

the Office of Management and Budget shall inform the Secretary of the Treasury of such determination, and for such agencies, the Secretary of the Treasury shall prepare the financial statement, or enter into a contract for the preparation of such statement, and shall enter into a contract with 1 or more independent auditors to audit the financial statement required under this section. All requirements of this section shall apply with respect to audited financial statements prepared under this subsection."

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 2 of the Accountability of Tax Dollars Act of 2002 (31 U.S.C. 3515 note; Public Law 107-289) is amended by striking subsection (b).

### SEC. 3. CERTAIN FEDERAL ENTITIES WITHOUT ANNUAL AUDITED FINANCIAL STATEMENT REQUIREMENTS.

(a) DEFINITION.—In this section, the term "Federal entity" means any entity established in the executive branch, including such an entity that administers a special purpose program or any other entity established by presidential or departmental directive that is not required to prepare an annual audited financial statement.

(b) ANNUALLY AUDITED FINANCIAL STATEMENTS.—The Office of Management and Budget shall require each Federal entity that is not statutorily required to prepare an annual financial statement and have the statement independently audited, to submit an annually audited financial statement prepared in accordance with United States generally accepted auditing principles to the Office of Management and Budget.

#### (c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report described under paragraph (2) to the—

(A) Committee on Governmental Affairs of the Senate; and

(B) Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The report under paragraph (1) shall include—

(A) a list of each Federal entity as defined under subsection (a); and

(B) actions taken by the Office of Management and Budget to implement subsection (b).

### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act in fiscal year 2005, and each fiscal year thereafter.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3565. Mr. FRIST (for Mr. DEWINE (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill S. 2261, to expand certain preferential trade treatment for Haiti.

### TEXT OF AMENDMENTS

**SA 3565.** Mr. FRIST (for Mr. DEWINE (for himself and Mr. GRAHAM of Florida)) proposed an amendment to the bill S. 2261, to expand certain preferential trade treatment for Haiti, as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Haiti Economic Recovery Opportunity Act of 2004".

#### SEC. 2. TRADE BENEFITS TO HAITI.

(a) IN GENERAL.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is

amended by inserting after section 213 the following new section:

#### "SEC. 213A. SPECIAL RULE FOR HAITI.

"(a) IN GENERAL.—In addition to any other preferential treatment under this Act, beginning on October 1, 2003, and in each of the 7 succeeding 1-year periods, apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from Haiti shall enter the United States free of duty, subject to the limitations described in subsections (b) and (c), if Haiti has satisfied the requirements and conditions set forth in subsections (d) and (e).

"(b) APPAREL ARTICLES DESCRIBED.—Apparel articles described in this subsection are apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns without regard to the country of origin of the fabrics, components, or yarns.

"(c) PREFERENTIAL TREATMENT.—The preferential treatment described in subsection (a), shall be extended—

"(1) during the 12-month period beginning on October 1, 2003, to a quantity of apparel articles that is equal to 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period beginning October 1, 2002; and

"(2) during the 12-month period beginning on October 1 of each succeeding year, to a quantity of apparel articles that is equal to the product of—

"(A) the percentage applicable during the previous 12-month period plus 0.5 percent (but not over 3.5 percent); and

"(B) the aggregate square meter equivalents of all apparel articles imported into the United States during the 12-month period that ends on September 30 of that year.

"(d) ELIGIBILITY REQUIREMENTS.—Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti is meeting the conditions of subsection (e) and that Haiti—

"(1) has established, or is making continual progress toward establishing—

"(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

"(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

"(C) the elimination of barriers to United States trade and investment, including by—

"(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

"(ii) the protection of intellectual property; and

"(iii) the resolution of bilateral trade and investment disputes;

"(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

"(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

"(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of

any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

"(2) does not engage in activities that undermine United States national security or foreign policy interests; and

"(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

"(e) CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.—

"(1) IN GENERAL.—The preferential treatment under subsection (b) shall not apply unless the President certifies to Congress that Haiti is meeting the following conditions:

"(A) Haiti has adopted an effective visa system, domestic laws, and enforcement procedures applicable to articles described in subsection (b) to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of the articles into the United States.

"(B) Haiti has enacted legislation or promulgated regulations that would permit the Bureau of Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

"(C) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, on the total exports from and imports into that country of articles described in subsection (b), consistent with the manner in which the records are kept by Haiti.

"(D) Haiti agrees to cooperate fully with the United States to address and take action necessary to prevent circumvention.

"(E) Haiti agrees to require all producers and exporters of articles described in subsection (b) in that country to maintain complete records of the production and the export of the articles, including materials used in the production, for at least 2 years after the production or export (as the case may be).

"(F) Haiti agrees to report, on a timely basis, at the request of the Bureau of Customs and Border Protection, documentation establishing the country of origin of articles described in subsection (b) as used by that country in implementing an effective visa system.

"(2) DEFINITIONS.—In this subsection:

"(A) CIRCUMVENTION.—The term 'circumvention' means any action involving the provision of a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the United States or Haiti relating to imports of textile and apparel goods, if such action results—

"(i) in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures; or

"(ii) in obtaining preferential tariff treatment."

"(B) TRANSSHIPMENT.—The term 'transshipment' has the meaning given such term under section 213(b)(2)(D)(iii)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2003.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed

with the United States Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption, of any goods described in the amendment made by subsection (a)—

(A) that was made on or after October 1, 2003, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal, shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

#### PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Ramey Ko of my staff be granted the privilege of the floor for the duration of today's session.

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

#### AMERICAN JOBS CREATION ACT OF 2004

On Thursday, July 15, 2004, the Senate passed H.R. 4520, as follows:

H.R. 4520

*Resolved*, That the bill from the House of Representatives (H.R. 4520) entitled "An Act 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.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### 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.

Sec. 103. Deduction for United States production activities includes income related to certain architectural and engineering services.

#### 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. Delay in effective date of final regulations governing exclusion of income from international operation of ships or aircraft.

Sec. 237. Interest payments deductible where disqualified guarantee has no economic effect.

#### 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. Modified taxation of imported archery products.

Sec. 306. Modification to cooperative marketing rules to include value added processing involving animals.

Sec. 307. Extension of declaratory judgment procedures to farmers' cooperative organizations.

Sec. 308. Temporary suspension of personal holding company tax.

Sec. 309. Increase in section 179 expensing.

Sec. 310. Five-year carryback of net operating losses.

Sec. 311. Extension and modification of research credit.

Sec. 312. Expansion of research credit.

Sec. 313. Manufacturer's jobs credit.

Sec. 314. Brownfields Demonstration Program for qualified green building and sustainable design projects.

##### 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 for promoting abusive 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 non-disclosed reportable and non-economic substance transactions.

Sec. 418. Authorization of appropriations for tax law enforcement.

Sec. 419. Penalty for aiding and abetting the understatement of tax liability.