWKINS JR., 0000
JOHN A HEATH, 0000
CHRISTOPHER C HENES, 0000
EDMUND G HERALD, 0000
RONALD K HERRINGTON, 0000
CLAY E HICKS, 0000
LLOYD H HICKS, 0000
VINCENT T HITCHCOCK, 0000

PHILIP J HOFFMAN, 0000
PAUL C HOLTHAUS, 0000
JAY J HOOPER, 0000
DANIEL T HOSKINS, 0000
DANIEL P HUGHES, 0000
RANDY A HURTT, 0000
TIMOTHY A HYBART, 0000
JOHN L IRVIN JR., 0000
BYRON D JACKSON, 0000
JONATHAN R JACKSON, 0000
GERARD J JANOUSEK, 0000
MATTHEW E JANZE, 0000
BERNIE E JOHNSON, 0000
ROBERT W JOHNSON, 0000
ROBERT L JONES, 0000
ROGER L JONES, 0000
LOUIS M JURNEY JR., 0000
ANNA M KACZMARSKI, 0000
TIMOTHY J KADAVY, 0000
BOBBY H KALLAM, 0000
PETER T KARNOWSKI, 0000
MICHAEL C KAVANAUGH, 0000
GLENN A KESSELMAN, 0000
ROGER A KESSLER, 0000
KENNETH L KIELMAN, 0000
JENIFER S KILCULLEN, 0000
MALCOLM F KIRSOP, 0000
FRANK M KISLAN, 0000
GERRY L KITZHABER, 0000
ROBERT J KNIGHT, 0000
KATHERINE J KOBLINER, 0000
GREGORY J KOENDERS, 0000
CLARENCE R KOHS, 0000
KENNETH A KOON, 0000
ARTHUR D KOPPERSMITH, 0000
EDWARD J KORNISH, 0000
DENNIS E KUBENA, 0000
PETER M KUJAWSKI, 0000
THOMAS C KURASIEWICZ, 0000
THOMAS F LAMIE, 0000
DAVID N LANGLEY, 0000
GREGORY W LANGLEY, 0000
CLIFFORD B LAPETODA, 0000
DWAIN J LEBLEU, 0000
WENDY G LELAND, 0000
DAVID S LEO, 0000
PAUL R LEVEILLEE, 0000
MICHAEL C LEWIS, 0000
RICHARD L LITTLE, 0000
DAVID B LOBB, 0000
JONATHAN S LOCKWOOD, 0000
MICHAEL W LOFTIS, 0000
JOHN W LOGAN, 0000
DANIEL J LOUVIERE, 0000
DAVID J LUSARDI, 0000
JANET E LYNCH, 0000
KELLY Z LYNCH, 0000
JOHN L LYON, 0000
ROBERT T MACEACHERN, 0000
WILLIAM M MALOAN, 0000
ANGEL L MATOS, 0000
PHILIP K MCMILLAN, 0000
KEVIN L MCNEELY, 0000
THOMAS F MERIGAN JR., 0000
PHILIP K MILLER, 0000
RICHARD S MILLER, 0000
ROBERT H MILLER II, 0000
KENNETH M MOORE, 0000
SUSAN L NIEMETZ, 0000
MARY R NORRIS, 0000
JOSEPH G OCONNOR, 0000
STANLEY J OLIVERAS, 0000
DAVID W OSBORN, 0000
STEVEN A PALUMBO, 0000
EDGARDO PENA, 0000
VICTOR PEREZ, 0000
ROBERT A PIAZZA, 0000
MARVIN POLK, 0000
DALE R POMMERENING, 0000
CHERYL L POPPE, 0000
MARY C PRIBBLE, 0000
SAUL RANGEL, 0000
PRICE L REINERT, 0000
JACK F ROBINSON JR., 0000
TURNER A ROUSE, 0000
MICHAEL C RUDZINSKI, 0000
DAVID E RUNNER, 0000
BRYAN L SAUCERMAN, 0000
JOHN A SCOCOS, 0000
GARY M SHAFFER, 0000
WILLIAM P SHEA, 0000
WILLIAM W SMATHERS, 0000
LIONEL F SOLIS, 0000
JEFFREY L STUART, 0000
CHARLES M TERRILL, 0000
GUY E THOMAS, 0000
MARTIN L TITTLE, 0000
HAROLD TODDIE, 0000
DAVID A TOKUHISA, 0000
JAMES O TRENT, 0000
ROBERT L TUCKER JR., 0000
DAVID H TURK, 0000
JOHN V VANDERBLEEK, 0000
THOMAS G VAVERKA, 0000
NEIL A VESTERMARK, 0000
KEVIN D VOIGTS, 0000
JAMES C WAGNER, 0000
JOEL P WARD, 0000
STEVEN L WATKINS, 0000
SAMUEL H WELCH, 0000
DAVID A WEMHOFF, 0000
FREDERICK J WEST, 0000
ROBERT E WILLIAMS, 0000
MARIO F WOZNIAK, 0000
STEVEN E WUJCIAK, 0000
DUANE L ZEZULA, 0000
EDWARD M ZOELLER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY CHAPLAINS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531, 624, AND 3064:

To be major

SCOTT R. SHERRETZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ROBERT F. SETLIK, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SUSAN C. FARRAR, 0000