United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, MONDAY, MARCH 22, 2004 No. 36

Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

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

Let us pray. O God, our Creator and Preserver, who displays Your glory in the beauty of the seasons, thank You for the light of day and for blessings beyond our deserving. Thank You for the gift of redemption and for the opportunity to be Your salvation instruments in a world of pain. Forgive us when we miss opportunities to reveal Your character to a sometimes cynical world.

Bless Your Senators today. Give them grace to fill every hour with efforts that will truly make a difference. Endow them with insight to solve the riddles that challenge our world. Use each of us, Lord, to advance Your kingdom of good will upon Earth.

We pray this in Your holy Name, Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will conduct a period of morning business until 2 p.m. and then resume consideration of the JOBS bill, also known as FSC/ETI.

As announced by the majority leader before the recess, there will be no rollcall votes today. Chairman GRASSLEY will be here to work through consideration of pending amendments. We want to encourage Members to come to the floor for debate through the day.

The next vote will occur sometime tomorrow, Tuesday. We will notify all Members when we can lock in a time certain for any rollcall votes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THIS WEEK'S SCHEDULE

Mr. DASCHLE. Mr. President, I urge Senators to come to the floor. I was just discussing with the distinguished acting majority leader the schedule for the week. There are a number of amendments that could be offered with time agreements that we might be able to work through reaching an agreement on the overall list of amendments to be offered. Many would like to complete work on the bill. We could at the end of the day have a pretty good vote on the legislation that is pending. There are a number of critical amendments that our colleagues want to have considered, but I think we can work through those on a timely basis.

I look forward to more discussions with our Republican friends with regard to the schedule and the list of amendments to be offered.

GOVERNMENT WORKING FOR THE PEOPLE

Mr. DASCHLE. Mr. President, we spend a lot of time here in the Capitol talking about the abstract effects of policy. But when we go home, we see firsthand the challenges and pain so many of our constituents are facing.

I spent the last week in South Dakota. We have a higher percentage of our National Guard and Reserve units activated than almost any other State. South Dakotans are united in our support for all the men and women who are risking their lives to defend our freedom. We are proud that America looks out for other nations.

But we need to look out for people here at home, too. We need leadership that fights for American workers and families, not against them. That is what I heard, over and over again, from people in South Dakota.

Last Tuesday, I held a town hall meeting in Spearfish, in the Black Hills. Among the people who came were a couple I have known for years.

Donna Smith is a newspaper reporter for the Black Hills Pioneer. She is one of the best journalists in my State; I have tremendous respect for her skill and fairness.

Over the years, I have seen Donna at many meetings. But this time was different. This time she was there not as a reporter but as an American who needs help.

Donna and Larry Smith have been married for 29 years. They have six children.

Larry Smith is tall and athletic. He takes good care of his health. Unfortunately, he inherited some bad genes; his arteries clog. He had his first heart bypass surgery when he was 47 years old and his second one a year later.

Everything was fine for almost 11 years. Then, about a year ago, Larry started feeling constant, debilitating pain in his legs and hips.

Larry works at a casino in the Black Hills. He was a machinist all his working life, but he switched to cashier because he couldn't take the walking involved in his old job; it hurt too much.

Last February, he had a stent placed in his heart. His doctors determined that the pain was being caused by a build-up of plaque in Larry's arteries. They said the only place he could find a vascular surgeon skilled enough to clear the blockages was at the Mayo Clinic in Rochester, MN.

Larry had that surgery. He was at the Mayo Clinic nearly a month. Donna was with him the whole time. Their insurance company paid most of the hospital bills.

But there were lots of out-of-pocket costs insurance didn't cover:

The lost income from the time both Larry and Donna had to take off from their jobs; the cost of getting to and from the Mayo Clinic; the cost of Donna's motel; the $2,000 annual deductible the Smiths had to pay before their insurance coverage kicked in; the $200 they spend every month on the prescription drugs Larry takes to control his blood pressure and other health conditions.

In addition, Donna is a diabetic and a cancer survivor. They spend another $150 a month on her prescriptions.

Then there are the health insurance premiums: $270 a month for Larry and $180 a month for Donna.

Add it all up and, suddenly, a couple who had worked hard all their lives and put six children through college is drowning in a sea of medical debt—$18,000 in debt.

Larry and Donna Smith have done everything they can to honor their debts. They sold their home. They now live in a smaller, rented house. They have borrowed money from friends.

They have even borrowed money from their children. Talking about that is one of the few times Donna cries. ''How demeaning,'' she says, ''to have to ask your children for money. We're at a time in our lives when we ought to be showering our grandchildren with gifts, but we can't. We can't even pay our bills.''

Creditors started threatening lawsuits. Bill collectors called at home and work. They garnished Donna's wages.

In January—less than a year after Larry's surgery at Mayo—the pain in his legs came back. It's worse than ever now. It hurts him to lift the bags of coins at the casino. It hurts him just to walk.

But he still works five nights a week; he can't afford to take time off.

Two weeks ago, Donna decided there was nothing else they could do, no one else they could borrow money from. So they filed for bankruptcy.

On April 6, Larry Smith is scheduled to go back to the Mayo Clinic to see if there is anything else that can be done. Donna says they have no choice. Without medical help, Larry is at increased risk of a heart attack or stroke or amputation.

The people at Mayo have generously offered to ''work with'' the Smiths to meet the $2,000 deductible.

Donna doesn't know where she'll stay this time. She says maybe she'll sleep in the car.

There's something else Donna Smith doesn't know. As she puts it, ''I don't know how to give up. This is my husband. This is the man I've spent my whole life with, the man who fathered my children, and who worked hard all his life to support us.

She said, ''We know that there are hundreds of thousands of other people going through this, too. You pay for health insurance and you always believe that everything will be covered, but it is not. The safety net is not there and suddenly you have nothing.

''If people are just supposed to give up, how do you do that?'' Donna asks. ''How do you just give up on the life of someone you love?''

Larry Smith and I talked for quite a while last week. I found out later that he spent 48 hours thinking about exactly what he would say so that I would understand how fragile economic security has become for so many middle-class families. All over this country, people who have done everything right—people who have worked for decades, bought their own homes, put their children through college, saved for their retirements—are finding they are just one medical emergency, one pink slip, one bad break away from serious economic trouble. The social and economic safety net that used to protect families is being shredded. Health care costs that used to be manageable are bankrupting families and businesses.

Last Thursday, I had another townhall meeting in Aberdeen, my hometown. That afternoon I got a fax from a general manager of a farmers' cooperative grain elevator in the nearby town of Florence. His name is Steve Schlenner. He said 3 years ago the health care premiums for the co-op's employees went up 38 percent. The next year they went up another 28 percent. Last year they increased another 24 percent. This year they had to lay off one of their workers so they could afford health insurance for the other workers.

He asks:

> How are we ever going to get people back to work if the insurance companies are taking more and more of our profits every year? At this rate, only the rich will be able to afford insurance in the future. . . . The average hard-working, tax-paying, middle-class American needs to be put on the endangered species list if we sit back and do not address these insurance issues and high unemployment [rates].

He ends his fax by saying:

> Thank you for taking my comments seriously. They represent the thoughts and feelings of quite a few people in this area.

All of us, Democrats and Republicans, need to take the comments of people like Donna and Larry Smith and Steve Schlenner seriously. Donna and Larry are luckier than many Americans. They have insurance. More than 43 million Americans have no health insurance. We must work together to make health insurance affordable again and health care accessible to all Americans.

We need to fix what is wrong with the new Medicare prescription drug program. At a minimum, we need to end the prohibition that prevents the Government from negotiating better prices for seniors. We need to allow the safe reimportation of drugs from Canada and other countries where they are less expensive. We need new policies that create good jobs in America.

There are 8.2 million Americans out of work. Two million have been out of work for the last 6 months or longer. It is not their fault they cannot find jobs. Last month, the economy created only 21,000 new jobs—all of them Government jobs, none in the private sector. Mr. President, 21,000 jobs; that is one new job for every 389 unemployed workers.

The administration and some of our Republican colleagues say the economy is getting stronger. I guess I would ask, whose economy? Not the 8.2 million Americans who want to work but cannot find jobs; not the 43 million Americans without health insurance; not the millions of Americans who are working harder than ever and taking on more debt than ever.

We need trade and tax policies that reward companies for creating jobs in America—not for shipping American jobs overseas. We need to help workers who are hurt by outsourcing, and make sure they get access to health care and job training while they get back on their feet.

Unless we act to prevent it, 9 days from today, on March 31, the Government will stop paying unemployment insurance benefits to workers who have already exhausted their State benefits. We cannot let that happen. We need to extend Federal unemployment insurance benefits now.

Also, at the end of this month, the Federal Government and the Department of Labor will issue new regulations effectively ending overtime pay for 8 million American workers. The Senate voted on a bipartisan basis to reject that change when the White House proposed it, but the House rejected it. Somehow, behind closed doors, someone slipped it into a conference report that had to pass or most of the Federal Government would have been shut down.

That is wrong. The Senate should reject this bad idea and the underhanded way it was handled. We should vote to protect the 40-hour workweek and overtime pay. Working families cannot afford a cut in pay.

A week ago today, Lead-Deadwood High School held its annual Government Day. Students at the school spent the day shadowing local government officials, observing firsthand how democracy in America works. In a story about the program, on the front page of the Black Hills Pioneer, the students talked about how interesting it was to see Government work for people. That story was written by Donna Smith. Despite all of their struggles, she and her husband still believe Government can be a force for good. They, and millions of other Americans, are looking to us for help. As we begin this next work period, let's vow not to disappoint them.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Texas is recognized.

MEASURE PLACED ON THE CALENDAR—S. 2207

Mr. CORNYN. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

Mr. CORNYN. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. CORNYN. I thank the Chair.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Texas.

MARRIAGE

Mr. CORNYN. Mr. President, I want to say a few words about a hearing we are going to have tomorrow in the Senate Judiciary Committee on the subject of marriage. I know the last thing I thought I would be doing, coming from Texas to Washington, DC, would be talking about traditional marriage, but such are the times we live in.

Earlier this month I chaired a hearing in the Judiciary Committee's Subcommittee on the Constitution regarding the U.S. Supreme Court's decision last summer in Lawrence v. Texas, as well as the Goodridge decision from the Massachusetts Supreme Court that resulted from it, and the subsequent explosion of the marriage controversy across America. I thought we had a very thought-provoking discussion, a bipartisan discussion, and one that will continue at our hearing tomorrow where proposed constitutional language is the subject.

At the hearing earlier this month I was moved by the sentiments of Pastor Daniel de Leon of the Templo Calvario Church in California and Rev. Richard Richardson of the African Methodist Episcopal Church in Boston, who we were honored to have in attendance.

Both testified they would rather be at home than having to defend traditional marriage here in Washington. But it is because of the work they do in their own communities, because they see the results of the decline of marriage in their communities every day, that they believe traditional marriage is so important and worth defending.

This is a discussion we will continue to have in the coming months. I believe it is vital that we have a national discussion on the importance of this institution, and a discussion based upon the facts.

In recent months, a lot of people have spent time talking about the benefits of marriage for adults. They have talked about hospital visiting rights and inheritance problems, even though many of these issues can be solved simply and quickly by statute or arrangements that can be achieved by simply signing a few simple documents.

This discussion, in terms of the benefits to adults, has included discussion of Government benefits, even though with these benefits come burdens, and the actual financial ramifications of these benefits are a matter for future debate.

Today it is time to turn the debate to what I believe is an even more important issue—that is, the benefits of marriage to children.

It is easy for some people to step back and say: The same-sex marriage controversy doesn't affect me. But the facts, demonstrated by experiments in other countries, show us otherwise. The facts show us this issue affects everyone, but especially children. None of us can pretend to ignore this issue, and none of us can afford to be neutral on this subject.

Scandinavia has treated same-sex households as marriage for more than a decade. This practice was instituted in Denmark in 1989, in Norway in 1993, and in Sweden in 1994. The direct reaction was relatively small. Very few people were actually interested in being part of this new arrangement, and to this day the number of participating individuals and households remains low.

The greatest effect was not on those who had sought the new institution but, in fact, on society at large. Sad to say, there has been an enormous rise in family dissolution and out-of-wedlock childbirths in these countries since they embraced the institution of same-sex marriage.

Today, about 15 years after Denmark created this new institution, a majority of children in Scandinavia are born out of wedlock, including more than 50 percent of children in Norway and 55 percent of children in Sweden. In Denmark, a full 60 percent of first-born children have unmarried parents. In Scandinavia as a whole, traditional marriage is now an institution entirely socially separated from the idea of childbearing or child-rearing. It is regarded as an incidental union, not an important one.

Respected British demographer Kathleen Kiernan drew on the Scandinavian case to form a four-stage model by which to gauge a country's movements towards Swedish levels of out-of-wedlock childbirth.

At stage one, the vast majority of the population produces children within marriage, such as in Italy. In the second stage, cohabitation is tolerated as a testing period before marriage and is generally a childless phase such as we currently have in America. In stage three, cohabitation becomes increasingly acceptable and parenting is no longer automatically associated with marriage. While Norway was once at this stage, recent demographic and legal changes have pushed it further into stage four, along with Sweden and Denmark. In this fourth stage, marriage and cohabitation become practically indistinguishable, with many children—even most children—born and raised outside of traditional marriage. According to Kiernan, once a country has reached this stage, return to an earlier phase is highly unlikely.

As you can see, the dilution of marriage is passed on to children, to the next generation, and the devaluation continues. And in America, the results could be even more significant than in Scandinavia; after all, we are already facing the problem of too many single-parent households, particularly in inner-city communities.

When the ideal of traditional marriage is removed, when cohabitation and marriage are equally regarded, and when childbearing is no longer something that ought to ideally come within the context of traditional marriage, I fear the problem of single-parent households will only worsen.

While many single parents do a very good job day in and day out raising children against long odds, no one considers it the best arrangement for raising children—with good reason. Indeed, we have a wealth of social science research from hundreds of sources over the course of decades which consistently reflects both the positive ramifications for children of a stable traditional marriage, and the negative effects of family breakup.

Marriage provides the basis for the family, which remains the strongest and most important social unit. Countless statistics and research attest to this fact. It is not ideal to raise children outside of marriage. While everyone is free to choose his or her own path, no one wishes divorce on children but, rather, a happy and stable home.

In America, we have made the decision that we ought to particularly encourage and support those who marry and have children. This is not a partisan issue. As one of the most distinguished Democratic Members of this body, Senator Daniel Patrick Moynihan, observed more than a decade ago, we must stop ''the breakup of family inevitably'' as best we can:

[T]he principal social objective of the American national government at every level . . . should be to see that children are born into intact families and that they remain so.

We don't raise our neighbor's children as our own, but we do help all the children in our community every time we affirm and reinforce marriage—through our speech, through our action, through our culture, and through our wallets. It is a position reinforced through our laws and our practices, and I believe it is a good one. Government cannot be neutral, should not be neutral, nor should it pretend it is possible to be neutral when it comes to children and families.

Most Americans take for granted that traditional marriage as we know it today will always exist. But that is sadly proving to be a mistake. We see in Scandinavia why that assumption is a mistake.

Across this country today, renegade judges and some local officials are attempting to radically redefine this traditional institution. Lawsuits seeking to dismantle traditional marriage have already been filed in Federal court and State courts in Massachusetts, New York, Nebraska, Utah, Florida, Indiana, Iowa, Georgia, West Virginia, Arizona, Alaska, Hawaii, New Jersey, Connecticut, Oregon, Washington, California, and Vermont, as well as my home State of Texas. According to the New York Times, we can expect lawsuits in 46 States by residents who have traveled to San Francisco in recent weeks to receive a marriage license, then return and claim the validity of that marriage under the laws of their home State.

Louis Brandeis famously described the States as ''laboratories for democracy.'' But he was, of course, referring to representative government in the States and not to the courts. Given how this litigation has spread, it appears that judicial activists bent on experimenting with the institution of marriage will have every possible opportunity to do so.

The American people are not persuaded that this radical redefinition of marriage is needed or that it is a good thing. When given the opportunity in the voting booth, they have always supported traditional marriage clearly and forthrightly.

While The New York Times recently described the law on this subject in California as ''murky,'' the California family code clearly defines traditional marriage in an initiative enacted by voters themselves 4 years ago by 61-percent majority.

Rather than believing this discussion is altogether a bad thing, I believe there is a lot of good to be had out of a national discussion on the issue and importance of traditional marriage, supporting family life as providing the best hope for raising children. Those of us on the side of traditional marriage, though, must not flinch in the face of those who would try to characterize our efforts as some hateful or hurtful position. Indeed, I believe advocates of traditional marriage must not back down. We must not allow those who will try to paint our motivations as discriminatory because, in fact, they are not.

What we are seeking to preserve is the fundamental bedrock of our society, the wellspring of families, and an institution that is in the best interest of children. That is what we are for. Those of us who have the honor of serving in this body and in government have a duty to act to protect this positive social good and not ignore this issue until it is too late.

Some activists believe traditional marriage itself is about discrimination, that all traditional marriage laws are unconstitutional and must, therefore, be abolished by the courts. Indeed, that is what the court in Massachusetts said. These activists found friends in four justices in Massachusetts who were legislating from the bench and who contended that traditional marriage is ''rooted in persistent prejudices'' and represents ''invidious discrimination.'' Those are not my words. Those are the words of the four justices who struck down traditional marriage laws in Massachusetts.

Indeed, these justices even claim that traditional marriage is not in the best interest of children. They accuse others of wanting to write discrimination into the Constitution. Yet they are the ones writing the American people out of our constitutional democracy.

In the face of similar arguments, Hawaiians and Alaskans a number of years ago took preemptive action when they were faced with State constitutional challenges to their traditional marriage laws. Citizens of Nebraska, Nevada, and other States have also taken preemptive action under their State constitutions before suits were even filed.

Interestingly, in the hearing we had just a couple weeks ago, we heard from Nebraska Attorney General Jon Bruning, who said that while his state has a Constitutional Defense of Marriage Amendment, even that amendment has now been challenged in Federal Court by the American Civil Liberties Union, who claim that this state constitutional provision itself violates the Federal Constitution.

The threat to traditional marriage is now a Federal threat, and a Federal constitutional amendment is the only way to preserve traditional marriage laws nationwide before it is too late.

America needs stable marriages and stable families. The institution of marriage is just too important to leave to chance.

Unless and until the American people are persuaded otherwise, we have a duty, as their representatives, to defend the laws they passed and to not let those who would take the law into their own hands reshape society according to their whim.

We can be confident in the fact a constitutional amendment is the most representative process we have in American law—requiring, as it does, two-thirds of the Congress to pass a constitutional resolution and three-quarters of the States to ratify it. It is the most democratic form of lawmaking we have in this country, bar none.

The burden of proof is on those who seek to experiment with traditional marriage, an institution that has sustained society for countless generations. The experimenters must present their case to us that the radical new social unit they propose is good for the community, good for families and, most important of all, good for children. Thus far, the lab for this experiment has already been run in Scandinavia, and it has produced nothing but disastrous results.

With that, Mr. President, I yield the floor and 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. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SOARING GASOLINE PRICES

Mr. WYDEN. Mr. President, gasoline prices are soaring to the highest levels ever and once again the response of the Federal Government is to do nothing. I have come to the floor today because I believe the gasoline consumer is about to be hit by a perfect storm, a combination of refinery cutbacks that boost profits, the fact that oil is being moved into the Strategic Petroleum Reserve with no plan to protect the consumer from resulting shortages, and the prospect of even higher OPEC prices when OPEC cuts production possibly in June, just at the start of the high travel season. I want to discuss this today because inaction in the face of spiraling gas prices is the worst possible response Congress and the administration could have at this time.

Higher oil and gasoline prices act like attacks on our consumers, causing them to defer spending in order to pay for gasoline. Right now, consumer spending is the principal ingredient driving our economy. If consumer spending declines, economic recovery is going to be delayed and there is the chance of the economy sliding further into a recession.

I know gasoline prices are already as high as they have ever been, and the perfect storm I see coming in the days ahead is going to soak consumers for even more money at the pump with the prices already staggering.

According to the American Automobile Association, the national average price of gasoline is $1.72 per gallon. That is just 2 cents short of the alltime high set last August and, of course, it is not even the peak driving season. California prices are consistently way over $2 per gallon. The prices in my State are consistently in the ballpark of $1.80. I will outline this afternoon

why I believe it is likely to get even worse.

One major oil company, Shell, has announced it is deliberately shutting a 70,000-barrel-per-day refinery in Bakersfield, CA. This refinery is critical to the entire West Coast market. The fact is, when Shell permanently constricts gasoline supplies and drives up prices along the West Coast, our area, which already has staggeringly high unemployment, is going to be hit very hard.

Earlier this month, at a Senate Energy Committee hearing, I asked the Administrator of the Energy Information Administration whether the closing of Shell's Bakersfield refinery could boost West Coast prices even higher. That day he agreed that could be the result of that refinery shutting down. Yet, in the face of these kinds of problems, the response of the Federal Government is simply to sit on the sidelines.

Shell's announcement of its decision to close the Bakersfield refinery claimed in a statement that there is simply not enough crude supply to ensure the viability of the refinery in the long term. Recent news articles have reported that both Chevron/Texaco and State of California officials estimate that in that valley where the Bakersfield refinery is located, there is a 20- to 25-year supply of crude oil remaining. In fact, Bakersfield, CA, reported on January 8 of this year that Chevron/Texaco plans on drilling more than 800,000 new wells in the valley, which is 300 more new wells than last year. The fact that Texaco, Shell's former partner in the Bakersfield refinery, is increasing drilling in the area calls into question this claim by Shell that a lack of available oil supply is the real reason for closing the Bakersfield refinery.

Shell also claimed that its decision was not made to drive up profits, but the company admitted to the Wall Street Journal that there will be an impact on the market. Of course, the impact is going to be to drive up prices even higher. The question for the Senate, and why it is so important for us to act now, is, How much are these prices going to go up and when is the Senate going to finally stand with those who have to make these gasoline purchases?

In 2001, I revealed internal oil company documents that showed major oil companies pursued efforts to curtail refinery capacity as a strategy for stifling competition and boosting their profits. These documents raised significant questions about whether American oil companies are trying to pull off a financial triple play: Boosting profits by reducing refinery capacity, tagging consumers with higher pump prices, and then going out and arguing for environmental rollbacks and additional financial incentives.

I say, and I want to use this to make clear why I think it is important the Senate should act, that I believe these practices I described in 2001 are still ongoing today as gasoline prices rise even higher and consumers suffer even more. In memos detailed in a report I issued then, oil companies articulated a desire to reduce oil and gas supply.

One document from Texaco reads:

> Significant events need to occur to assist in reducing supplies and/or increasing the demand for gasoline in order to increase prices and grow profit margins. Oil company competitors also discussed—

Discussed with each other, Mr. President—

> mutual opportunities to control oil and gas supply, thus keeping markets tight.

In one case, they were trying specifically to prevent the restart of a closed refinery in southern California. One company document revealed if the refinery in question, Powerine, was restarted, the additional gasoline supply on the market could bring down gas prices and refinery prices by 2 cents to 3 cents per gallon and it called for a ''full court press'' to keep the refinery down. The Powerine refinery's capacity was 20,000 barrels per day. The Bakersfield company Shell wants to shut down has a capacity of 70,000 barrels a day. If oil companies in the mid-1990s thought a much smaller shutdown would raise the price of gas by 2 cents to 3 cents, you can't tell me the shutdown of a refinery with 3½ times the capacity will not have an even larger impact on prices at the pump.

What makes Shell's decision to close its Bakersfield refinery especially curious is it seems the company has done virtually nothing proactively to find a buyer. But, to date, in spite of my requests and the requests of others, the Federal Trade Commission has made no effort to stop or even slow plans for Shell's refinery closure. The Federal Trade Commission has been arguing they can only prosecute if they find out-and-out blatant collusion, setting out a standard that is virtually impossible to prove against these very savvy oil interests. But in this case the Federal Trade Commission has the authority to act because the Agency allowed two megamergers to go through that directly affect the refinery Shell now plans to shut down. The Federal Trade Commission had a chance to act when it allowed Shell to acquire full ownership of the Bakersfield refinery in 2001 from a Shell-Texaco partnership.

The Federal Trade Commission had another chance to act when it allowed Shell to acquire Pennzoil-Quaker State in 2002. Then last November, when Shell announced it was closing the Bakersfield refinery, the Federal Trade Commission had a third chance to act, using its continuing authority to reexamine these earlier mergers.

I say it is time to get the Federal Trade Commission off the sidelines and onto the side of the consumer who is getting shellacked at gasoline pumps all across America. Today I am calling on the Federal Trade Commission to exercise its continuing authority over these past mergers and to either block the shutdown of Shell's Bakersfield refinery or to otherwise keep refineries in that area viable. That set of decisions will affect the entire west coast gasoline market. At a time when our economy is being hit so hard, it is absolutely critical to the public interest.

The Energy Department ought to be doing more to address the problem of high gasoline prices, but at a minimum the Energy Department should not be making the problem worse. When Secretary Abraham was asked recently about the problem of rising gasoline prices, he told reporters he was extremely concerned but did not specify the Department would do anything. One thing that could be done by the Department that would help address the problem is the Energy Department could stop making the current supply situation worse by taking oil from the tight U.S. market to fill the Strategic Petroleum Reserve without any protections for the consumer.

On February 12, as crude and gasoline prices were spiking up, the Bush administration awarded five new long-term contracts to fill the Strategic Petroleum Reserve. These new contracts will run from April through the summer, the very time period where prices typically shoot upward. If the Bush administration were concerned about high gasoline prices, the Energy Department could have either delayed awarding these long-term contracts or arranged to defer the delivery of oil to the Strategic Petroleum Reserve, as was done last winter, to minimize the impact on the market and on the consumer. But now the administration is taking oil off the market and moving it into the Strategic Petroleum Reserve with no concrete plan to protect consumers from the higher prices this action will cause.

Earlier this month, Guy Caruso of the Energy Information Agency told me OPEC would be making up the difference in supply for oil that is being moved into America's Strategic Petroleum Reserve. So you have a situation where the administration, through the Energy Information Agency, is telling people to not really sweat these OPEC decisions. But now OPEC is telling us they are going to cut production by 1 million barrels a day. This morning we hear they might hold off until June instead of making cuts in April. But even if they do that, the OPEC production cuts would come at the beginning of the summer travel season. So certainly OPEC is engaged in some doubletalk. For some time they have not kept their promise to hold oil prices within their own target price range. In fact, some members of OPEC just want the price range increased.

Some in OPEC say they are concerned prices are too high. Yet this cartel is taking oil off the market. Others are saying they see a glut of oil on the market, justifying the production cut. These are mixed signals, but the message for our consumers is clear: OPEC is certainly going to do what is

best for OPEC, not what is best for the American consumer.

My bottom line is the Federal Government certainly is challenged, in terms of stopping OPEC from cutting production. But certainly the Federal Government can take steps and take steps immediately to make sure there is competition in our gasoline markets so consumers are not getting ripped off at the pump.

Today I am calling for Congress to take action on a specific, concrete package of procompetition initiatives to help consumers at the Nation's gas pumps. First, Congress needs to direct the Government regulators to act to eliminate anticompetitive practices that currently siphon competition out of gasoline markets. Scores of communities, including those in my home State, have few if any choices for the consumer. Nationwide, the gasoline markets in Oregon and in at least 27 other States are now considered to be tight oligopolies, with 4 companies controlling more than 60 percent of the gas supply. In California, where Shell's Bakersfield refinery is located, 4 oil companies control 70 percent of the market. In these tightly concentrated markets, numerous studies have found oil company practices have driven independent wholesalers and dealers out of the market. One practice they employ, called redlining, limits where independent distributors can sell gas. As a result, independent stations have to buy their gas directly from the oil company, usually at a higher price than the company's own brand-name stations are paying. With these higher costs the independent stations can't compete.

Last year I sponsored legislation, S. 1732, that would give the Federal Trade Commission additional tools to promote competition in these areas that are essentially small monopolies. Under my bill, in these very highly concentrated markets you would have consumer watch zones. In these zones there would be greater monitoring of anticompetitive practices by the Federal Trade Commission. The Federal Trade Commission would also be empowered to issue cease-and-desist orders to prevent the companies from gouging the consumer, and Congress would stipulate certain anticompetitive practices like redlining and zone pricing are, per se, anticompetitive and oil companies engaging in these anticompetitive practices that manipulate supply or limit competition would have the burden of proof to show these anticompetitive practices are not harming consumers.

There is a vehicle right now. Right today there is a vehicle, S. 1737, Congress could use to address the problem of skyrocketing gasoline prices, because the companies admit the market is not going to solve the problem on its own.

Last August, a report by the RAND Corporation revealed even oil industry officials are predicting more price volatility in the future. This means consumers can expect more frequent and larger price spikes in the next few years.

Last November, the Energy Information Agency also issued a report on the causes of last summer's record high gas prices. The Energy Information Agency found, ''There is continuing vulnerability to future gasoline price hikes.'' The industry and the Bush administration both agree gasoline price spikes are going to be a continuing and significant problem. But neither, as of today, is willing to step in and work with the Congress on a bipartisan basis to do anything about the problem. I am here to say the Congress needs to act now. This is legislation to act now before gasoline shoots up to $3 per gallon, as some oil industry analysts are predicting.

The reasons Congress ought to act are twofold. Aside from the obvious cost to the consumer at the pump, there are hidden costs to the price manipulation. There is a huge economic impact that will only worsen as prices rise. When gasoline costs more, the costs for our businesses in the transportation area go up. Our businesses see their profits go down. So we have one of two things—either the prices of the goods they sell to consumers have to go up or the number of people they employ is going to plummet. Higher gasoline prices either means bigger costs for consumer goods or fewer jobs in our economy. And certainly in our home State, we cannot afford to see that. This isn't high economic theory. This is basic math.

Just this month, the New York Times quoted a truck driver from Wisconsin saying eventually the added cost of transporting household goods and snacks and other items will once again come back and clobber the consumer. You have a double whammy. Consumers get socked at the pump in person, and then get hit again with higher prices for the goods they buy. That is not acceptable to me, and I don't believe it is acceptable to the American people.

The challenge now is for the Congress to stand up to the status quo in the oil industry. I understand—and certainly nobody would minimize this—this will be a hard row to hoe in terms of taking on these very powerful interests.

When I first introduced legislation that now can be used to protect the consumer from gasoline prices going up to $3 per gallon, various oil interests and Bush administration officials voiced great consternation and argued vociferously that the legislation I believed will protect the consumer was unacceptable to the oil industry and the administration.

I still believe the proposals which I have put forward in legislation and on which the Congress could move now would protect competition and free markets. My legislation doesn't involve big expenditures from Government. It doesn't involve setting up new agencies. It involves bringing some competition and free market forces back to this country and to the gasoline business—particularly in those States where we have these quasi-monopolies.

But for those who disagree with my legislation, S. 1737, which I believe would protect the consumer who is getting clobbered at the gasoline pumps, I issue a challenge. If they think they have a better approach than my legislation for bringing competition and free market forces back to the gasoline market, they have an obligation to come forward at a time when our consumers are being hit so hard at the pump. Unless people who are opposing my legislation are prepared to say the record high gasoline prices aren't a problem, they have an obligation to come forward with their proposals to promote competition. Put an alternative on the table and stand up for the consumer.

I also think Congress needs to address the growing gap between consumer demand for gas and what the oil companies can produce. When supplies are tight and there is no spare gasoline in inventories, consumers are especially vulnerable to supply shortages and price spikes. That frequently causes severe price spikes when refineries shut down unexpectedly or a pipeline breaks, as happened last summer. Congress should ensure consumers are not left stalled by the side of the road or being pounded at the pump by taking steps to keep supplies available in an emergency. One option would be to require major oil companies to maintain minimum inventories to address unexpected supply crunches.

Alternatively, the Federal Government can create a strategic gasoline reserve to provide supplies during refinery or pipeline shutdowns. This proposal would build on the strategic reserves that already exist for petroleum and heating oil supplies.

It seems to me what it all comes down to is the American people deserve better, and they deserve better than the Federal Government being AWOL when our consumers are facing skyrocketing gasoline prices across the country. With a new energy bill expected to come before the Senate in the next several weeks, this is an opportunity to put the Government on the side of the American consumer when they are filling their tanks at the pumps across the land.

I conclude by again commenting on the role of the Federal Trade Commission. This is the agency that is charged by Congress with promoting competition and free markets. Again and again in the energy field they have either sat on the sidelines or simply looked the other way in the face of increasing concentration in this critical sector of our economy. With gasoline prices already soaring at the highest level at this particular time, it seems to me it is absolutely critical for the Federal Trade Commission to reverse its present

course, get on the side of the consumer, and promote marketplace forces and competition in the gasoline business.

I intend to use my seat on the Senate Commerce Committee at every possible opportunity to force the Federal Trade Commission to do the job it has been charged by the Congress to do. It ought to start with looking seriously into the shutdown in Bakersfield, which is going to, in my view, have calamitous consequences for the entire west coast gasoline market. But it also should include a broader look at the implication of concentration in the gasoline business.

I am hopeful that ultimately the Federal Trade Commission will support my legislation, S. 1737, which would promote more competition in the gasoline business. And if they disagree with it, the head of that agency, Mr. Timothy Muris, ought to propose his own alternative.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, before I make comments on a different subject matter, I commend my friend and colleague for addressing the issue of energy—energy production and energy costs—while he is still on the floor. We have probably close to 200,000 American troops in the gulf area to protect and preserve the countries in those regions. It seems to me it would not be asking too much of our President to jawbone those leaders to increase production. We can see what an increase of production of 1 million barrels per day and 2 million barrels a day would mean. It would have a dramatic impact and effect on consumers in this country. It is difficult for me to understand why we should not expect that kind of leadership from the President of the United States when every day we learn young Americans are losing their lives in that region, and tens of thousands of troops have been serving over in that region for years in order to protect the security of those nations.

Now we come to an issue of enormous need in our country—an important part of that because of our responsibilities in meeting the defense needs and security needs for our forces overseas. We have silence by the administration when they are asked why they aren't jawboning these countries in the Middle East.

I don't know whether the Senator could make some comment on that, just briefly. I listened with great interest to his other comments. I hope the Senate as a whole will take him to heart.

Mr. WYDEN. Mr. President, I very much appreciate the distinguished Senator from Massachusetts coming to the floor because he has done so much to help the consumer in this area. My concern—and I would be interested in the Senator's reaction—is I think the consumer is about to get hit by a perfect storm with the combination of failure to push OPEC, as the Senator has said, to try to help on the production issue, plus the refinery cutbacks that apparently are primarily to boost profits, plus filling the strategic petroleum reserve. With these factors coming together, it seems to me a perfect storm is going to push the consumers' gasoline price at the pump to $3 a gallon.

I would be interested in the Senator's reaction, and I am anxious to work with him in this effort to push the administration to go after OPEC.

Mr. KENNEDY. The Senator is sounding the alarm. I think his predictions are self-evident. Thankfully, he is providing the leadership before the full impact of these different events, the confluence of these different events taking place. Clearly, they will take place over the course of late spring or early summer.

I commend the Senator for bringing this to our attention. It is an enormous service, not only to the people of his State but the people of my State and the people all over this country. As we are coming into the late spring and summer, constituents will be wondering where we have been as representatives in dealing with this issue. The Senator from Oregon has outlined a very critical problem and made splendid recommendations. I look forward to working with the Senator to achieve these recommendations.

JOBS ACT

Mr. KENNEDY. Mr. President, I welcome the chance to address the Senate briefly this afternoon on the underlying legislation. We are in morning business now, and we will lay down the bill shortly. I am informed my friend and colleague from Iowa intends to offer an amendment to address the proposal being developed, that has been developed, and continues to be developed by the administration to restrict overtime pay for some 8 million Americans.

I ask unanimous consent to be able to proceed beyond the 10 minutes.

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

Mr. KENNEDY. Mr. President, before the Senate is the legislation called Jumpstart Our Business Strength Act, or the JOBS Act. The proposal of the Senator from Iowa is entirely appropriate to address this issue. He will be addressing key aspects of employment in this country; that is, the question of adequate pay for those working long hours in this country, and the proposal of the administration to cut back on their pay by eliminating the overtime for some 8 million workers.

For those who have been traveling not only in their own States but around the country—as I and other Members have—we know we are facing a serious challenge in creating good jobs with good benefits in the United States. This is affecting the quality of life of millions of American families.

The fact is, the Senate has refused to increase the minimum wage for a period of 7 years. We have 7 million Americans, our fellow citizens, hardworking Americans, men and women who take a sense of pride even in working at minimum-wage jobs. They are the men and women who clean the buildings where American commerce takes place. They work in our nursing homes to take care of our elderly people. They work as teachers' aides in many of our schools. These are men and women of dignity. They have worked long and hard over the period of the last 7 years, and we have failed to provide an increase in the minimum wage because our Republican leadership and this administration refuse to support an increase in the minimum wage. That is fact No. 1.

Fact No. 2. Even though we have seen the total loss of some 3 million private sector jobs and now an overall loss of about 2.2 million jobs, this administration refuses to extend the unemployment compensation. The unemployment compensation fund is $15 billion in surplus. It was paid by people who have worked hard for this very eventuality that we are now facing—this heavy, prolonged unemployment. Those who have extended unemployment, who have worked hard, should be entitled to unemployment compensation. It is in surplus.

The proposal of the Senator from Washington, Ms. CANTWELL, will cost $5.6 billion to extend unemployment compensation for 13 weeks. There are 90,000 Americans a week losing their unemployment compensation. How do these families pay for their mortgage, put food on the table? How do they feed their children? How do they look forward to the future with any kind of sense of hope?

Where are we in responding to them in their crisis of need? Our Republican colleagues, the Republican administration, refuses to extend unemployment compensation.

If that is not bad enough, what is the administration proposing to do now? They are proposing to eliminate overtime pay for some 8 million of our fellow Americans who otherwise are receiving overtime.

Who is receiving overtime? Police officers, nurses, firefighters. Do those three categories have a ring to Members in the Senate and across this country? Who is in those categories? Whom do they represent? They represent homeland security.

On the one hand, we hear a good many statements in the Senate about trying to deal with the problems of homeland security. On the other hand, the administration is out to take away overtime for those individuals who are the backbone of homeland security.

These are the categories: Police officers, nursing, firefighters. The list also includes primarily women workers in our society. The overtime pay affects all workers but it particularly affects women.

What has been the state of our economy now in terms of new workers?

Some say: Senator, you do not understand. Workers are doing well in the country at this time.

I don't believe it. Those who say this do not understand it. They may be reading the clippings of Wall Street, but they do not understand Main Street. If they have been reading the clippings of Main Street over the past week or so, they see there has not been great news.

The new jobs being created in the United States do not pay as much as jobs lost. This chart indicates the average wage in 2001 was $44,570 a year. Jobs gained do not pay as much as jobs lost. The average wage today from the jobs gained, according to the Bureau of Labor Statistics, is $35,410. That is a 21-percent reduction for the new jobs being created; a 21-percent reduction in pay over the jobs they have replaced.

At the same time, this administration is trying to eliminate overtime even for this group. What in the world is the reason for this?

Against this backdrop, we look at the chart demonstrating that Americans work more hours than workers in other industrialized nations of the world. This red bar represents the United States. The other countries on this chart include Denmark, France, Ireland, Netherlands, UK, Italy, and Germany. In the United States, far more than any other country, workers are working harder, working longer, trying to make ends meet. What do we do? We in the Senate refuse to increase the minimum wage. If these workers lose their jobs, there is no federal unemployment compensation. Even though they are working longer and harder, we will take away their overtime.

This administration is attempting to take away overtime protection. This chart demonstrates what happens to workers with overtime protection and those without overtime protection. Those without overtime protection are twice as likely to be required by their bosses to work overtime hours as those with overtime protection. We know what this is all about—requiring workers to work longer, harder, for less pay over a period of time. Overtime has been in the law since the 1930s. Now we have this administration trying to take away from the workers? For those who do not have overtime protection, they are twice as likely to work more than 40 hours a week. And those without overtime protections are three times as likely to work more than 50 hours a week. Take away the overtime protections and we are going to see the exploitation of working families in the middle class in this country greater than ever. That is basically greed. It is wrong.

The amendment of the Senator from Iowa is focused on making sure we continue to pay the overtime.

I make two final points. First of all, in the proposal by the administration to eliminate overtime, they are looking not only at the categories I just illustrated, but they are also saying if you have served in the Armed Forces and have received that training, that when you get out of the Armed Forces you are not going to be eligible for overtime. For the first time in the history of this country, they are saying, military training—training that you receive in the military—is going to exclude you from coverage for overtime. Tell that to the servicemen who are over in Iraq. Tell it to the National Guard, who are making up 40 percent of those under combat arms. When you get some training in order to protect members of your particular unit, and then you come back and are out there in the civilian market, you are told by your boss: You got training in the military. You are not eligible for overtime.

I see my friend in the Chamber. I will take a few more minutes because I know he wants to address the Senate. This is a letter to Secretary Chao from Thomas Corey, the National President of the Vietnam Veterans of America:

. . . [W]e would like to make you aware that the proposed modification to the rules would give employers the ability to prohibit veterans from receiving overtime pay based on the training they received in the military. This legitimizes the already extensive problems of ''vetism'' or discrimination against veterans.

There you are. What in the world is this administration thinking?

I will read a letter, and then I will conclude. I think it illustrates very powerfully what the debate is about and the strong reasons we all ought to be behind the Harkin amendment:

My name is Randy Fleming. I live in Haysville, Kansas—outside Wichita—and I work as an Engineering Technician in Boeing's Metrology Lab.

I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.

I've worked for Boeing for 23 years. During that time I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.

First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.

The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10% or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help her get her college degree, too, when that time comes. For my family, overtime pay has made all the difference.

That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man, and a veteran. That issue is overtime rights.

The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought they could count on.

When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay. You've heard of the marriage penalty? Well I think that what these new rules do is to create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra.

If that's not a bait and switch, I don't know what is.

And I don't have any doubt that employers will take advantage of this new opportunity to cut our overtime pay. They'll tell us they have to in order to compete. They'll say if they can't take our overtime pay, they'll have to eliminate our jobs.

It won't be just the bad employers, either—because these rules will make it very hard for companies to do the right thing. If they can get as many overtime hours as they want for free instead of paying us time-and-a-half, they'll say they owe it to the stockholders. And the veterans and other working people will be stuck with less time, less money, and a broken deal.

I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.

And for all those who want to let these military penalty rules go through, I have a deal I'd like to propose. If you think it's okay for the government to renege on its deals, I think it should be your job to tell our military men and women in Iraq that when they come home, their service to their country will be used as a way to cut their overtime pay.

That is from Randy Fleming. It could not be said any clearer. That is the issue. TOM HARKIN and I will offer the amendment. I hope the Senate will at least permit us a chance to vote on that amendment in the next day or two.

I thank the Senator for his patience and for his indulgence.

The PRESIDING OFFICER. The Senator from Nebraska.

ECONOMIC POLICY

Mr. HAGEL. Mr. President, for those estimated 2.3 million Americans who have lost their jobs over the past 3 years, and for those worried about keeping their jobs, economic policy is not about abstract discussions or theoretical debates. It is about finding and keeping steady work at a decent wage. It is about affordable health care, buying a home, and sending their children to college.

We live in a time of dramatic historical change, a transformational period. The byproducts of such change are uncertainty, complications, instability, and danger, as well as vast opportunities.

America today, as at the end of World War II, is in a position to lead and shape the direction of this 21st century change.

America's economic security and prosperity cannot be separated from our leadership of the global economy. During periods of uncertainty and change, some Americans seek refuge in an insular political tradition that, in the past, has contributed to isolationism at home and instability abroad.

After World War I, America pursued an isolationist foreign and trade policy that resulted in a weakened international order that led to World War II.

In contrast, after World War II, America's leaders laid the foundation for the World Trade Organization and a new global political and economic order. As a result, America and much of the world have enjoyed historic peace and prosperity for more than 50 years.

The recent job losses in the United States must be analyzed and understood in the context of historic increases in American worker productivity, a global decline in manufacturing employment, and the changes occurring in the global economy.

Michael Porter, in his classic work, ''The Comparative Advantage of Nations,'' wrote that:

A nation's standard of living in the long term depends on its ability to attain a high and rising level of productivity in the industries in which its firms compete.

Between 1997 and 2002, U.S. manufacturing productivity grew by 109 percent. This remarkable increase in productivity has cost jobs in the manufacturing sector. Advances in technology lead to increases in productivity which requires fewer workers.

Former Secretary of Labor Robert Reich recently wrote that despite these trends in the manufacturing sector ''this doesn't mean that we are left with fewer jobs.'' As a matter of fact, the trend, over time, is just the opposite. Advances in technology and gains in productivity mean more jobs in high-growth, high-tech, high-paying sectors.

Robert Samuelson makes the case well when he said:

Manufacturing employment peaked in mid-1979 at 19.5 million; now it's 14.5 million. But over that period, total U.S. employment grew about 40 million, and manufacturing output rose more than 80%. American companies became more productive and shifted to more valuable products.

The decline in employment in the manufacturing sector is a global phenomenon. The same technologies that have enhanced productivity in America's manufacturing sector are employed in the manufacturing sectors of other countries. For example, while the United States lost 22 million factory jobs between 1995 and 2002—an 11-percent decline—Japan lost 16 percent; Brazil, 20 percent; and China, 15 percent.

The trend we see in manufacturing is the same trend we had seen over the past century in agriculture. One hundred years ago, 35 percent of Americans worked on a farm or in the agricultural industry. Today, because of dramatic increases in productivity due to improving agricultural technologies, science, and research, that number is 3 percent.

The globalization of technology and productivity has contributed to another related issue. Many politicians and the media have recently focused on the impact on U.S. employment of U.S. companies outsourcing manufacturing and service jobs overseas. Since March 2001, it is estimated that more than 1 million jobs in the manufacturing and service sectors have been outsourced. The U.S. economy currently has 139 million jobs and showed an increase of 97,000 jobs in January and 21,000 jobs last month.

But outsourcing is not a zero sum loss for America. There are benefits for the United States. Outsourcing of some manufacturing operations has resulted in lower cost goods for U.S. businesses and consumers. The globalization of the information technology sector has resulted in a reduction of 10 to 30 percent in the price of computers and IT-related products. These reduced costs have contributed to increases of 2.5 to 2.8 percent in productivity growth in the United States and added at least $230 billion to the U.S. gross domestic product.

Outsourcing cannot be understood as simply the number of jobs shipped overseas. It is more complicated. As American companies outsource jobs, there are also potential benefits to American businesses and workers. Companies can save in profit through the reduced costs gained by outsourcing some jobs. With expansion and additional revenues, more U.S. goods, services, and equipment are purchased to support those outsourced industries. This also contributes to innovation, growth, and, over time, better and more jobs for America's most competitive industries and technologies.

Economic growth from outsourcing is not a zero sum gain or loss. Both sides gain. Economic growth in other nations creates markets, markets capable of purchasing more and more American goods and services.

For example, Tom Friedman in a recent New York Times op-ed wrote about his visit to the 24/7 customer call center in Bangalore, India. There he observed that the computers were Compaq; the software, Microsoft; the air-conditioning, Carrier; and the drinking water distributor, Coca-Cola. And 90 percent of the company's shares were owned by U.S. investors.

As attention is focused on the negative implications of outsourcing to India, often overlooked are the advantages to America's economy. American exports to India have grown from $2.5 billion in 1990 to $4.1 billion in 2002.

The larger picture is instructive because it guides our policy choices. Meeting the demands of a global economy requires maintaining America's leadership in free trade, expanding programs to retrain those workers who lose their jobs, and educating the next generation of Americans about what it will take to compete in a more competitive global economy.

As Federal Reserve Board Chairman Alan Greenspan recently remarked to the Greater Omaha Chamber of Commerce:

The loss of jobs over the past three years is attributable largely to rapid declines in the demand for industrial goods and to outsized gains in productivity that have caused effective supply to outstrip demand. Protectionism will do little to create jobs; and if foreigners retaliate, we will surely lose more jobs. We need instead to discover the means to enhance the skills of our workforce to further open markets here and abroad to allow our workers to compete effectively in the global marketplace.

The expansion of free and fair trade will continue to be the most assured path for prosperity and job creation. Trade does not cost American jobs. Free trade has been an engine of economic growth, innovation, wealth, and job creation for the United States since World War II.

The value of American exports grew substantially between 1994 and 2003, from $703 billion to more than $1 trillion. More than 18 million new jobs were added to the economy because of trade. U.S. exports during the 1990s accounted for 25 percent of the growth in America's economy. Exports today support more than 12 million directly related jobs that pay as much as 18 percent more than the average national wage.

In 2003, U.S. exports of advanced technology totaled $180 billion. Meanwhile, in America's high tech electronics sector, exports exceeded $100 billion annually between 1997 and 2003, showing that America continues to maintain its leadership in cutting edge technologies, a source of more and better paying jobs for Americans in the United States.

American consumers and businesses also gain from trade through lower priced imports. Lower import prices mean increased purchasing power for consumers. As U.S. Trade Representative Robert Zoellick noted last year in testimony before the Senate Committee on Finance:

By lowering prices through imports and increasing incomes through trade, America's newest trade agreements will build on the success of the North American Free Trade Agreement and the Uruguay Round, which together already provide the average American family of four with benefits amounting to $1,300 to $2,000 each and every year.

If consumers have more money, American businesses benefit from greater consumer demand, consumer demand for their businesses, their products, and their services. Businesses and entrepreneurs, therefore, have more resources to invest and spend and expand on plants, creating more jobs in the United States. Expanding free trade and fair trade also encourages foreign companies to invest and set up operations in the United States. Foreign-owned firms currently provide 6.4

million jobs throughout the United States.

The North American Free Trade Agreement is testimony to the impact of expanded free trade for American jobs, growth, and prosperity. Since NAFTA's implementation, total trade among the United States, Mexico, and Canada has more than doubled from $306 billion in 1993 to $621 billion last year. That is $1.7 billion in trade every day between our trading partners to the north and south.

U.S. exports to Canada and Mexico have grown from $142 billion to $263 billion over these 10 years. U.S. exports to Mexico of cars and trucks totaled about $3.3 billion in 2003. That is an increase from exports of approximately $165 million in 1993.

My State of Nebraska has directly benefited from increased trade and specifically from NAFTA. Nebraska's worldwide exports in 2003 were in excess of $2.7 billion. Mexico and Canada are Nebraska's largest export markets. Nebraska's exports to Mexico and Canada in 2003 were valued at over $1.2 billion. From 1999 to 2003, Nebraska's trade with Mexico increased by 87 percent and trade with Canada by 28 percent.

Americans know that changes in the global economy lead to dislocations in domestic workforces. Dislocations are painful. They are difficult. No one wants to lose a job. Americans need retraining programs and education programs that address these global economic adjustments.

Former Secretary of Treasury Robert Rubin has written in his recent book ''In An Uncertain World''

. . . trade must be accompanied by effective programs to help dislocated workers find new places in our economy. This is not only fair, but will contribute both to productivity and to political acceptance of trade liberalization.

Many Americans who lose their jobs, especially jobs in the manufacturing sector, require assistance and retraining to find new work. In 2002, Congress spent $12 billion on 44 Federal programs, which helped 30 million Americans with job search assistance, employment counseling, and vocational training.

These Federal programs include those authorized through the Trade Adjustment Assistance Act, the Workforce Investment Act, National Emergency Grants, and State-run worker training programs.

These programs have helped and are helping displaced workers all over the country. In fiscal year 2004, approximately $1.3 billion will be spent on these benefits and programs of the TAA program alone.

TAA programs have provided job training, as much as 130 weeks of unemployment compensation, monetary allowances for job searches and job relocation, tax credits for health insurance, and wage insurance.

The greater longer view challenge for America is to ensure our students have prepared for the competitive global economy of the 21st century. America's universities are the best in the world.

The global demand for what Secretary Reich has called the ''symbolic analytic'' sector professionals—research and development, design engineering, law, finance, medicine, and other fields—should and must remain high. It is in America's interest to maintain our leadership in these areas. As Secretary Reich puts it:

America's long-term problem isn't too few jobs. It's the widening gap between personal-service workers and symbolic analysts.

The long-term solution is to help spur upward mobility for all workers by getting more Americans a good education, including access to college.

The trends in this area should be monitored carefully. For example, in 2002, 58 percent of all degrees awarded in China were in engineering and physical sciences. In the United States, only 17 percent of degrees awarded were in these fields. America's security and vitality depend on policies that are based on the strengths of America, not its insecurities. Adjusting to the global economy requires immigration policies that consider those seeking to live and work in the United States as assets and not burdens on our national economy. Daniel Henninger recently wrote in the Wall Street Journal:

The global migration of human labor, on which there is little organized data, is perhaps the most powerful force on the globe today.

Many politicians and commentators have portrayed immigration as a threat to American workers. But immigration is a vital part of America's strength. Throughout our history, immigration has played an important role in our economy. Free trade also directly affects American interests in promoting stability, security, and democracy in other nations. By pursuing free and fair trade, and by encouraging business and investment practices that contribute to more open societies at home and abroad, we are establishing partnerships with developed and developing nations that help make a more peaceful and prosperous world. That is in the interest of all nations, of all people, and certainly of America.

Countries that trade with each other are less likely to go to war with each other. We are all shareholders in this enterprise. We all have a stake in its success. American leadership in free trade will over time reduce America's security commitments abroad, allowing a reduction in American peacekeeping, nation building, and force protection, thus saving American lives and dollars.

The tough economic choices ahead will require leadership, vision, and courage. American leadership in the global economy will depend on confidence at home and abroad. Investor confidence is a catalyst for job creation. Excessive Federal deficits and a looming crisis in American entitlement programs can and surely will undermine our fiscal credibility and our economic leadership.

The Federal deficit for fiscal year 2004 is now projected to be a half trillion dollars. In 2035, 75 million Americans will be over 65 and entitled to Social Security and Medicare. That is double the number of Americans eligible today. Where will the money come from? It will come from economic growth, which will be driven by world affairs and trade, and American international leadership. To lead in the 21st century, America must combine fiscally responsible policies with a commitment to trade. Our economic policies will influence and affect the shape of America's domestic policies and programs, as well as political reform and change throughout the world.

Now is not the time to retreat from our commitment to free trade, market economies, and democratic reforms. Since World War II, America has been the primary architect and leader of a global economic order that has provided the structure for unprecedented growth and opportunity both at home and abroad. Our economic policies, like our domestic and foreign policies, are about the limitless potential of all human beings. Trade is not a guarantee; it is an opportunity—an opportunity to compete and make a better world for all people.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant journal clerk read as follows:

A 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.

Pending:

Bunning amendment No. 2686, to accelerate the phase-in of the deduction relating to income attributable to domestic production activities.

Grassley (for Bayh) amendment No. 2687 (to amendment No. 2686), to provide for the extension of certain expiring provisions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this afternoon we resume consideration of the JOBS bill. The chairman of the committee, Senator GRASSLEY, is on his way over. I thought I would proceed to make sure we do not have any dead time.

While the Senate went off this bill and considered the budget just a week ago, the Bureau of Labor Statistics released new job figures for February. Those data show 8.2 million people are still unemployed. That is more than 2 million more than at the beginning of the recession in March 2001. Job growth remains too slow.

As this chart shows, we have lost more than 3 million private sector jobs since December 2000, and job creation has not turned around.

This next chart shows jobs lost—2.2 million jobs lost; overall total employment, 3 million jobs lost from January 2001 to February 2004; 3 million lost in the private sector during that same period. It was almost 3 million, 2.8 million lost in the manufacturing sector.

The economy created just 20,000 new jobs in February. The private sector created no new jobs last month. All the net new jobs came from the Government. Let me repeat that. There were no new private sector jobs created last month. Yet there were 20,000 new jobs overall, and all those jobs were Government jobs. That is not something I think we want to do.

This next chart shows manufacturing jobs. It is very interesting to see that in the years 1950, 1960, 1970, all the way up to the year 2000, this dotted line shows that today, 2004, we have the fewest jobs in America in half a century. That is the fewest jobs in half a century. Stated another way, the number of jobs we have now is as low as it was a half century ago.

Manufacturing jobs declined for the 43rd straight month. Mr. President, 3,000 manufacturing jobs disappeared in February. Manufacturing employment is at its lowest point in more than a half century, since March of 1950. Again, that is what this chart shows. The job level now is as low as it was a half century ago.

Part of the story is that the American manufacturing worker has become more productive. The average manufacturing worker has turned out more product than before. But it goes deeper than that. Manufacturing production—that is the output of manufacturing jobs—remains below the levels of the beginning of 2001.

There is reason for continued concern about the future. A week ago, Goldman Sachs reviewed the latest manufacturing data and concluded:

> [W]e interpret Monday's decline in the New York Fed's Empire Survey for March as one more piece of evidence that the manufacturing sector is transitioning to somewhat slower growth. . . .

This next chart shows the share of population with jobs. That is, we reached our peak in about the year 2000 of the percentage of American population that had jobs, and we can tell by the chart that whereas it has been steadily rising in percentage of Americans who have jobs from 1994, steadily rising up to the beginning of the recession in March 2001, we have declined precipitously since that date.

In sum, the jobs picture remains sluggish. Even the normally taciturn Federal Reserve noted the weak job market in saying in a recent statement last Tuesday that ''hiring has lagged.''

The latest Labor Department numbers show total unemployment fell in February to 138.3 million. The share of the population age 16 and older with jobs declined to 62.2 percent. This employment population ratio is lower than it was at any time between March 1994 and June 2003. Again, that is in the chart as I just indicated.

The slow job market spans the Nation. As of January 2004, nearly 3 years after the recession began, almost every region of the country continues to have higher unemployment than in March 2001. Forty-five States have higher unemployment rates than when the recession began.

In terms of unemployment, my State of Montana has fared better than some, but unemployment remains markedly higher than pre-recession levels throughout much of the country. Colorado unemployment is up 2.8 percent. Again, if we look at the chart, every State has higher unemployment, as indicated by red, but for three States. One is the State of Montana, where it is level. In two States, Nevada and South Dakota, unemployment has actually declined. In every other State, unemployment has increased at a very marked rate.

Again, as I said, Colorado is up 2.8 percent; Ohio is up 2.6 percent; Massachusetts up 2.6 percent; Oregon up 2.4 percent; New York up 2.3 percent; Texas is up 2.1 percent; and New Jersey is also up 2 percent. The list goes on.

In terms of the absolute number of jobs, 36 States have failed to get back to the pre-recession employment levels. In 49 States, job creation has not kept up with natural growth in the number of potential workers. Only in Alaska has job growth exceeded the growth of working age population.

The news of the Nation's slow job growth has cycled back to lessened consumer demand, and thus economic growth. This chart shows consumer confidence. As we can see beginning in 1994, consumer confidence in America remained at about the 95 percent level. This is the consumer confidence index, based in the hundreds, so it was a little lower in 1994 to 1996. It steadily rose from 1997 to 1998. Those are the boom years. It reached its peak roughly at the beginning of the recession in March of 2001, and then just plummeted to its low levels.

Why is that important? It is important because, as I have mentioned, the Nation's slow job growth has cycled back. It has cycled back to lessened consumer demand. When consumer demand is down, economic growth also falls off as well.

In the latest consumer confidence survey, confidence fell for the second straight month in part because of consumer concern over the weak job market. Nearly 3 years after the start of the recession, consumer confidence remains below its January 2001 levels.

These numbers of people without jobs are not just statistics; they are real lives. These are real lives we are talking about. This weak job picture causes real pain. It causes disruption in many families.

For example, there is a fellow named John in East Helena, MT, who has worked 22 years at the ASARCO smelter plant that has recently closed. John suffers permanent health problems from working with chemicals at the plant. He has been unable to get full-time employment so he works part time. John cannot get health insurance because he has preexisting health conditions.

Then there is Bruce. Bruce is 50 years old. He worked 28 years at that same East Helena smelter. He did what they say to do; that is, use retraining benefits and train as a computer technician. Unable to get work in that field, he works now full time in a grocery store.

Often when a person loses a job, a family loses a job. Evelyn from western Montana wrote:

> I am concerned about the economy of Western Montana. . . . I see that industry . . . is [waning]. What do we have to offer our children and grandchildren in the way of stability within Montana? . . . What do you propose . . . [to give us] a hope of being able to support our families?

Kim wrote about her husband's job:

> The second paper mill my spouse has worked at in three years is threatened with closure in the next six to twelve months. In a letter to the employees . . . in Missoula, Montana[,] the company president blamed the endless drain of manufacturing America to overseas as the cause for possible shutdown. [The company] makes liner-board, the cardboard boxes products are shipped in. [I]f products are not made in the United States, boxes are not needed. . . . [T]he liner-board market is a direct reflection of the state of the economy[,] because the more liner-board boxes sold[,] the more products being manufactured within the United States . . .

Real people like John, Bruce, Evelyn, and Kim are the reason we need to move this bill. We need to fight to create and keep good manufacturing jobs in America.

The bill before us provides a 9-percent deduction for manufacturing, effectively reducing the tax rate for domestic manufacturers by 3 percentage points. The JOBS Act will thus help all manufacturers produce goods in the United States. Cutting taxes for domestic manufacturers will help prevent layoffs and will help preserve jobs. It is the right thing to do.

We got a good start in this bill the week before the budget resolution. The Senate agreed to the managers' amendment that among other things ended some outrageous leasing tax shelters,

and the Senate unanimously extended the R&D tax credit. We expanded that credit for universities and labs.

We also conducted a good and spirited debate on an amendment by Senator DODD. That amendment addressed the performance of Government contracts by American workers. After working collaboratively on modifications proposed by Senator MCCONNELL and Senator MCCAIN, the Senate agreed to that amendment by a vote of 70 to 26.

The Senate then began debate on an amendment proposed by Senators BUNNING and STABENOW to accelerate the phase-in of the manufacturing tax cuts. The Senate also began considering an amendment by Senator BAYH providing for an extension of expiring tax provisions. These last two important amendments are now pending.

Under a previous order, the next first-degree amendment in order will be that offered by the minority leader or his designee. We understand the amendment will be proposed by Senator HARKIN regarding the Department of Labor's overtime regulations. I know there are strong feelings on this amendment, but Senators are all now aware that we must address that issue in order to move this bill along. I hope we can come up to a vote on that amendment in a reasonably short period of time and move to other amendments.

In the end—and I will keep returning to this theme—this bill is about jobs, good jobs, about jobs in America. We are trying to help preserve American manufacturing. The task ahead of us is large, the challenge great, but Americans do not shrink from that challenge.

Renee, the bookkeeping manager for a small manufacturer in Bozeman, MT, said it well when she wrote:

> The United States is a nation built on steely determination in the face of overwhelming odds. We must act now to reverse the loss of our high-skill, high wage manufacturing jobs.

That is our job, and we need to do that. We need to get this bill done for John, Bruce, Kim, and Evelyn and all the hardworking Americans who depend on a strong manufacturing sector in America. We cannot let them down. Let us move on to the bill, let us move on to amendments and let's address them. Let's move this bill and let us do what we can to strengthen American manufacturing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to reiterate the words of my distinguished ranking member, the Senator from Montana, on the importance of getting this bill passed. This bill is about jobs because it is about keeping American manufacturing competitive, particularly manufacturing that is exported. Export-related jobs in America are very good jobs because they pay 15 percent above the national average.

This bill, that we call by the acronym FSC/ETI, foreign sales corporation extraterritorial income, reduces the income tax on goods manufactured in the United States and sold overseas. Whether it is done by American manufacturers or foreign companies that have come to America to establish a manufacturing plant and hire Americans, it applies to both. It does not apply to American companies that manufacture overseas.

The World Trade Organization is the reason we are debating this bill, because the World Trade Organization has ruled that our FSC/ETI legislation, that has been on the books for more than a couple of decades, is an illegal export subsidy and has authorized up to $4 billion a year of sanctions against U.S. exports. This is something the World Trade Organization said to the European Community that they could do on U.S. exports, because until we change this law, they see us not living up to our international trade obligations.

Why would the United States respond to the World Trade Organization this way? In the very same way we expect Europe or any other country to respond when the United States wins cases before the World Trade Organization. Let me say, we win many more than we lose. In fact, anybody reading commerce newspapers over the last week would find out that the United States has recently won two decisions before the World Trade Organization on other issues.

In regard to Europe, as one specific example, we expect Europe to abide by the decision that the U.S. cattle producers won in the World Trade Organization because Europe was not taking in our red meat, our beef products, because they were treated with a growth stimulant. Europe has decided not to abide by the World Trade Organization decision, so the United States, over the last 2 years, has imposed sanctions against Europe.

Would it be surprising to you if the U.S. Government does not respond positively to the World Trade Organization ruling and then Europe would, in fact, put sanctions against American products? They have already done that. Starting March 1, there has been a 5-percent increase in sanctions. We are going to have a 1-percent increase each month that we do not repeal this legislation. By November that would be in effect a 12-percent sales tax on American products going overseas to Europe.

It is very difficult for the United States to compete when we have a level playing field, but when we have a 12-percent add-on you can see that eventually some companies are going to become uncompetitive and, as a result, workers will be laid off.

What we want this legislation to do is not only avoid these sanctions, but we want to put American manufacturing in more of a competitive environment than it is in presently by reducing the corporate tax rate on companies that export if the manufacturing is done within the United States of America.

We have, potentially, by November, sanctions of 12 percent on American products. This is a very serious threat to all Members because sanctions are going to hit agricultural products, timber products, and even manufacturing products. We need to get this issue behind us before Memorial Day or sooner or we will never be able to get this bill to the President for signature.

I wanted to act on this bill last year because I was fearful politics would get in the way of the Senate's ability to do the job. Obviously, the closer you get to the election, the more there is an opportunity for politics to interfere.

The opening debate and shenanigans we had 2 weeks ago when we first took up this bill confirmed my worst fears. Some on the other side want to play politics with this bipartisan bill. Senator BAUCUS and I had an agreed order of amendments that would have improved the bill and brought up important, relevant issues. That agreement was undermined by the other side, particularly the leadership on the other side. The leadership does not really want to debate the substance of this bill. Yet they would say it is very important to get this bill passed.

We hear a lot about not creating enough jobs in the economy in this recovery. This is our opportunity to create jobs. I would think everybody would want to get this bill passed. Instead, it seems this bipartisan bill is being turned into a political football.

I am hopeful everybody on the other side of the aisle will see the best policy is also very good politics. That is what we have with this bill. We help domestic manufacturers; we help U.S. companies compete overseas. Putting politics ahead of good policy is exactly the wrong approach.

In effect, this political game does not help those who face sanctions. In other words, jobs in the industries and the products that have already been identified by Europe for sanctions are going to be in jeopardy. Particularly where we have so much problem competing with the global competition we have, it doesn't help our domestic manufacturers and workers, in manufacturing as well as other segments of the economy.

As I said before, I hope the Democratic leadership will focus on the task at hand and not play politics with this very important bipartisan piece of legislation.

With that procedural point I wanted to make behind us, I wish to speak specifically as a reminder to my colleagues of some of the important features of this legislation. Repealing FSC/ETI, as the World Trade Organization has ruled against the United States and implied that we need to get our laws in tune with our international obligations, the repeal raises around $55 billion over 10 years, and 89 percent of that $55 billion comes from manufacturing industries. If that money is not sent back to the manufacturing sector,

it will be a $50 billion tax increase on manufacturing. You know one of the simple rules of economics 101—you tax something more, you get less of it.

The Congressional Budget Office then says we have lost 3 million manufacturing jobs since the manufacturing decline started in the last year of the Clinton administration—in other words, since the middle of July. A $50 billion tax increase now on that manufacturing obviously is not going to stimulate manufacturing jobs.

The bill before us uses all the money that is raised from the FSC/ETI repeal to put back into manufacturing, giving manufacturing corporations and self-proprietorships and other business entities a 3-percentage point tax rate reduction on all income derived from manufacturing in the United States.

This is not meant to help—and will not help—because our bill is not written this way to help manufacturing done offshore. We start phasing in these tax cuts this year. The cuts apply to different business entities, sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, or foreign corporations that set up manufacturing plants in the United States but only if they set up their manufacturing plants in the United States. We are not doing anything in this bill to export jobs overseas; just the opposite. What we are doing is meant to create jobs and preserve jobs in manufacturing in the United States, and to give the benefit to American-based companies or foreign corporations based in America that are creating jobs here.

Our bill also includes the Homeland Reinvestment Act, which has broad support in the House and Senate. The finance bill is also revenue neutral. That is very important because it seems to be an unwritten rule in the Senate—maybe not one that I entirely agree with, but if we are going to get anything done in a bipartisan way when it deals with tax reform, it has to be revenue neutral.

This bill, as amended, provides over $130 billion in business tax relief, but it is paid for by extending customs user fees and, most importantly, by shutting down corporate tax shelters and abusive loopholes.

It is an unwritten rule in the Senate, as I said, for revenue neutrality. So we have gone beyond the $50 billion to $130 billion of tax changes but offsetting it totally with money raised from FSC/ETI, from customs user fees, and, most importantly, doing something that ought to be done with or without this bill—shutting down these tax shelters and abusive loopholes.

As all bills, there is never complete agreement on an approach. Our bill contains a temporary haircut on rate reduction that some of us would like to remove and others of us would like to retain. Some Members prefer a reduction in the top corporate rate in place of international reforms and a rate reduction applying just to manufacturing. These Members would say you ought to treat all corporations the same. If all corporations were being impacted with a WTO ruling in the same way, whether manufacturing or not, I would agree. We are talking about basically manufacturing and at least 89 percent of the revenues coming in. We say we want to keep our manufacturing competitive. We are going to pour most of the benefits of this legislation back into the manufacturing sector.

Those on the other side say it ought to be across the board, affecting all corporations. There is a desire on the other side for a simpler approach by just cutting taxes across the board, but a top level rate cut would only go to the biggest corporations of America. Local family held S corporations or partnerships which presently get some ETI benefits would get nothing from that approach. If we redirect the FSC/ETI money to an across-the-board corporate cut, then the manufacturing sector will be the revenue offset for the services sector tax cut.

The international tax reforms largely fix problems our domestic companies face with the complexities of the foreign tax credit. These reforms are necessary if we are to level the playing field for U.S. companies that compete with our trading partners.

The Finance Committee's bipartisan bill has been improved with an amendment to extend the research and development tax credit through the end of year 2005. That is a domestic tax benefit which is an incentive to research and development. This translates also into good, high-paying jobs for workers in the United States and not overseas. Plus, it is an incentive for research and development which is going to keep our industries competitive with the highly educated workforces of Russia, China, and India where we are finding increasing competition. We need to keep up with these others.

America has no reason to be timid about the competitiveness of our workforce—the competitiveness of our workers from the standpoint of our educational commitment and our educational attainment. We have nothing to worry about when it involves our research leading us to new industries not of this decade but for the next decade. America has a very flexible economy. We can compete. Anyone who says we can't compete is a defeatist. I am not a defeatist when it comes to America's ability to be ahead of the rest of the world as we have been for the last 100 years in almost every aspect of our economy. The research and development part of this bill is surely something that is going to help us continue to do that.

In addition to the previously agreed upon research and development amendment, there are several additional amendments pending which will substantially improve this bill. First is an amendment offered by Senators Bunning and Stabenow to accelerate the manufacturing deduction. This amendment assures that the tax relief and related economic benefits of the bill are provided more quickly to those hurt by the repeal of FSC/ETI.

Second, I have offered an amendment with Senator BAUCUS to extend the 2-year tax provisions which expired in the years 2003–2004. This includes items such as the work opportunity tax credit and the welfare-to-work tax credit which have been merged and simplified into a single credit as proposed by Senator SANTORUM and others in the bill, S. 1180.

A third pending amendment on net operating losses should also be included. This amendment allows companies that operated at losses during the difficult economic conditions of last year to offset those losses against their income for the previous 5 years. This provision would accelerate tax relief to companies that need to continue operations and recover from recent difficulties.

I ask my colleagues: Let us get on with the business at hand. Have this institution be what it traditionally has been. Yes. An institution where everything is thoroughly discussed as it ought to be because this is the only institution where that can be done in our American political system. But it is also an institution that moves along and doesn't stymie legislation. We know our responsibilities are to the taxpayers of this country to produce a good product and produce it quickly. If we think of the best policy, we will in fact have the best politics. Let's put good economic policy ahead of shortsighted politics.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I take a couple of moments to discuss the pending second-degree amendment, the amendment offered by the Senator from Indiana, Senator BAYH. It is an excellent amendment. It is somewhat broad in scope. I commend Senator BAYH for suggesting this. My guess is it will be adopted without too much difficulty.

I have been pushing for a long time, and I know the chairman of the committee has, as well, the package of extenders. We have crafted the underlying JOBS bill to create jobs and to stimulate competitiveness in American business. In addition to the new provisions in the bill, it is critical we renew our past commitments in the Tax Code and not leave anyone behind. I am talking about the so-called package of tax extenders.

We failed last year to extend many expired or expiring tax provisions that are essential. We now have another chance. That is the amendment offered by the Senator from Indiana, not only to extend these provisions, but also to improve upon them.

When we were last on the bill, the Senate acted to improve one of the provisions, the research and development

tax credit. This was the first of many positive steps we need to take to fix an ailing economy. Encouraging research and development clearly is one of the most important forward looking actions we could take. Why is that so important? It is the underlying basis for improving innovation and for addressing the offshoring of American jobs.

In addition, there are many other provisions commonly referred to as extenders. They all address the needs of our Nation. These are not contentious. They are not partisan. Rather, they are provisions that just make good sense.

The chairman and I pushed to have these same provisions extended last year. We urged our colleagues not to wait until the last minute before these provisions were expired. We wanted to move right away.

These provisions are like a yo-yo. We enact them. We extend them for several months, sometimes a year or a year and a half, we let them expire. After they have expired, sometimes we go back and reenact them retroactively and there is no break. Sometimes we do not reenact them retroactively. It is very poor policy.

I personally believe all these provisions should be enacted permanently into the Tax Code. We should not have the on-again, off-again, up-and-down, yo-yo effect Congress has undertaken in addressing these provisions. For the life of me, I cannot understand why we are not making these permanent. Nevertheless, they are not, and taxpayers have suffered often from lapsed provisions. We have let them down. I hope we do not do that again. The time has now come to extend these provisions. If we do not act now, there is no telling when our next opportunity will be.

In this package there are many good provisions that have already expired. They are widely supported. The expiring provisions include a diverse array of topics and all are important. One of the most important expiring provisions we must address is the one allowing for the carryback of net operating losses, otherwise known as NOLs. In the wake of prolonged economic downturn and the recent ruling by the WTO, it is very important we give American businesses a chance to recover their losses. Like the underlying JOBS bill, this provision also promotes economic growth.

Two other important provisions are the work opportunity tax credit, sometimes known as WOTC, and the welfare-to-work tax credit. I have worked long and hard with many of my colleagues—especially Senator SANTORUM, Senator BAYH; both Senators worked very hard—for the provisions to make the credits permanent. Unfortunately, we cannot achieve permanence at this point, but neither can we afford to let this opportunity pass.

The work opportunity tax credit and the welfare-to-work tax credit are proven initiatives that help economically disadvantaged workers get jobs. They help those receiving the welfare check to earn a paycheck. That is very important. These provisions very much help get people off welfare and to get jobs. Both of the credits expired in 2003 in December.

As we consider ways to create jobs for Americans, it is only appropriate to consider what these tax credits have done for both employees and employers across our country. In a recent study, it is shown in New York State the work opportunity tax credit generates economic benefits that exceed the cost of the program. These programs are too valuable to fall by the wayside.

This amendment, including the extenders, will simplify and strengthen the credits to expand unemployment opportunities for disadvantaged individuals and attract more employers to participate in the program.

Along with these are other provisions that help raise the standard of living in America now and in the future. Individual credits against the alternative minimum tax provide for such things as lifetime learning credit, the HOPE scholarship, and care for the elderly and disabled. These provisions not only create incentives for education but also help families build a stronger financial base.

Other benefits to be gained from this important extenders package include encouraging computer contributions to schools, economic recovery provisions in the wake of September 11, deductions for school teachers, and energy incentives for the environment. And the list goes on.

These tax incentives make America a better place, a better place for jobs, education, health care, environment, and more. Now is the time to act. We must not let these essential parts of our Tax Code fall by the wayside.

I encourage my colleagues to join me in support of this amendment offered by the Senator from Indiana, Senator BAYH, and others. Like the JOBS bill itself, these provisions will help make important contributions to American business and to American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I will speak as in morning business and I will yield the floor for anyone who wants to speak on the legislation.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

ENERGY

Mr. GRASSLEY. Madam President, I will deal with the issue of the energy bill in the context of where we left off last November, two votes short of stopping a filibuster against the legislation so it could be passed. That means we had 58 votes. We needed two more. We cannot get two more votes. Therefore, the bill still languishes.

It was the first major energy policy for probably 15 years as far as the Federal Government passing one is concerned, and things are a lot scarier now than they were last November. Now we have what are the highest gasoline prices in the history of our country, just slightly above where they were a year ago, and previous to that a couple times in the late 1990s or the early part of this century. In other words, over the last 4 or 5 years they have probably been almost as high three or four times. We also have, different than at most times, very high natural gas prices.

The impact in the economy is very negative, as we know. The impact upon low-income families is very bad, as we know. It is a shame we could not get that bill passed last November. I hope we can get one passed very shortly. In fact, I had hoped the high natural gas prices and gasoline prices we faced would be an impetus to any Member in this body. Of the 42 who did not vote to stop debate, hopefully these Members will see the need for passing this energy legislation to help the economy, to help the consumers of America, to move this economy along.

I recall over the last 4 or 5 years there have been high gasoline prices in the past and maybe not so high natural gas prices in the past, that there has been an outrage expressed on the floor of this Senate about those high gasoline prices—Members speaking about collusion within the industry, Members asking the Department of Justice and the Federal Trade Commission to investigate whether there was any anticompetitive activity, and tremendous outrage over the high prices.

Now that gasoline prices are higher, I would guess I would hear that same outrage. But we are not hearing it. I wonder if we are not hearing it because so many Members on the other side of the aisle were part of the filibuster against the energy bill last year, and they are ashamed when they had an opportunity to do something to bring an energy policy to America they did not do it.

That energy policy was one that was well balanced between tax incentives for the production of fossil fuel, tax incentives for the conservation of energy, and tax incentives for alternative and renewable fuels—a very well-balanced piece of legislation, legislation I would say was well balanced to meet the immediate needs of our country, which are best met by the fossil fuels we have been using for more than 100 years to take care of the near term but also well balanced for the outyears. Obviously, since God only made so much fossil fuel, and it is finite, the dependence on renewable and alternative fuels, as well as incentives for conservation, is the pattern for the future if we are going to have a sound energy policy.

This package, put together by Senator DOMENICI, is well balanced and had the good fortune of having so many of these tax incentives involved that came out of my Senate Finance Committee in a bipartisan way.

So why not the outrage now? We keep hearing so much debate during

the bill that is before us, and during morning business by Members, particularly of the other party, about the problems we are having creating jobs, the problems we are having with the Nation's economy.

There might be a difference of opinion whether the economy is doing well, but there are a lot of statistics that show it is doing well with the 8.2 percent growth for the third quarter of 2003, and the 4.1 percent growth for the fourth quarter of 2003, and unemployment holding steady at 5.6 percent. But we are still hearing the outrage that jobs are not being created. And who can argue that if you are unemployed and want a job you ought not have a job? You would expect to have a job with an economy growing where it is now and with the fabulously low rate of unemployment of 5.6 percent, because seldom have we had that low a rate of unemployment in the last 40 years. A national energy policy would surely help us with the creation of jobs.

So you can ask, where are the jobs, particularly manufacturing jobs? One factor affecting the manufacturing industry and, in turn, the economy in general I have not heard mentioned during the debate is the rising cost of energy. The fact is, the rising energy costs continue to be a drag on our economy.

In January, consumer prices jumped one-half of 1 percent, and that was only because, as small as that is, of higher energy costs. In fact, energy costs rose 4.7 percent, accounting for more than three-quarters of the overall increase in consumer prices.

Crude oil for April delivery is over $36 a barrel on the New York Mercantile Exchange. Gas prices at the pump around the Nation are at record highs. Nationally, a gallon of regular gasoline averages $1.74. That is 2 cents higher than at this time last year.

Why are energy prices so high? Well, global demand for crude oil is increasing because of greater demand not only in the United States but because of a higher percentage of demand in Japan and China.

OPEC, which supplies 40 percent of the world's oil, recently announced they intend to cut production by 1 million barrels a day starting April 1. That is obviously going to push prices yet higher. This is from OPEC, an organization that has repeatedly stated their goal is to keep prices somewhere between $22 and $28 a barrel, not now satisfied with $36 a barrel. Because we are so dependent upon foreign countries for over 60 percent of our crude oil, I think they have gotten us—meaning OPEC has gotten the United States—over a barrel.

We have also seen a sustained increase in the demand and cost of natural gas. Because natural gas is now the fuel of choice for new electricity generation, the demand for natural gas is no longer seasonal. While our existing policies in Washington have created the increased demand for natural gas, we have done very little to ensure a domestic supply to meet that demand.

In fact, the increased exploration is not bringing in enough new natural gas online to keep up with the increased needs we have in this country. Hence, as you understand economics 101, when supply is down, price is up; hence, higher natural gas prices.

The fact is, high fuel prices remain a concern for transportation firms. High energy prices hurt steel mills, manufacturers, farmers, and eventually end up hurting all consumers. High energy prices cost American jobs. Unless we increase supply, we are going to see record high prices again this year, and we are going to see a continued drag on the American economy.

We need to help the manufacturing and agricultural industries save existing jobs and go beyond that to create new jobs. We need to lower our Nation's energy costs.

What are the alternatives? We could and should apply pressure to members of OPEC to increase supplies. Some have suggested releasing crude oil from the Strategic Petroleum Reserve to increase supply and drive down prices.

I believe we can and must take action in the Senate to address rising energy costs. As my colleagues know, we have been considering a comprehensive energy bill in this Chamber for over a period of 3 years now, with the most progress made last year when we had a bill pass the House, a bill pass the Senate, a bill come successfully out of conference committee, and overwhelmingly pass the House of Representatives, but being defeated or at least stalled here on the floor of the Senate last November when we came up two votes short of stopping debate, to stop the filibuster, to get to finality. So it is quite obvious we have the votes to pass an energy bill in the Senate.

It is a shame we cannot get over that hurdle of 60 votes to get this bill there, to get us on the road to greater self-sufficiency with energy as we try to do it through a combination of incentives for fossil fuel production, incentives for energy conservation, and for alternative and renewable fuels. That conference committee agreement was voted on last November. Unfortunately, we had a minority of Senators successful in filibustering the bill.

I strongly support the chairman of the Energy Committee, Senator DOMENICI, in his efforts, then as well as now, to move this bill forward or, short of moving it forward, a bill of a similar nature to start over as hopefully one way of getting around a Democratic filibuster.

I am pleased Senator DOMENICI has introduced a slimmed-down bill that addresses the major concerns that prevented the Senate from adopting the conference report. This bill goes a long way toward increasing domestic energy production of conventional energy such as oil, natural gas, and nuclear power. The bill includes provisions to improve the tax treatment of natural gas gathering and distribution lines. It includes incentives for the construction of a natural gas pipeline from Alaska to markets in the lower 48. The bill seeks to improve our Nation's electricity transmission capacity and reliability by creating enforceable and mandatory reliability standards and providing incentives for transmission grid improvements.

It also includes a number of provisions that would increase domestic production of renewable energy and create jobs at home. Through the renewable fuels standard, it would double the use of domestic homegrown ethanol, a first-time tax incentive for biodiesel to be made from soybeans.

It would also bring new sources of energy on line. It would extend the wind energy production tax credit that I first got through the Senate in 1992. It would have an expansion of the production tax credit for biomass and a tax incentive for purchases of residential solar and wind energy equipment.

Each of these provisions will increase our production of domestic renewable energy resources. They will also create thousands—some people have estimated 800,000—of jobs all across our country.

The bill also includes incentives for energy-efficient improvements to existing homes and for the purchase of alternative fuel vehicles. These initiatives will lead to an increased domestic supply of energy, a more stable economy, and thousands of jobs for America's workers. Make no mistake about it, this energy bill is a jobs bill.

As I indicated, these provisions are in a new bill that Senator DOMENICI is trying to move along. But the ideal way to handle this would be to get two more votes to bring to an end the filibuster of the bill that was before the Senate last November because all of these provisions are included in that bill. There is no reason to start all over again, particularly when now, compared to last November, we have the highest price for gasoline in the history of our country, and we still have outrageously high prices for natural gas.

It is time this country has a national energy policy. There is no reason two Senators who are in the minority should stand in the way of moving this legislation along, legislation that passed the House and Senate overwhelmingly last year, came out of conference after about 2 months of work on putting together a compromise that could get an overwhelming vote in the House of Representatives and get a vast majority vote in the Senate, but two votes short of the 60, the extraordinary supermajority it takes to stop a filibuster. I don't understand why we have Democrats from corn States, with everything this bill does for the production of ethanol that would help the farmers of their States, and also help the energy needs of our Nation, how

any Senator who is from a big corn-producing State could dare vote not to end this filibuster.

There are votes out there from members of the other party, from corn-producing States, who ought to explain to their constituents why they won't join in this effort with other farm State Senators to bring massively on line the production of ethanol that can help us be more energy independent from OPEC nations, particularly in a time when Americans are shedding blood in Iraq because we need some stability in the Middle East to guarantee oil coming to our country. Obviously, the blood I am talking about is shed because of the war we are in, the war to defeat terrorism against Americans, against western culture, but also the sort of democracy we can have in the Middle East brings stability that we don't have there now. And it is important to have that stability for the economic needs of our country.

I don't know why we can't get some votes from some farm State Democrats. We only need two of about half a dozen, whom we could easily identify, who should be voting with us to bring finality to this issue.

I believe these bills on energy, because we have this pending bill before the Senate and we have the conference report that is through the House and two votes short of getting to finality in the Senate last November—whichever one you are talking about—I believe these bills represent a comprehensive energy policy consisting of conservation efforts, the development of renewable and alternative energy sources, and domestic production of traditional sources of energy. This bill goes a long way to develop an energy policy that will drive down the cost of energy and create jobs at home so that we don't have to have the outrage that we have on the Senate floor, primarily from members of the other party, over 3 out of the last 5 years when energy prices have been so high. Why don't we do something about it? We have an opportunity. We don't seem to grasp it now when it is here.

This bill is too important to our economy to let it die. Therefore, I strongly encourage Members on both sides of the aisle to help our leadership bring either the conference committee up for a vote on the issue of stopping debate or the new bill that Senator DOMENICI has placed before the Senate, to bring it to the floor and consider it in a timely manner, and timely is already probably 3 months late as we have seen the energy prices go up to the highest level, hurting our economy. We can and should come to an agreement so we can consider and pass this JOBS bill as soon as possible.

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

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

Mr. HARKIN. Madam President, I know we are a little stalled on the floor right now. There is an underlying amendment to the bill, and then there is a second degree that is now trying to be worked out having to do with tax extenders. I understand there may even be yet another second degree into this package.

I know the leadership has said there will be no votes today. I understand that. But I ask the Presiding Officer, is there now pending a unanimous consent agreement that after the disposition of the pending amendment, and any amendments thereto, that Senator DASCHLE or his designee would then be recognized to offer an amendment?

The PRESIDING OFFICER. The agreement does authorize the leader or his designee to offer the next first-degree amendment.

Mr. HARKIN. I thank the Presiding Officer because that was my understanding: that upon the disposition of the pending amendment, and any amendments thereto—any second degrees—then Senator DASCHLE would be recognized, or his designee, in which case he is designating me to offer the overtime amendment.

Now, I was here the other day, and I was going to offer the overtime amendment as a second degree to the underlying amendment, but then Senator GRASSLEY got recognized, as is his right as the chairman of the committee, to offer a second degree, and that now is what is pending before the Senate.

I take the floor this afternoon to once again state how urgently necessary it is that we proceed to consideration of my amendment regarding the administration's proposed changes of the rules on overtime.

To recapture what has transpired, about a year ago, the Department of Labor issued proposed regulations that would fundamentally change how employers pay overtime to people who work over 40 hours a week. These proposed regulations came forth without having one public hearing, perhaps the most substantial change in our overtime laws since 1938 when they were adopted under the Fair Labor Standards Act.

You would think if any administration wanted to really change how overtime is paid, they would have gone around the country and had public hearings. This is normally what you do. No. These were issued without one public hearing.

Now that the proposed regulations have been out there, the Department of Labor has heard from America. I understand tens of thousands, maybe as high as 70 or 80,000, comments have come in on these proposed regulations. Still the administration has not seen fit to have public hearings about it. I think they thought they could do it quietly. This is a fundamental alteration, the biggest alteration since 1938 when the Fair Labor Standards Act was passed.

Last year I offered an amendment to an appropriations bill that would have denied the right of the administration to issue the proposed regulations and would have forced the administration to work with Congress, to have hearings and come up with a reasonable approach to changing overtime rules. That amendment was adopted by the Senate on a bipartisan vote. The House of Representatives soon after had a vote on what they call instructing their conferees, which is basically a vote to say we agree with the Senate and this is what we want in the final bill. That passed the House of Representatives.

So they went into conference between the House and the Senate with my amendment intact. Somehow it never made it to the final bill. The administration came into the conference and said it had to be taken out. It was thrown out. And, of course, the Omnibus appropriations bill we vote on, as you know, cannot be amended. So, therefore, we were faced with an up-or-down vote on the bill without this amendment. We had to vote to keep the Government operating, to pay our troops in Iraq, and everything else.

I said at the time this is too important a matter just to forget about and move on. So when the Senate came back into session in January of this year, I immediately took to the floor and said: At the first opportunity, I will offer this amendment again. The American people now have heard about it, and they know about it. They are beginning to understand what it means to them and their jobs to have these changes go into effect. I believe the votes are here, once again, to say to the administration: No, don't take away the right of people to get time-and-a-half pay when they work over 40 hours a week.

By some estimates, up to 8 million American workers would have their right to overtime pay taken away. So I have said I would offer this amendment on this bill. They call this a jobs bill. Well, this amendment is about jobs. It is about not only protecting jobs and overtime pay, but it is about creating jobs.

I believe it is necessary to proceed to consideration of this amendment so that the administration, once again, will understand that prior to any final regulations being issued, they need to go back to the drawing board, hear from the public, work with Congress, as other Congresses have done. Since 1938, we have amended the Fair Labor Standards Act maybe a dozen times, but it has always been done in conjunction with Congress, Congress and the administration working together to come up with reasonable amendments to the Fair Labor Standards Act. There is nothing wrong with that. Times change. Conditions change. This should be done periodically.

But this administration did not do that. They just drafted these under the

cover of darkness, issued them and said: We are going to take away the right of about 8 million Americans to overtime pay.

So it is appropriate that we debate and vote on my amendment on the FSC JOBS bill because my amendment is about one thing—jobs. These new overtime rules will eliminate time-and-a-half overtime pay for up to 8 million American workers. But, again, it is not just about eliminating overtime pay. These proposed rules will retard the creation of new jobs. This is just basic logic. If employers can more easily deny overtime pay, they will push their current employees to work longer hours without compensation. With 9 million Americans currently out of work, why would you give an employer yet another disincentive to hire new workers. Yet that is exactly why the administration is pushing these new overtime rules. This is why these proposed new rules have the support of some major business groups in America but not all.

I always like to point out that I represent a lot of businesses in my State of Iowa—good, healthy, productive businesses. Not one business in my State of Iowa has come to me saying we need to change the overtime rules, not one. I am wondering, where is this coming from?

The National Association of Manufacturers says, well, they will reduce labor costs. It will reduce the need to hire new workers. It will have a direct destructive impact on jobs in the United States.

So let's be clear. My amendment on overtime is about creating jobs, overcoming the stagnant job market. And, yes, it is about making sure we protect the time-honored right to overtime pay when you work over 40 hours a week.

There was an article that appeared in the Wall Street Journal which I think summed it up. It says: Shortchanged. Many firms refuse to pay for overtime. Employees complain. Others claim workers are exempt under the law or raise output targets, but the rules are confusing.

Here is the quote:

> . . . While employees like overtime pay, a lot of employers don't. That is no surprise. Violations are so common that the Employer Policy Foundation, an employer supported think tank in Washington, estimates that workers would get an additional $19 billion a year if the rules were observed. That estimate is considered conservative by many researchers.

In plain English, the Employer Policy Foundation, an employer-supported think tank in Washington, is basically saying American workers are being cheated out of $19 billion a year because they are working overtime and they are not getting paid for it right now.

Well, guess what happened, Madam President. A couple of these companies got caught. They got taken to court. They appealed and the appeals court found for the employees. One famous case on the west coast is where employees were clocking out of work after working an 8-hour day, and they were being forced to come right back in the door and work longer hours. Well, they got caught. More and more employers were getting caught.

So now what they want to do is change the rules. They want to work you longer. They want to work you more than 40 hours a week, but they don't want to pay you overtime. That is what the Wall Street Journal said.

So rather than being confronted with the fact that they might be taken to court, they change the rules. Now there won't be any court case. That is what the administration's proposal on overtime is all about. It is about taking away the rights of people.

You know, I had a quote that I will bring up in further debate on this amendment. One worker—a woman, if I am not mistaken—said something I thought was very poignant. She said:

> My time with my kids and my family in the evenings and on the weekends is premium time to me. If I am being asked to give up my premium time with my kids and my family, then I think I ought to get premium pay. That is what overtime is about.

They are asking you to give up your premium time with your family, your children, to work overtime. You ought to get premium pay, which is what time and a half is all about. Again, the Bush administration thought they could put these new rules into effect quietly, with no hearings, before anybody knew what was going on. They were wrong. They got caught. The fact is, public outrage over the proposed new overtime rules has gotten stronger and stronger as Americans learn more about the details. They want these proposed rules to be stopped.

I understand if the other side, the Republican side, can drag this out and prevent a vote, well, then maybe in the next month or so they can issue these final rules taking away overtime pay, and then it will be very hard to undo that later on. They know that. That is why they don't want a vote on this amendment. That is why the other side is doing everything they can to keep me from getting a vote.

Madam President, we are not going to be quiet about it. This is the editorial from the New York Times: ''The Quiet Shift In Overtime.''

It says:

> The Bush administration is engineering bread and butter changes in the Federal regulation of overtime pay. . . .
>
> The proposed Labor Department regulations have stirred justifiable concerns.
>
> They are being presented by the Labor Department as overdue improvements.

But as they are doing it, as they said, they are doing it quietly, behind the scenes.

> More problematical is the possibility that more workers—millions, according to pro-labor analysts—could be forced into unpaid overtime under the regulations, which do not affect blue collar workers. By some estimates, veterans, police detectives, or senior nurses might lose overtime compensation that now accounts for as much as 25 percent of their salaries.

They thought they could do it quietly, but the more we learned about it, we found that the American people were not going to sit by and let premium time with their families be taken away, being forced to work longer hours for regular pay.

With so many people unemployed, you would think you would want to create jobs. These proposed rules on overtime will be a disincentive to creating any new jobs.

Madam President, I hope we can get to my amendment. I will have more to say about it. I have more data and details I wish to bring out. For example, one thing I brought out before, since 1938, there has been a classification of learned professions, such as lawyers, doctors, architects, things like that—the learned professions, which were exempt from overtime. In all of the regulations since that time, there has never been any inclusion in the learned professions of what an individual learned while serving in the U.S. military. It wasn't until going through these proposed regulations with a fine-tooth comb that we discovered there were inserted into these proposed regulations four or five words about what these learned professions—as it goes through them all—learned while in the military, military training.

That had never been in the regulations before—never. Why were those in there? Here it is right on this chart. These are the changes, the new part of the regulations that had never been there before:

> However, the word customarily means that the exemption is also available to employees in such professions and substantially the same knowledge level as the degreed employees, but who attain such knowledge through a combination of work experience, training in the Armed Forces, attending a technical school, attending a community college, or other intellectual instruction.

What is different? ''Training in the Armed Forces'' has never been in these rules before. So when we see all these ads saying ''join the Army and be all you can be,'' they talk about all the nice technical training you can get while you are in the military. What they are not telling you now is, if you do that, after you get out of the military, you will be exempt from overtime pay because of what you learned while you were in the military.

So we could have a situation where we have two individuals: one goes to the military and gets training and the other doesn't. They come out and they could have substantially the same kind of jobs. One could have had on-the-job training and one learned in the military. Both are basically equal. The person who served in the military gets cheated out of overtime, but the person who wasn't in the military would be able to get overtime. What kind of sense does that make? But it is in there.

''Training in the Armed Forces'' has never been in the rules since 1938. We

fought World War II, the Korean war, the cold war, Vietnam war, and every other war and we have never said to the men and women in uniform when they learn something in the military, we are going to take away their right to overtime. Why are we doing that now? Why are we doing that?

Again, these are some of the hidden little things in this proposed regulation that need to be brought out, with scrutiny in the sunshine. Let people know about it. Again, I hope we can get to my amendment. It has the overwhelming support of the American public. As more and more of them know about this, they don't want their right to be taken away. I have talked with workers who received no overtime last year, no overtime pay. They were expressing to me how much they were opposed to this proposed change in the rules.

I said: If you are not working overtime, why are you opposed?

They said: It is a right we have. We may not have gotten overtime, but if I do work it, I want my right protected. That just about sums it up. It is a right that should not be taken away.

Again, it is urgent that we proceed to the overtime amendment. Let's go to my amendment. Let's have a good debate. I am willing to have a time agreement, if the other side would like to have a time agreement. Let's have the debate. I want to hear from the other side why we should let these proposed regulations go into effect. Let's have the debate so the American people can understand what is at stake, and let's have an up-or-down vote on my amendment. Let's have an up-or-down vote on whether the Senate would agree with the administration that these proposed rules, these changes in the Fair Labor Standards Act, should go into effect or whether the administration should go back to the drawing board, work with Congress, do it in an open, aboveboard manner.

There are some changes that do need to be made in the Fair Labor Standards Act. There is one part of the proposed rules of which I am supportive, and that is raising the base from about $8,000 a year to $22,000 a year. That should have been done a long time ago.

My amendment does not affect that. My amendment leaves that in place. But in giving with one hand—that is, raising the base up to $22,000 a year—the administration is taking away the right to overtime pay from about 8 million Americans with the other hand. That is a bad deal.

I hope we can get to my amendment. I hope we can have a good debate and an up-or-down vote on it. I am prepared to do so whenever the leadership dispenses with these pending amendments.

Madam President, I yield the floor and 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. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NICKLES. Madam President, I ask unanimous consent to speak as in morning business for not to exceed 10 minutes.

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

WAR ON TERRORISM

Mr. NICKLES. Madam President, last night I observed, as I am sure many Americans did, Richard Clarke's statement on the program ''60 Minutes'' where he made some very strong allegations concerning President Bush and his lack of effort on the war on terrorism. I was struck by his tone, by his statements, and also by the lack of questions concerning what he had done the previous years.

I believe Mr. Clarke was appointed in May of 1998 by President Clinton as the first National Coordinator for Security Infrastructure Protection and Counterterrorism at the National Security Council. That is a very long title, but many people say ''counterterrorism czar.'' He was the person to combat terrorism. That is a very prestigious position, a very important position.

Looking at the events that occurred in 1998 and also in 2000, I wonder what we were doing. I kept waiting for the questioner to ask him: Why didn't we do more?

On August 7, 1998, terrorists bombed the American embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. Madam President, 212 people were killed on August 7, 1998, and over 4,000 people were injured in Nairobi. Eleven people were killed and 72 people were wounded in Tanzania. It was a very deadly day.

Two U.S. embassies—that happens to be U.S. soil—a lot of people are not aware of that but our embassies are U.S. soil. Those are U.S. buildings, those were U.S. employees, some U.S. citizens—almost all U.S. employees. Africans were killed.

What was our response? The Clinton administration, with Mr. Clarke as the head of counterterrorism, lobbed a few cruise missiles, supposedly to get Mr. bin Laden. We missed, but I compliment them for trying.

What else did we do? Did we try again? The answer is no. Did we send special forces over there? The answer is no. They killed 212 people in Nairobi, 11 people in Tanzania, over 4,000 people injured, some of them critically, very seriously injured, and what did we do? We lobbed a few cruise missiles and hit the desert. This was in August of 1998.

I kept waiting for the questioner to say: Why didn't we do more in 1998? I heard him say: We were on a wartime footing; we had a lot of meetings; I had a lot of face time with President Clinton; I talked with him about it; we urged him to do more. Why didn't we do more?

I have only served with a few Presidents but I could not help but think Ronald Reagan would have done more. We had American soldiers who were killed as a result of a terrorist bombing in Germany, and Ronald Reagan sent planes to Libya and sent a heck of a signal to Mr. Qadhafi and, frankly, I think he changed his terrorist ways to some extent.

I can't help but think President Bush 1 would have done more, and I know President Bush 2, the current President, would have done a lot more.

President Clinton was President for 8 years, and Mr. Clarke was head of his counterterrorism division for about 3 of those years. He worked in his administration in another capacity as well. But we didn't do hardly anything after the 1998 bombings, which was a direct assault on the United States and our citizens, our people, our property, and two poor countries in Africa, and we did not do anything.

Later, the USS *Cole* was attacked on October 12, 2000, and 17 people were killed, 39 were wounded, and it was pretty close to being a lot more serious than that. We could have had hundreds killed. Again, that was a direct attack on the United States. Mr. Clarke was still head of counterterrorism, and what did we do then? The answer is nothing. They might have had some meetings, but they did not do anything. They did not do anything visible, anything we could see. They did not make concerted efforts.

Last week, I was watching on TV a picture of bin Laden walking in Afghanistan where we had satellites viewing him, and we still did not do anything. We did not have assets in the region. Why? We had plenty of time to put assets in the region to make a change and maybe prevent 9/11/2001 from even happening, but maybe the administration and maybe Mr. Clarke were preoccupied or they did not have it high on their priorities.

Those questions were not asked in this program. Maybe, for whatever reason, he has a vendetta against the current President. I don't know.

I also learned today from Condoleezza Rice, the President's National Security Adviser, that Mr. Clarke wanted a job in the new Department of Homeland Security. I don't know what caused his change. I don't know what his motivation is. I am not sure if he wants to sell books or is looking for a job or what his efforts are. But I am amazed at the neglect or the lack of interest in the previous administration after we had our embassies attacked, after we had the USS *Cole* attacked, and we had Americans killed and hundreds of American employees killed.

We had thousands of people injured, and we did not do anything. For him to have the gall or the nerve to start pointing a finger at President Bush saying he did not do enough in fighting the war on terrorism when Mr. Clarke was actually in a position to really do

something for 2 or 3 years during the Clinton administration, I find unbelievable. I cannot believe the press would not ask, why did he not do more, why did President Clinton not do more? Why did we not respond? If we would have responded in 1998, 1999, or 2000, maybe 9/11 would have never happened. It is unbelievable that kind of attack would be made. Maybe it is for political reasons. I do not know. It is very sobering and startling.

I hope when he is in front of the cameras or maybe when he is before a committee in Congress people ask him why did he not do more when he was in a position to do so.

It is also interesting to note on October 19, 2001, the Bush White House issued a press release saying Mr. Clarke was recently named special adviser to the President for cyberspace security. It is not the same. The President has an excellent team and he receives counsel from an excellent team. With his national security adviser, Condoleezza Rice, Vice President DICK CHENEY, with Secretary of State Colin Powell, the President has an excellent team in foreign policy.

I am very disappointed in Mr. Clarke's comments. I think he should be held accountable and questions need to be asked of him.

I yield the remainder of my time, 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. GRASSLEY. 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. GRASSLEY. Mr. President, I ask unanimous consent that the pending Grassley amendment No. 2687 be agreed to; provided further that I then be immediately recognized to offer a further second degree related to net operating loss. I further ask consent that the amendment then be agreed to, and the underlying amendment No. 2686 be agreed to, as amended, with the motions to reconsider laid upon the table. I further ask consent that Senator HARKIN then be recognized in order to offer an amendment relating to overtime; further, that no second degrees be in order to that amendment prior to a vote in relation to that amendment.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Reserving the right to object, Mr. President, I think this is tremendous progress. I commend the two managers of the bill. They do work well together, as everyone knows. But I have heard—and I certainly do not know if this is valid or not—there is going to be an effort made later tonight to try to invoke cloture on this bill. I want everyone within the sound of my voice to know we have spent time here this afternoon with our manager, and we have indicated that we believe we could whittle down significantly the number of amendments that are pending on this very important piece of legislation.

The amendment Senator HARKIN is going to offer is his amendment. We have worked with the majority on other occasions to have him not offer this amendment in an effort to get important legislation passed. We can no longer do that. It is long overdue that the Senate speaks on this issue. I can say, as I have indicated, to anyone listening, if there is an attempt to invoke cloture on this legislation without an up-or-down vote on the overtime amendment offered by the Senator from Iowa, there are no guarantees, but I think it is going to be extremely difficult to have cloture invoked on this bill.

We want an up-or-down vote on this overtime amendment. If there are efforts made later tonight to file a motion to invoke cloture, I think the majority leader should know that I think it is extremely doubtful that he would get cloture on this bill.

Senator HARKIN has been talking about offering this amendment on several occasions, and we are going to go forward. As I said, I want the majority leader to know that I think it would be extremely doubtful, without an up-or-down vote on overtime, that he would be able to get cloture on this bill. I could be wrong, but I really kind of doubt it.

I also want everyone to understand that the reason for taking this bill down is the inability of the minority to get a vote on this overtime amendment. It seems somewhat foolish to pull down this very important bill for this amendment. I cannot imagine why the other side won't let us vote. It has passed before. It will pass again. The overtime amendment will pass.

So having said that, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2687) was agreed to.

AMENDMENT NO. 2882 TO AMENDMENT NO. 2686

Mr. GRASSLEY. Mr. President, then, according to the unanimous consent agreement, I send an amendment to the desk for Senators BUNNING, LINCOLN, SANTORUM, CONRAD, and BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. BUNNING, for himself, Mrs. LINCOLN, Mr. SANTORUM, Mr. CONRAD, and Mr. BAUCUS, proposes an amendment numbered 2882 to amendment No. 2686.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for the extension of the special net operating loss carryover provision)

At the end of the matter proposed to be inserted at the end of the bill, add the following:

SEC. ___. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting ''5-YEAR CARRYBACK OF CERTAIN LOSSES.—'' after ''(H)'', and

(2) by striking ''or 2002'' and inserting '', 2002, or 2003''.

(b) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—For purposes of this section, in the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be deemed to have made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking ''or 2002'' and inserting '', 2002, or 2003'', and

(2) 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(j) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

(4) SPECIAL RULE FOR TAXPAYERS WITH TAXABLE YEARS ENDING DURING JANUARY.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section

172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 311(e) of this Act, such section, and the amendments made by such section, shall not take effect.

Mr. BUNNING. Mr. President, I am happy to join with my colleagues in offering an amendment to address the net operating loss NOL rules in the Internal Revenue Code. The NOL carryback and carryover rules are designed to allow taxpayers to ease swings in business income that result from business cycle fluctuations and unexpected financial losses.

I am certain that every Senator on the floor will admit that the last few years have been difficult for many American companies. But we have finally turned the corner and are headed to economic recovery. Businesses are finally ready to reinvest in equipment and, more importantly, create new jobs. The NOL provisions increase the cash flow of many struggling American companies and help them to hire and retain workers and fund capital investments.

Under current law, companies may carry back NOL for 2 years. In the Job Creation and Worker Assistance Act of 2002, however, we here in Congress recognized the difficult circumstances that many American businesses have found themselves in during recent years and have granted them temporary relief by allowing NOL to be carried back for 5 years, rather than 2. That 5-year carryback provision expired at the end of 2002.

I believe that it makes sense to extend the relief we have granted in the past in the form of a 5-year NOL carryback for one additional year. While the economy started showing strong signs of economic recovery last year, there were still many taxpayers who incurred unexpected financial losses in 2003. Now is not the time to roll back important tax provisions that are among the very reasons we are now on the road to economic recovery. We need to give American companies every opportunity to expand and invest.

I led the fight with my colleague, Senator CONRAD, to extend the 5-year carryback provision to 2003 when we passed the bill before us out of the Finance Committee with strong bipartisan support last fall. Senator CONRAD and I were able to include in the Finance Committee-approved bill a 3-year carryback for 2003. The amendment I offer with my colleagues today will expand upon what we achieved in committee by simply returning the NOL carryback rule for 2003 to the 5-year period rather than the 3-year period currently provided for in this legislation.

This important amendment will give much needed relief to U.S. employers and provide an additional jump start to our economy.

Mr. BAUCUS. Mr. President, a fundamental feature of any income tax system is the ability to use losses to reduce taxable gains. If a company has gross income of $100,000 and losses of $50,000, we don't force the company to pay tax on $100,000—they only pay tax on net income.

But just as a company can have gross income and losses within the same year, a company can also have income in one year and losses in the next.

Letting companies ''carry-back'' their losses to prior years smooths things out and helps companies deal with the hardships of the business cycle.

And it is important to be able to carry losses back. Carrying losses forward doesn't give taxpayers a boost when they need it.

Carrying losses forward only gives them a boost after things have already turned around.

Many businesses have been in hard times for the last 3 or 4 years. Giving them a 1- or a 2-year NOL carryback doesn't help them—because they don't have any profits in the last few years.

For many of these companies, the last year they were profitable was 1999 or even earlier. These companies will be able to use a 5-year NOL carryback to help them turn things around.

I urge you to support this amendment, to help get our economy going again.

For example, the timber industry in Montana and many parts of the Northwest was profitable in the late 1990s. But many of these timber companies—both large and small—have fallen on hard times in the last few years. The terrorist attacks of 9/11, the economic downturn, and the wildfires of last summer have taken their toll on these timber companies.

These companies paid large tax bills when things were going well. But how that they are struggling they can't get any of those taxes back.

If they had a smoother, more consistent pattern of earnings, they would have paid less tax over the course of the last 5 years. Instead, the boom-bust cycle that has actually played out is giving them higher tax bills overall.

This NOL provision will ensure that these timber companies—and many other companies in cyclical industries—pay an appropriate amount of tax over time. It will give them a boost in those unprofitable years when they need it most.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment. The amendment is agreed to.

The amendment (No. 2882) was agreed to.

VOTE ON AMENDMENT NO. 2686

The PRESIDING OFFICER. The question is on agreeing to the underlying amendment, as amended.

Without objection, the amendment, as amended, is agreed to.

The amendment (No. 2686), as amended, was agreed to.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are laid upon the table.

The Senator from Iowa.

AMENDMENT NO. 2881

Mr. HARKIN. Mr. President, I call up amendment No. 2881 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. SARBANES, Mr. KERRY, and Ms. MIKULSKI, proposes an amendment numbered 2881.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay)

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts from the overtime pay provisions of section 7 any employee who would not be exempt under regulations in effect on March 31, 2003.

''(2) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003, remained in effect, shall have no force or effect.''.

Mr. HARKIN. Mr. President, I appreciate my colleague from Iowa, the Senator from Montana, and also Senator REID, our assistant leader on this side, for working out this agreement. As I have said all along, all we want is debate and a vote on the overtime issue.

This is an important issue that has come to a head right now because the administration shortly will be issuing final regulations on this issue without really having duly consulted with Congress. These regulations could take away the right to overtime pay for over 8 million American workers.

So I hope we can have a good debate on this, probably tomorrow—not tonight but tomorrow. Certainly I have discussed this with the Senator from Montana. We would be willing to enter into a time agreement.

I have heard some talk around that the other side, the Republican side, will now file a cloture motion. Obviously, if that cloture motion wins, then my amendment fails because it is ''nongermane.''

Now, we just saw—and I did not object to the amendments just being adopted which have to do with some extenders. There were some other things added. Those are also nongermane to the bill. So the other side cannot make the argument that they are not going to allow nongermane

amendments to this bill. We just adopted a whole bunch of nongermane amendments to this bill. So that is fine. We do that all the time around here.

I hope we can have a good debate on this overtime issue and have an up-or-down vote. I can assure the other side that if their goal is to cut off this amendment by filing a cloture motion, we will do all we can on this side to deny cloture on this bill until we have a vote on the overtime amendment.

With that, Mr. President, I yield the floor and look forward to the debate tomorrow on overtime.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to comment on the remarks of the Senator from Nevada. He mentioned the possibility of a cloture motion. My colleague from Iowa also mentioned that possibility, and it could be a possibility. But I hope that will not poison the waters as we still try to reach agreement on this amendment and try to reach agreement on getting to finality on this bill.

I, along with Senator BAUCUS, have urged that we not have a cloture motion. That, of course, is a leadership decision. I would urge my colleagues to think in terms of the fact that it takes 48 hours for that motion to mature so it can be voted upon. That will be time for us to see if we can work out agreements not only on the pending amendment but also on any other amendments that may be adopted, and then, if so, the cloture motion could be vitiated.

I hope Members will look down the road at the goal of this legislation. That goal is to create jobs that are going to be very difficult to create if we are stuck with sanctions put on our manufacturing by the European Union. We already have 5-percent sanctions. It is going to go up 1 percent a month until it gets to 17 percent. Between now and the election, that is going to add up to at least 12-percent sanctions.

I hope both sides of the aisle will agree that it is already very difficult for U.S. manufacturing to compete in the global economy. A 17-percent penalty after 1 year is just like a 17-percent sales tax. That is going to make our manufacturing exports much more uncompetitive. Since everybody is concerned about creating and preserving jobs, keeping American manufacturing strong, competitive, passage of this legislation is very important.

We all have amendments we want to get adopted. We want the Senate to consider amendments, whether germane or nongermane. There is plenty of opportunity between now and adjournment of this Congress to consider these amendments. In the meantime, if we don't pass this legislation this week, we are going to have a 6-percent penalty in April, a 7-percent penalty in May. I hope we can get this legislation passed very soon so we can get rid of all those sanctions against our products.

In the meantime we have reduced the corporate tax for manufacturing in America by 3 percentage points, and that is going to make it possible for the cost of capital in America to be less expensive and make American manufacturing much more competitive and, in the process, preserve jobs and create jobs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that amendment No. 2686, which was previously agreed to, be considered to have been agreed to without amendment; further, I ask unanimous consent amendment No. 2687, which was also previously agreed to, be considered as having been agreed to as a first-degree amendment, amended by amendment No. 2882.

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

MOTION TO RECOMMIT WITH AMENDMENT NO. 2886

Mr. MCCONNELL. Mr. President, on behalf of the majority leader, I now move to recommit the pending bill to the Committee on Finance with instructions to report back forthwith, with the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. FRIST, moves to recommit the bill, S. 1637, to the Committee on Finance with instructions to report back forthwith with an amendment No. 2886, by Mr. MCCONNELL, for Mr. FRIST.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text Of Amendments.'')

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I have sent the cloture motion on the motion to recommit to the desk. I ask the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to recommit to the Committee on Finance, Calendar No. 381, S. 1637.

Bill Frist, Charles E. Grassley, Jon Kyl, Jim Bunning, Lindsey O. Graham, Mike Enzi, Trent Lott, Mitch McConnell, Craig Thomas, Orrin G. Hatch, Gordon Smith, Rick Santorum, Robert F. Bennett, John Ensign, Olympia J. Snowe, Kay Bailey Hutchison, Don Nickles.

The PRESIDING OFFICER. Without objection, the mandatory quorum call under rule XXII is waived.

MORNING BUSINESS

Mr. MCCONNELL. I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 5 minutes each.

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

STATEMENT FROM THE PRESIDENT PURSUANT TO WAR POWERS RESOLUTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the President of the United States be entered into the RECORD today pursuant to the War Powers Resolution and P.L. 107–243 and P.L. 102–1, as amended.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 20, 2004.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In the interests of improving the efficiency of the reporting process and to increase the utility of reports to the Congress, consistent with the War Powers Resolution, I have decided to consolidate supplemental reports I provide to the Congress regarding the deployment of U.S. combat-equipped armed forces in a number of locations around the world. This consolidated report is part of my efforts to keep the Congress informed about such deployments and covers operations in support of the global war on terrorism (including in Afghanistan), Kosovo, Bosnia and Herzegovina, and Haiti. Operations in Iraq are a critical part of the war on terror, and it is my intention to continue to provide, consistent with the War Powers Resolution, information regarding the deployment of U.S. forces in Iraq in the reports to the Congress under Public Law 107–243 and Public Law 102–1, as amended.

THE GLOBAL WAR ON TERRORISM

Since September 24, 2001, I have reported, consistent with Public Law 107–40 and the War Powers Resolution, on the combat operations in Afghanistan against al-Qaida terrorists and their Taliban supporters, which began on October 7, 2001, and the deployment of various combat-equipped and combat-support forces to a number of locations in the Central, Pacific, and Southern Command areas of operation in support of those operations and of other operations in our global war on terrorism.

United States efforts in the campaign in Afghanistan continue to meet with success, but as I have stated in my previous reports, the U.S. war on terror will be lengthy. United States Armed Forces, with the assistance of numerous coalition partners, continue to conduct the U.S. campaign to eliminate the primary source of support to the

terrorists who viciously attacked our Nation on September 11, 2001. These operations have been successful in seriously degrading al-Qaida's training capability and virtually eliminating the Taliban's ability to brutalize the Afghan people and to harbor and support terrorists. Pockets of Al-Qaida and Taliban forces, however, remain a threat to U.S. and Coalition forces and to the Afghan government and Afghan people. United States, Coalition, and Afghan forces are actively pursuing and engaging remnant Taliban and al-Qaida fighters.

The United States continues to detain several hundred al-Qaida and Taliban fighters who are believed to pose a continuing threat to the United States and its interests. The combat-equipped and combat-support forces deployed to Naval Base, Guantanamo Bay, Cuba, in the U.S. Southern Command area of operations since January 2002, continue to conduct secure detention operations for the approximately 610 enemy combatants at Guantanamo Bay.

In furtherance of the U.S. worldwide efforts against terrorists who pose a continuing and imminent threat to the United States, our friends and allies, and our forces abroad, the United States continues to work with friends and allies in areas around the globe. For example, combat-equipped and combat-support forces deployed to Georgia to assist in training and equipping the Georgian government's forces will be completing their task in May 2004. United States combat-equipped and combat-support forces are also located in Djibouti. The U.S. forces headquarters element in Djibouti provides command and control support as necessary for military operations against al-Qaida and other international terrorists in the Horn of Africa region, including Yemen. These forces also assist in enhancing counterterrorism capabilities in Kenya, Ethiopia, Yemen, Eritrea, and Djibouti. The United States is engaged in a continuous process of assessing options for working with other nations to assist them in this respect.

Additionally, the United States continues to conduct maritime interception operations on the high seas in the U.S. Central, European, and Pacific Command areas of responsibility. These maritime operations have recently expanded into the U.S. Southern and Northern Command areas of responsibility to stop the movement, arming, or financing of international terrorists.

It is not possible to know at this time either the duration of combat operations or the scope and duration of the deployment of U.S. Armed Forces necessary to counter the terrorist threat to the United States. I will direct additional measures as necessary in the exercise of the U.S. right to self-defense and to protect U.S. citizens and interests. Such measures may include short-notice deployments of special operations and other forces for sensitive operations in various locations throughout the world.

NATO-LED KOSOVO FORCE (KFOR)

As noted in previous reports regarding U.S. contributions in support of peacekeeping efforts in Kosovo, most recently on November 14, 2003, the U.N. Security Council authorized member states to establish KFOR in U.N. Security Council Resolution 1244 of June 10, 1999. The mission of KFOR is to provide an international security presence in order to deter renewed hostilities; verify, and, if necessary, enforce the terms of the Military Technical Agreement between NATO and the Federal Republic of Yugoslavia (which is now Serbia and Montenegro); enforce the terms of the Undertaking on Demilitarization and Transformation of the former Kosovo Liberation Army; provide day-to-day operational direction to the Kosovo Protection Corps; and maintain a safe and secure environment to facilitate the work of the U.N. Interim Administration Mission in Kosovo (UNMIK).

Currently, there are 18 NATO nations contributing to KFOR in addition to the 18 non-NATO nations that provide forces. The U.S. contribution to KFOR in Kosovo is about 1,900 U.S. military personnel, or approximately 17,500 personnel. Additionally, U.S. military personnel occasionally operate from Macedonia, Albania, and Greece in support of KFOR operations. Eighteen non-NATO contributing countries also participate with NATO forces in providing military personnel and other support personnel to KFOR.

The U.S. forces have been assigned to a sector principally centered around Gnjilane in the eastern region of Kosovo. For U.S. KFOR forces, as for KFOR generally, maintaining a safe and secure environment remains the primary military task. The KFOR operates under NATO command and control and rules of engagement. The KFOR coordinates with and supports UNMIK at most levels, provides a security presence in towns, villages, and the countryside, and organizes checkpoints and patrols in key areas to provide security, protect minorities, resolve disputes, and help instill in the community a feeling of confidence. By the end of 2003, UNMIK had transferred all non-reserved competencies under the Constitutional Framework document to the Kosovar Provisional Institutions of Self-Government (PISG). The PISG includes the President, Prime Minister, and Kosovo Assembly, and has been in place since March 2002.

NATO continues formally to review KFOR's mission at 6-month intervals. These reviews provide a basis for assessing current force levels, future requirements, force structure, force reductions, and the eventual withdrawal for KFOR. NATO has adopted the Joint Operations Area plan to regionalize and rationalize its force structure in the Balkans. The KFOR has transferred full responsibility for public safety and policing to the UNMIK international and local police forces throughout Kosovo except in the area of Mitrovica, where the responsibility is shared due to security concerns. The UNMIK international police and local police forces have also begun to assume responsibility for guarding patrimonial sites and established border-crossing checkpoints.

NATO-LED STABILIZATION FORCE IN BOSNIA AND HERZEGOVINA (SFOR)

As noted in previous reports regarding U.S. contributions in support of peacekeeping efforts in the former Yugoslavia, most recently on January 22, 2004, the U.N. Security Council authorized member states to continue SFOR for a period of 12 months in U.N. Security Council Resolution 1491 of July 11, 2003. The mission of SFOR is to provide a focused military presence in order to deter hostilities, stabilize and consolidate the peace in Bosnia and Herzegovina, contribute to a secure environment, and perform key supporting tasks including support to the international civil presence in Bosnia and Herzegovina.

The U.S. force contribution to SFOR in Bosnia and Herzegovina is about 1,100 personnel. United States personnel comprise approximately 9 percent of the approximately 12,000 personnel assigned to SFOR. NATO has agreed to reduce the size of the force to 7,000 personnel by June 2004. United States participation is expected to be reduced proportionately. Currently, 16 NATO nations and 11 others provide military personnel or other support to SFOR. Most U.S. forces in Bosnia and Herzegovina are assigned to Multinational Brigade, North, headquartered near the city of Tuzla. The U.S. forces continue to support SFOR efforts to apprehend persons indicted for war crimes and to conduct counterterrorism operations.

MULTINATIONAL INTERIM FORCE IN HAITI

As I reported on February 25 and March 2, 2004, the United States deployed combat-equipped and combat-support personnel to Haiti in order to secure key facilities, facilitate the continued repatriation of Haitian migrants, help create conditions in the capital for the anticipated arrival of the Multinational Interim Force authorized by U.N. Security Council Resolution 1529, and for other purposes consistent with Resolution 1529. Additional U.S. forces have since been deployed to Haiti, bringing the total of U.S. combat-equipped and combat-support forces in Haiti to approximately 1,800. It is possible that additional U.S. forces will be deployed to Haiti in the future; however, it is anticipated that U.S. forces will redeploy when the Multinational Interim Force has transitioned to a follow-on United Nations Stabilization Force.

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. Officials of my Administration and I communicate regularly with the leadership and other members of Congress with regard to these deployments, and we will continue to do so.

Sincerely,

GEORGE W. BUSH.

GOVERNOR JOHN CARL WEST

Mr. HOLLINGS. Mr. President, yesterday South Carolina lost a valuable public servant and I lost a very dear friend. Some 66 years ago John Carl West and I came to the Citadel as freshmen. The attention of the freshmen in those days was responding to the howling orders of the upperclassmen. But it wasn't long before John came to my attention. We both had COL Carl Coleman in political science and Colonel Coleman loved those Time magazine articles on public events. He would spring them on the class with a test. I would barley know half of the answers, but John Carl would get 100 every time. I felt I ought to pay closer attention to the smartest in a class of 525. In those days, at different heights, we were in different companies and different barracks, but we got thrown together on the Roundtable in the International Relations Club. I learned quickly that John was not only the academician but long on common sense.

Along with the other members of our class, John and I both left for the war shortly after graduation, but we ended up in the same class at the University of South Carolina Law School after the war. I got home the day after Thanksgiving in 1945 and Dean Friersen allowed that I could audit the classes and take the exams in January and if I passed them then I could be considered a law school student. Many in the class furnished me their notes, most notably John West. By January the 17th I was through the first semester and by May already through the first year. John and I and others marched on the legislature so that we veterans could continue in the summer and by August the

following year I was through a 3-year course in less than 2 years. But I couldn't keep up with John. He was in a bigger rush, passing the bar exam before graduation, teaching at the university and forming a law partnership.

I used to kid him that I was catching up when in one election he was running for the State Senate and I was running for Lieutenant Governor. I carried Kershaw County by 1,200 votes and he became the Kershaw County Senator by three. John was more or less my lawyer when I was Governor. As a young Governor I needed help. My strong suit was that I knew the general assembly intimately, having been the presiding officer in both houses, so I had a three-man committee in the house with Floyd Spence, Rex Carter and Bob McNair, and a three-man committee on the senate side with Billy Goldberg, Marshall Parker and John West. West was astute and could immediately point the conflicts in a different way to get things done. This house-senate group would, off the record, vet all of my initiatives. Working together, most all of them got done and not a single veto was overridden in that 4-year period.

When West ran for Governor, South Carolina faced its toughest and most heated political choice. The school discrimination decision had hit with full force and so had racial politics. The school busses were being overturned. I had already been elected twice to the U.S. Senate and so I could give my schoolhood friend some help. South Carolina was lucky that John West became the Governor. He didn't mind using his political capital to get things done. John moved immediately to set a course for racial harmony in South Carolina with the appointment of James Clyburn as the head of the Human Relations Committee. The Clyburn decisions on the most sensitive situations had the full force and support of Governor West. A new day and a new direction for the State was set. The same was true with labor. A flood of industry had commenced by 1971 and the resistance of national labor was hitting the work force and communities of the State. Again, Governor West responded with the appointment of Ed McGowan, backing him up 100 percent. In the field of mental health, Governor West again set the tone and direction of mental illness treatment in South Carolina. Working with his brilliant wife, Lois, the cottage system in mental health clinics was launched, which today still makes South Carolina a forerunner in mental illness treatment.

But I guess it was John's appointment as Ambassador to Saudi Arabia that brought out the unique combination of personality and brilliance. I know the Arabs I—invaded Algeria and Tunisia in World War II and the tribal way of life was next to impossible. To form national policy and protect the United States interests with one of these countries isn't easy. The Kingdom felt that not only was John West close to President Carter, but he was almost family. He handled the knottiest problems with the greatest of ease. I used to kid him on several occasions, as he handled difficult problems, that that was the Arab blood in him.

At the end of all these important political offices John didn't retire. He maintained a vital interest in everything effecting the State of South Carolina. Like me, many would continue to call on him to see what John thought about a situation and he readily gave of his time and leadership. He had instituted a Chair in International Studies at the Citadel, continued to instruct political science at the University of South Carolina and on national problems was always conversant and wise. Many at home didn't realize the events of Washington, but John was my best read friend as well as my best friend. The truth is, he is the best friend that South Carolina ever had.

HONORING OUR ARMED FORCES

CLINT D. FERRIN, U.S. ARMY

Mr. HATCH. Mr. President, some ask what is the hardest duty that a Senator faces. This is that task. Today, I rise with heavy heart to pay tribute to another son of Utah who has made the ultimate sacrifice so that others may be free. This patriot's name was SSG Clint Ferrin, he was a member of the elite, the 82nd Airborne Division. To all that knew him he exceeded, in every way, his division's motto: He was truly an ''All American.''

We, the citizens of the State of Utah, had the privilege of knowing Sergeant Ferrin as he grew up in Garland and Ogden. His commitment to service started at a young age when he became an Eagle Scout. That commitment to service, to helping others and truly making a difference was reflected in his choice to become a solider. But he was not just a soldier, he was a paratrooper, knowing full well that when a challenge faced our Nation he would be one of the first to be called. This was reflected in where he served: Afghanistan, Kosovo, Bosnia, Africa, and finally Iraq.

These will be trying times for his wife, his son, age 7, and his daughter, age 3. But they should know this: though we can do little to alleviate your loss, we will always honor Sergeant Ferrin, he was a true ''All-American'' and a hero when his Nation needed them most.

And so, another name has been added to Utah's List of Honor: SSG Clint D. Ferrin of the Army's 82 Airborne Division. His name and the service he performed is something that I shall never forget. I shall always honor him and his family.

RICHARD BRIAN WILSON

Mr. LOTT. Mr. President, I rise today to pay tribute to a departing staff member who has worked with me in my Washington office for the last 5 years. Richard Brian Wilson, who has served as my legislative assistant, is departing my staff this week to return home to Mississippi. I wanted to take this opportunity to thank him for his dedicated serve and to wish him the very best as he pursues new career opportunities.

Those who know Brian know of his keen interest in State and local politics. A native of Macon, MS, he has been involved in politics since high school. In fact, his fellow staff members have jokingly referred to him as a ''walking encyclopedia of Mississippi politics.'' I have no doubt this expertise will serve him well as he returns home to Mississippi.

Brian graduated from the University of Mississippi in 1998 with a Bachelor of Arts degree in Political Science and History. Throughout his tenure at Ole Miss he was involved in numerous extracurricular activities where his leadership abilities became apparent. For instance, he served as Vice President of Pi Kappa Alpha fraternity, Student Body Vice President, and Student Body Senator. In recognition of his contributions to the university, I understand Brian was once named Student Body Senator of the Year. He also spent a great deal of time during his college years volunteering on political campaigns throughout the State.

During the fall of 1998, Brian served as an intern in the district office of Congressman Chip Pickering. Immediately following his internship, in January 1999, Brian came to work for me in my Washington office. Throughout his service on my staff, Brian has grown in his ability to help me service my constituents and address a wide variety of needs and issues for Mississippians. He has handled issues ranging from appropriations to homeland defense, as well as environment and public works, agriculture, natural resources and interior, small business, rural development, and Indian affairs. Through his work on appropriations bills, such as Energy and Water Development, Agriculture, Interior, and VA–HUD, Brian has helped me steer millions of dollars in Federal funding to large and small communities all across Mississippi. In the process, we have improved infrastructure, created hope and opportunity in communities where none existed before, and provided a better quality of life for Mississippians throughout the State.

For example, Brian has helped me secure Federal funds to improve water and wastewater systems in areas of Mississippi, such as DeSoto County, Jackson County, Fayette County, the city of Gulfport, Hancock County, and Madison County. He has worked to improve the infrastructure at our State's ports including the Port of Pascagoula and the State port at Gulfport. He was instrumental in helping me secure the initial funding for an environmental

infrastructure pilot program in Mississippi which has since helped fund numerous environmental infrastructure projects around the State. Brian also worked to help me secure the final funding necessary to complete construction of a new Federal courthouse in Gulfport. Of course, one of the things of which I know he is most proud is our work to help his hometown, the city of Macon. Through expansion of their water and sewer systems and a new multi-purpose facility to be constructed, we have begun to bring hope to this poverty-stricken area of our State.

Brian is truly one of those unique individuals who has a thirst for knowledge about the issue areas he is assigned. He has spend countless hours over the past 5 years reading news articles, books, papers, academic journals, and industry publications to keep himself apprised of the latest events, issues and concerns relative to his assigned issues. In fact, I would venture to guess that he knows as much as just about anyone with regard to the many historic properties and places in Mississippi that he has worked hard to help me protect and provide resources for. Properties such as the Battle of Corinth Interpretive Center in northeast Mississippi, L.Q.C. Lamar's home in Oxford, and General Pemberton's headquarters at Vicksburg are just as few of those.

Although Brian is leaving Washington, I have no doubt the knowledge he has gained through his work here will serve him well in his new capacity as Special Assistant to the Executive Director of the Mississippi Department of Marine Resources. In this position, Brian will serve as liaison for the Department with the Federal and State legislatures, as well as local governments throughout Mississippi and particularly along our Gulf Coast.

While we all certainly will miss Brian, I know he is looking forward to returning to our home State and particularly to the warm climate of the Mississippi Gulf Coast. And although fresh seafood, the warm gulf climate, and unlimited fishing opportunities certainly justify Brian's move home, I know this move was compelled by his desire to be closer to family and friends, particularly his younger sister in whom he has expressed enormous pride throughout his stay in Washington.

I wish to thank Brian for 5 years of dedicated service to me and to the people of Mississippi. I wish him the absolute best in this transition and in all of his future endeavors.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to 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 April, 2000, in Keene, NH, a 19-year-old was sentenced to 3 years of probation for carving antigay epithets into a student's back the preceding year.

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. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

DR. NORMAN BORLAUG

• Mr. BOND. Mr. President, it is my distinct privilege to rise today to pay special tribute to the one of the world's foremost physiologists, Dr. Norman Borlaug. Dr. Borlaug is widely credited as the father of the 1960s Green Revolution, a movement that has continued to cure hundreds of millions of people around the globe from starvation. It is very likely that Dr. Borlaug is directly responsible for saving more lives than anyone else in the twentieth century.

Born in Cresco, IA on March 25, 1914, Dr. Borlaug was raised on livestock farm before attending the University of Minnesota as a biology student and a member of the University's wrestling team. After graduation, in addition to being inducted to the University's Hall of Fame for his wrestling record, Dr. Borlaug carefully balanced teaching while successfully working on the development of several new strains of disease-resistant wheat. The new strand of wheat went on to be widely utilized in Mexico, Pakistan, and India and led to dramatic increases in food production, in turn earning Dr. Borlaug the Nobel Peace Prize in 1970. The Dallas Morning News attests his lifelong dedication to physiology to growing up among the food shortages of the Great Depression: ''The sight of farm failures, sheriff's sales and hungry children would stay with him and influence his choices for the rest of his life.'' Dr. Borlaug added in his own words, ''I saw all that unfold. And I think that had something to do with how things turned out.''

Dr. Borlaug has certainly earned the right to slow down after his many years of hard work, but he continues, even at age 90, to a be a leader in the development and implementation of new technologies, in effect, ensuring the world's most needy adequate food supplies. He often travels to Asia and Africa, Europe and Latin America to help the public understand the value and potential of new biotechnology, while respecting and preserving the environment. In addition to his efforts globally, Dr. Borlaug is helping farmers make a living by leading the fight against wealthy and well-fed anti-technology protectionists in Europe.

Some would rest after a Nobel Peace Prize and many others would certainly take the opportunity to reward themselves and their family—deservedly—by answering lucrative offers from the private sector. In a world where 800 million children are hungry and even more live on less than one dollar a day, Dr. Borlaug has never stopped fighting, teaching, inventing, or caring. It is clear that Dr. Borlaug is inspired by the rewards his efforts yield for others.

Missouri's renowned plant scientist, George Washington Carver words are appropriate when used to describe Dr. Borlaug: ''No individual has any right to come into the world and go out of it without leaving behind him distinct and legitimate reasons for having passed through it.'' So very few of a talented world, billions strong, have met this test to the extent that Dr. Borlaug has. He has selflessly and tirelessly developed his gifts from God on behalf of millions and billions of desperate people he does not know, and who will never know whom to thank.

I also thank Mrs. Borlaug and the rest of the Borlaug family, on the behalf of the people of the State of Missouri, America, and throughout the world, for sharing Norman's attention for all these years.

Dr. Borlaug will soon gain status as the world's youngest 90 year old. I speak for all in thanking him for his lifelong dedication to agriculture and I sincerely wish him a happy birthday. The world owes Dr. Borlaug endless amounts of gratitude and we will look forward to celebrating his achievements again on his 100th birthday.•

NATIONAL AGRICULTURE WEEK

• Mr. JOHNSON. Mr. President, in my home State of South Dakota and across America, hardworking men and women tirelessly contribute to the production of our Nation's food supply. These men and women consistently preserve the safety and wholesomeness of the commodities they produce, ensuring America's food security and contributing substantially to our overall well-being. During National Agriculture Week, I would like to take this opportunity to thank and celebrate our Nation's farmers for producing plentiful and healthful harvests, and in the face of so many challenges.

While agriculture can be a very rewarding endeavor, a farmer experiences myriad challenges outside of their control which affect their bottom line. Regardless of commodity or region, today's family farmer is affected by weather conditions, market concentration, fluctuating prices, uncertain foreign markets, and an ever-changing landscape in the agricultural industry. Family farms in my home State of South Dakota, and across America, not only labor to produce our Nation's food supply, but also to preserve our rural heritage. Agriculture is an economic

engine that runs our rural communities, and it is an essential component of a stable and productive America.

Despite these challenges, I am hopeful for our Nation's producers and believe that several factors, including our farmers' own persistence and dedication, will contribute to their future successes in the industry. While we continue to struggle with budgetary constraints, I do believe that we will be successful in ensuring that money is allocated for small and medium-sized producers. We must make certain that our Nation's family farms, which comprise the majority of producers, have sufficient access to agriculture funds. The adoption of an amendment to this year's Budget Resolution, which I supported, would alter payment limitations and cap excessive compensation to large farms. This money would instead be channeled toward worthwhile and essential conservation and development programs, which are beneficial to producers in South Dakota and across the Nation.

I also believe that fair trade is necessary to ensure our farmers get a fair deal and a fair price for their product. Too often, the market price a farmer receives for his or her product doesn't reflect the financial and personal investment that a producer makes during the growing season and throughout the year. I am confident that new opportunities, like the recently announced trade with China involving quality South Dakota wheat, will open new doors and foster additional opportunities. I also believe that increasing awareness of the negative impacts of some trade agreements, including the Free Trade Agreement with Australia, will aid us in developing a firm base to oppose such measures and encourage more productive trading possibilities.

Lastly, I am confident that Country of Origin Labeling, COOL, will greatly benefit our agriculture economy, in addition to increasing consumer confidence and choice. While opponents of the COOL labeling provision were successful in delaying implementation of the law for 2 years, American consumers and producers remain incredibly supportive of mandatory labeling. Every consumer public opinion survey confirms that consumers would pay a modestly higher price for beef if they were certain it was American beef. I contacted the United States Department of Agriculture, USDA, in December, requesting clarification of the department's interpretation of the language delaying implementation of COOL. While I strongly oppose this delay, I also believe the department needs to clarify the rulemaking process. The USDA's response to my inquiries was vague and unclear, which I find unsatisfactory. I intend to seek clarification of the rule pertaining to the delay while also actively working on opportunities to speed up implementation of this law. Along with my colleague Senator TOM DASCHLE, I am pleased to have worked so extensively on this initiative, and I am confident in the future of this quality provision.

America's farmers produce quality products, which are recognized the world-over. It is essential that we function as a united team to promote these products in today's ever-changing agricultural environment, and ensure that family farmers in South Dakota and across the nation are recognized and adequately compensated for their substantial contributions.●

RECOGNIZING EMILY NEUMEIER AND CHRISTINE BANKS

● Mr. NELSON of Florida. Mr. President, I would like to take a moment to congratulate two exceptional high school students from my home State of Florida. Just this March, Emily Neumeier of Tampa and Christine Banks of St. Petersburg were selected from a competitive pool of 800 participants as winners in a nationwide ''If I Were President Competition . . .'' These two young scholars were among 50 award-winners who each received a $1,000 scholarship from the contest sponsor Freedom's Answer—a student-run, nonpartisan and nonprofit organization that increases civic participation among youth. I would like to commend the contest organizers, entry evaluators, participants and winners for involving youth in politics and contributing to the well-being of American democracy. Again, I would like to recognize Emily and Christine for a job well done and wish them all the best in the future. Maybe one of them will even be President one day.●

HONORING DONNA PETERSON AND SALLY STOLL

● Mr. JOHNSON. Mr. President, I rise here today to publicly honor and recognize Donna Peterson and Sally Stoll for receiving the 2003 Presidential Award for excellence in Mathematics and Science teaching, the Nation's highest commendation for work in the classroom. Donna Peterson won the math award for sharing her innovative teaching approaches with the students at Belle Fourche High School. Sally Stoll won the science award for her knowledge and passion on the subject and the ability to inspire her student's at Vermillion High School.

The National Science Foundation, NSF, administers the awards program for the White House. NSF is an independent Federal agency that supports research and education across all fields of science. Since 1983, the White House and NSF have sought nominations of exemplary math and science teachers from every State. In addition to honoring their achievement, the goal of the awards is to expand the definition of excellent science and mathematics teaching exemplified by Donna Peterson and Sally Stoll.

These two teachers have provided us with excellent examples of quality teaching. They have a passion for their subjects and dedication to their students. They know how to bring out the very best in every student, in every kind of school. The national award-winning teachers overwhelmingly agree that students frequently respond best to lessons that relate to recognizable phenomena from their own lives, or that allow for hands-on learning. They have observed that an engaging teaching style prompts students to pose their own questions, test their own theories, and arrive at their own solutions, with the teacher serving as a facilitator and guide.

Research indicates that nothing is so important in raising student achievement as a good teacher; not top notch equipment, not Internet access, not family income level. Those things are helpful, we know, but it's the teachers themselves that are the ''make or break'' link between students and educational success.

United States student performance in mathematics and science has been lagging, and many schools are experiencing shortages of math and science teachers. Donna and Sally are constantly searching for meaningful ways to spark the learning process. In doing so, they will have continued to inspire their students in such a way that it will have enriched them for the rest of their lives. If you are lucky, you'll have a chance to experience at least one such teacher in your lifetime.

I congratulate Donna Peterson and Sally Stoll on this tremendous honor. Their dedication to the teaching field in South Dakota serves as a model for all educators to emulate. It is with great honor that I share their impressive accomplishments with my colleagues.●

25TH ANNIVERSARY OF CENTER FOR FIRESAFETY STUDIES

● Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the Center for Firesafety Studies at Worcester Polytechnic Institute in Massachusetts as it celebrates its 25th Anniversary.

Worcester Polytechnic Institute was founded in 1865 to support the new industrial economy that was developing in Central Massachusetts in the 19th century. Its founders believed in merging theory and practice as part of the ongoing effort to deal with changing needs of our society. Over the years, the university has earned international respect for its innovations in engineering education and its responsiveness to a changing world.

In the 1960s, fire safety in America was a priority in Congress. The Fire Research and Safety Act in 1968 called for a national study of the issue, which resulted in the landmark report known as America Burning. Among its findings, America Burning emphasized that, ''Appallingly, the richest and most technologically advanced nation in the world leads all the major industrialized countries in per capita deaths and property loss from fire.''

In response to this wake-up call, Congress passed the Fire Prevention and Control Act of 1974, which created the United States Fire Administration and its National Fire Academy. David A. Lucht of Ohio was appointed by President Ford to lead the new agency in 1975.

True to its tradition, Worcester Polytechnic Institute took the issue on, with Professor Robert W. Fitzgerald as the guiding intellect and catalyst. In 1979, WPI created the Center for Firesafety Studies as the first graduate degree program in fire protection engineering in the Nation. In the past quarter century with Professor Lucht as Director, the WPI fire safety program has become an international leader in fire protection engineering education, with graduates from 30 countries. Through its outstanding faculty, students and alumni, WPI has had an important role in making the world safer from fire.

I commend WPI on this impressive 25th Anniversary of the Center for Firesafety Studies and its graduate degree program in fire protection engineering. We are proud of them in Massachusetts, and the Nation is grateful for the difference they have made in fire safety for us all.●

25TH ANNIVERSARY OF C–SPAN

● Mr. LUGAR. Mr. President, I rise today to commemorate a signal anniversary that passed on Friday, March 19, 2004, the 25th anniversary of the Cable-Satellite Public Affairs Network, C–SPAN.

Founded in 1979, C–SPAN has rapidly grown from its humble beginnings televising the proceedings on the floor of the House of Representatives to a series of networks reaching millions of viewers daily. This service, which functions without any financial support of the Federal Government, provides our constituents with invaluable access to the day-to-day proceedings of both bodies of Congress, as well as other important mechanisms of our government. As a direct result, it is now easier than ever for our constituents to keep abreast of our deliberations and contribute well to the debates at hand.

I am also pleased to point out that these tremendous networks were founded by a fellow Hoosier, Brian Lamb. Through his work experiences on Capitol Hill, Brian realized the importance of bringing the business of the Federal Government into the homes of Americans nationwide and his indefatigable enthusiasm made this possible. In addition, he has shown great commitment to our home State of Indiana. Brian has also maintained strong ties with his alma mater, Purdue University, in West Lafayette, IN, where he established the C–SPAN archives. Over 80,000 hours of C–SPAN programming are immediately accessible through this database.

I am pleased to bring this important anniversary to the attention of my colleagues. I am thankful to C–SPAN for their efforts to spread the availability of our government, and I look forward to the continuing relationship, now in its 25th year, between C–SPAN and the U.S. Congress.●

CONGRATULATING PATRICIA SIMMONS

● Ms. MIKULSKI. Mr. President, I rise to honor Mrs. Patricia Simmons for her 34 years of dedicated service as head librarian at the National Naval Medical Center, and to congratulate her for earning the Meritorious Civilian Service Award. Mrs. Simmons is a lifelong civil servant. She has touched the lives of many in the military service with her love of literature and her commitment to service.

I ask that an article from the Journal, a publication of the Medical Center, be printed in the RECORD.

The article follows.

[From the Journal, Oct. 30, 2003]

END OF A CHAPTER

(By Ellen Maurer)

Patricia Simmons, head librarian at the National Naval Medical Center (NNMC), stamped her last book this month.

Retiring after 34 years of service at the hospital's general library, Simmons was honored in a ceremony Oct. 15 for not only her long-term commitment to the command, its staff and patients, but also for her love of literature.

''She loves that library and every book that makes it up,'' says Cat DeBinder, an NNMC staff member who has known Simmons for more than 25 years.

RADM Donald Arthur, MC, Commander, NNMC, presented Simmons with the Meritorious Civilian Service Award during her retirement ceremony. The award citation detailed Simmons' significant contributions, which included an improved web cataloging data-base system and an internet cafe. Ironically, though, those who knew Simmons best said she wasn't really dependent on new technology.

''Pat never needed a computer . . . her unflappable data base was between her ears and it never crashed,'' says DeBinder. ''She carried out her responsibilities with great love and true passion. She could tell you exactly where any book was; lead you correctly, without hesitation, to any subject and was a wizard with those little three-by-five index cards.''

DeBinder admits, however, that Simmons' familiarity with the books she ''guarded'' for more than three decades did have its disadvantages—if only to those library patrons, like DeBinder herself, who occasionally missed their ''due back'' date.

''Once, I had to fess up to the unspeakable. I lost a book. It was an old paperback, printed in the late sixties or early seventies. I think the original price was 40 cents. The pages were yellowish-orange with age. The title was ''No Bad Dogs.'' Pat had a very difficult time accepting the fact that I lost one of her books. I begged for mercy, forgiveness and I offered money. She said, 'Just keep trying to find the book.'''

Whimsically, DeBinder adds, ''Pat . . . I'm still looking.''●

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 and a withdrawal which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 7, 2003, the Secretary of the Senate, on March 17, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 1881. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

H.R. 3724. An act to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

Under the authority of the order of January 7, 2003, the enrolled bills were signed by the President pro tempore (Mr. STEVENS) on today, March 22, 2004.

MESSAGE FROM THE HOUSE

At 12:15 pm., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1375. An act to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

H.R. 3733. An act to designate the facility of the United States Postal Service located at 410 Huston Street in Altamont, Kansas, as the ''Myron V. George Post Office''.

H.R. 3782. An act to amend the State Department Basic Authorities Act of 1956 to increase the maximum amount of an award available under the Department of State rewards program, to expand the eligibility criteria to receive an award, to authorize nonmonetary awards, to publicize the existence of the rewards program, and for other purposes.

H.J. Res. 87. Joint resolution honoring the life and legacy of President Franklin Delano Roosevelt and recognizing his contributions on the anniversary of the date of his birth.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 93. Concurrent resolution authorizing the use of the rotunda of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies.

S. Con. Res. 94. Concurrent resolution establishing the Joint Congressional Committee on Inaugural Ceremonies.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 364. Concurrent resolution to recognize more than 5 decades of strategic partnership between the United States and the people of the Marshall Islands in the pursuit of international peace and security, and for other purposes.

The message also announced that pursuant to 10 U.S.C. 9355(a), and the order of the House of December 8, 2003, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Air Force Academy to fill the existing vacancy thereon: Mr. GRANGER of Texas.

The message further announced that pursuant to Senate Concurrent Resolution 94, 108th Congress, and the order of the House of December 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Joint Congressional Committee on Inaugural Ceremonies: Mr. HASTERT of Illinois, Mr. DELAY of Texas, and Ms. PELOSI of California.

The message also announced that pursuant to clause 5(a)(4)(A) of rule X, and the order of the House of December 8, 2003, the Speaker names the following Members of the House of Representatives to be available to serve on Investigative Subcommittees of the Committee on Standards of Official Conduct for the 108th Congress: Mr. DOOLITTLE of California, Mr. SAM JOHNSON of Texas, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. SHADEGG of Arizona, Mr. BRADY of Texas, Mr. SIMPSON of Idaho, Mr. TERRY of Nebraska, Mr. KIRK of Illinois, and Mr. REHBERG of Montana.

The message further announced that pursuant to clause 5(a)(4)(A) of rule X of the Rules of the House of Representatives the Minority Leader designates the following Members to be available for service on an Investigative Subcommittee of the Committee on Standards of Official Conduct: Mr. BECERRA of California, Mr. COOPER of Tennessee, Mr. DELAHUNT of Massachusetts, Mrs. MCCARTHY of New York, Mr. MCINTYRE of North Carolina, Mr. MCNULTY of New York, Mr. SCHIFF of California, Mr. SCOTT of Virginia, Mr. STUPAK, of Michigan, and Ms. TAUSCHER of California.

MEASURES REFERRED

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

H.R. 1375. An act to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3733. An act to designate the facility of the United States Postal Service located at 410 Houston Street in Altamont, Kansas, as the ''Myron V. George Post Office''; to the Committee on Government Affairs.

H.R. 3782. An act to amend the State Department Basic Authorities Act of 1956 to increase the maximum amount of an award available under the Department of State rewards program, to expand the eligibility criteria to receive an award, to authorize nonmonetary awards, to publicize the existence of the rewards program, and for other purposes; to the Committee on Foreign Relations.

H.J. Res. 87. Joint resolution honoring the life and legacy of President Franklin Delano Roosevelt and recognizing his contributions on the anniversary of the date of his birth; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 364. Concurrent resolution to recognize more than 5 decades of strategic partnership between the United States and the people of the Marshall Islands in the pursuit of international peace and security, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2207. A bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 22, 2004, she had presented to the President of the United States the following enrolled bill:

S. 1881. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of March 12, 2004, the following reports of committees were submitted on March 18, 2004:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 1172, A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes (Rept. No. 108–245).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment.

S. 2096. A bill to promote a free press and open media through the National Endowment for Democracy and for other purposes (Rept. No. 108–246).

S. 2127. A bill to build opertional readiness in civilian agencies, and for other purposes (Rept. No. 108–247).

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments.

S. 2144. A bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2005, for the Peace Corps for fiscal year 2005 through 2007, for foreign assistance programs for fiscal year 2005, and for other purposes (Rept. No. 108–248).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on March 18, 2004, under the authority of an order of the Senate of March 12, 2004:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 99–10 Income Tax Convention with Sri Lanka, and; Treaty Doc. 108–9 Protocol Amending Tax Convention with Sri Lanka (Exec. Rept. No. 108–11)]

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Democratic Socialist Republic of Sri Lanka for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes and Income, signed at Colombo on March 14, 1985 (Treaty Doc. 99–10), and the Protocol amending the Convention, together with an Exchange of Notes, signed at Washington on September 20, 2002 (Treaty Doc. 108–9), subject to the understanding that the authorities to which information may be disclosed under Article 27 include appropriate congressional committees and the General Accounting Office.

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. DOMENICI:

S. 2218. A bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States for the purpose of providing a clean, safe, affordable, and reliable water supply to rural residents and for other purposes, to authorize the Secretary to conduct appraisal and feasibility studies for rural water projects, and to establish the guidelines for any projects authorized under this program; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 2219. A bill entitled ''Motherhood Protection Act''; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2220. A bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 2221. A bill to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. ROCKEFELLER):

S. 2222. A bill to amend titles XIX and XXI of the Social Security Act to clarify and ensure that the authority granted to the Secretary of Health and Human Services under section 1115 of that Act is used solely to promote the objectives of the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

By Mr. ALLARD (for himself, Mr. BROWNBACK, Mr. ENZI, Mr. INHOFE, Mr. MILLER, Mr. LOTT, Mr. SANTORUM, Mr. SESSIONS, and Mr. SHELBY):

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HAGEL:

S. Res. 322. A resolution designating August 16, 2004, as ''National Airborne Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 419

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 419, a bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk of osteoporosis.

S. 489

At the request of Mr. DEWINE, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 489, a bill to expand certain preferential trade treatment for Haiti.

S. 503

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 503, a bill to amend the Internal Revenue Code of 1986 to allow increase the minimum tax credit where stock acquired pursuant to an incentive stock option is sold or exchanged at a loss.

S. 525

At the request of Mr. LEVIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 756

At the request of Mr. THOMAS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 756, a bill to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

S. 976

At the request of Mr. WARNER, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1398

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1398, a bill to provide for the environmental restoration of the Great Lakes.

S. 1422

At the request of Mr. CORZINE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1422, a bill to provide assistance to train teachers of children with autism spectrum disorders, and for other purposes.

S. 1524

At the request of Mr. SANTORUM, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1638

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1638, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 1647

At the request of Mr. BUNNING, his name was withdrawn as a cosponsor of S. 1647, a bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for medicare beneficiaries, and for other purposes.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1756

At the request of Mr. CONRAD, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1756, a bill to amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes.

S. 1833

At the request of Mr. DASCHLE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1833, a bill to improve the health of minority individuals.

S. 1834

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1834, a bill to waive time limitations in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, Ohio, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War.

S. 1923

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1923, a bill to reauthorize and amend the National Film Preservation Act of 1996.

S. 1934

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1934, a bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2059

At the request of Mr. FITZGERALD, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 2059, a bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes.

S. 2076

At the request of Mr. BAUCUS, the names of the Senator from Delaware (Mr. CARPER), the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2096

At the request of Mr. LUGAR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2096, a bill to promote a free press and open media through the National Endowment for Democracy and for other purposes.

S. 2152

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2152, a bill to amend title 10, United States Code, to provide eligibility for reduced non-regular service military retired pay before age 60, and for other purposes.

S. 2157

At the request of Mr. BAUCUS, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Mr. SARBANES) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors 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. 2158

At the request of Ms. COLLINS, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2176

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2176, a bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

S. 2179

At the request of Mr. BROWNBACK, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Kentucky (Mr. BUNNING), the Senator from Colorado (Mr. CAMPBELL), the Senator from Minnesota (Mr. COLEMAN), the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. CRAIG), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. ENSIGN), the Senator from Wyoming (Mr. ENZI), the Senator from Illinois (Mr. FITZGERALD), the Senator from South Carolina (Mr. GRAHAM), the Senator from Iowa (Mr. GRASSLEY), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Maine (Ms. SNOWE), the Senator from Alaska (Mr. STEVENS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2186

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2186, a bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes.

S. 2193

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2193, a bill to improve small business loan programs, and for other purposes.

S. 2216

At the request of Mr. HOLLINGS, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2216, a bill to provide increased rail transportation security.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Florida (Mr. NELSON), the Senator from Nevada (Mr. REID), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Indiana (Mr. BAYH), the Senator from Wyoming (Mr. THOMAS), the Senator from Florida (Mr. GRAHAM), the Senator from Washington (Ms. CANTWELL) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 88

At the request of Mr. SARBANES, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 88, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from Nevada (Mr. REID) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 298

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 298, a resolution designating May 2004 as ''National Cystic Fibrosis Awareness Month''.

S. RES. 311

At the request of Mr. BROWNBACK, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

AMENDMENT NO. 2686

At the request of Mr. BUNNING, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 2686 proposed to S. 1637, a bill 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.

AMENDMENT NO. 2687

At the request of Mr. BUNNING, his name was withdrawn as a cosponsor of amendment No. 2687 proposed to S. 1637, a bill 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.

AMENDMENT NO. 2698

At the request of Mrs. FEINSTEIN, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Washington (Ms. CANTWELL) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 2698 intended to be proposed to S. 1637, a bill 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.

AMENDMENT NO. 2839

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 2839 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2218. A bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States for the purpose of providing a clean, safe, affordable, and reliable water supply to rural residents and for other purposes, to authorize the Secretary to conduct appraisal and feasibility studies for rural water projects, and to establish the guidelines for any projects authorized under this program; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI. Mr. President, I am introduing the Reclamation Rural Water Supply Act of 2004 as a courtesy to the administration.

By Mrs. HUTCHISON:

S. 2220. A bill to amend the Internal Revenue Code of 1986 to encourage a strong community-based banking system; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, today I am pleased to introduce the Community Savings and Investment Act of 2004. This will create jobs, expand economic activity, and help to revitalize distressed urban and rural communities. It will accomplish this by providing tax relief for community-focused banks and helping to generate financial opportunities in low-income areas.

As we address the challenges many of our communities face and search for ways to help those looking to improve their standard of living, we must properly leverage the tax laws to encourage economic development. Most people and communities do not want handouts. They want the chance to find solutions and make it on their own. However, to do this they need financial resources.

The lifeblood of any economic development is capital. Too often it is difficult for people, especially those in distressed areas, to access financial resources and other banking services. Providing community banking will lead to much-needed investments in communities, allowing people to purchase homes, start new businesses, and revitalize their neighborhoods.

The Community Savings and Investment Act will improve access to banking services by lowering taxes for community banks. It also provides incentives for banks to serve distressed communities by excluding any resulting income from taxation. By lowering the costs for banks to operate in communities, we can unleash powerful new forces for economic development.

This initiative will make a significant difference in the lives of thousands of families and communities across this Nation. As we seek ways to further strengthen our economy, I urge the Senate to pass this common-sense approach.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2220

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 ''Community Savings and Investment Act of 2004''.

SEC. 2. INCOME TAX ON QUALIFIED COMMUNITY LENDERS.

(a) IN GENERAL.—Section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) QUALIFIED COMMUNITY LENDERS.—

''(1) IN GENERAL.—In the case of a qualified community lender, in lieu of the amount of tax under subsection (b), the amount of tax imposed by subsection (a) for a taxable year shall be the sum of—

''(A) 15 percent of so much of the taxable income as exceeds $250,000 but does not exceed $1,000,000, and

''(B) the highest rate of tax imposed by subsection (b) multiplied by so much of the taxable income as exceeds $1,000,000.

''(2) QUALIFIED COMMUNITY LENDER.—For purposes of paragraph (1), the term 'qualified community lender' means a bank—

''(A) which achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of such bank under the Community Reinvestment Act of 1977,

''(B) the outstanding local community loans of which at all times during the taxable year comprised not less than 60 percent of the total outstanding loans of that bank,

''(C) meets the ownership requirements of paragraph (3), and

''(D) at all times during the taxable year has total assets of not more than $1,000,000,000.

''(3) OWNERSHIP REQUIREMENTS.—

''(A) IN GENERAL.—The ownership requirements of this paragraph are met with respect to any bank if—

''(i) no shares of, or other ownership interests in, the bank are publicly traded, or

''(ii) in the case of a bank the shares of which or ownership interests in which are publicly traded, the last known address of the holders of at least ⅔ of all such shares or interests, including persons for whose benefit such shares or interests are held by another, is in the home State of the bank or a State contiguous to such home State.

''(B) HOME STATE DEFINED.—For purposes of subparagraph (A), the term 'home State' means—

''(i) with respect to a national bank or Federal savings association, the State in which the main office of the bank or savings association is located, and

''(ii) with respect to a State bank or State savings association, the State by which the bank or savings association is chartered.

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

''(A) BANK.—The term 'bank'—

''(i) has the meaning given to such term in section 581, and

''(ii) includes any bank—

''(I) in which at least 80 percent of the shares of, or other ownership interests in, the bank are owned by other qualified community lenders, and

''(II) the sole purpose of which is to serve the banking needs of such lenders.

''(B) LOCAL COMMUNITY LOAN.—The term 'local community loan' means—

''(i) any loan originated by a bank to any person, other than a related person with respect to the bank, who is a resident of a community in which the bank is chartered or in which it operates an office at which deposits are accepted, and

''(ii) any loan originated by a bank to any person, other than a related person with respect to the bank, who is engaged in a trade or business in any such community, to the extent that all or substantially all of the proceeds of such loan are expended in connection with the trade or business of such person in any such community.

''(C) RELATED PERSON.—The term 'related person' means, with respect to any bank, any affiliate of the bank, any person who is a director, officer, or principal shareholder of the bank, and any member of the immediate family of any such person.''.

(b) S CORPORATION INCOME.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following:

''(j) COMMUNITY LENDER INCOME FROM S CORPORATION.—

''(1) IN GENERAL.—If a taxpayer has community lender income from a S corporation for any taxable year, the tax imposed by this section for such taxable year shall be the sum of—

''(A) the tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by community lender income, or

''(ii) the lesser of—

''(I) the amount of taxable income taxed at a rate below 25 percent, or

''(II) taxable income reduced by community lender income, and

''(B) a tax on community lender income computed at—

''(i) a rate of zero on zero-rate community lender income,

''(ii) a rate of 15 percent on 15 percent community lender income, and

''(iii) the highest rate in effect under this section with respect to the taxpayer on the excess of community lender income on which a tax is determined under clause (i) or (ii).

''(2) COMMUNITY LENDER INCOME.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified community lender income' means taxable income (if any) of a qualified community lender (as defined in section 11(d)(2)) that is an S corporation, determined at the entity level.

''(B) ZERO-RATE COMMUNITY LENDER INCOME.—The term 'zero-rate community lender income' means the taxpayer's pro rata share of so much of community lender income as does not exceed $250,000.

''(C) 15 PERCENT COMMUNITY LENDER INCOME.—The term '15 percent community lender income' means the taxpayer's pro rata share of so much of community lender income as exceeds $250,000 but does not exceed $1,000,000.

''(D) SPECIAL RULES.—

''(i) For purposes of this paragraph, the taxpayer's pro rata share of community lender income shall be determined under part II of subchapter S.

''(ii) This subsection shall be applied after the application of subsection (h).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 3. EXCLUSION FROM INCOME TAXATION FOR INCOME DERIVED FROM BANKING SERVICES WITHIN DISTRESSED COMMUNITIES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 140A the following new section:

''SEC. 140B. BANKING SERVICES WITHIN DISTRESSED COMMUNITIES.

''(a) IN GENERAL.—At the election of the taxpayer, gross income shall not include distressed community banking income.

''(b) DISTRESSED COMMUNITY BANKING INCOME.—For purposes of subsection (a), the term 'distressed community banking income' means net income of a qualified depository institution which is derived from the active conduct of a banking business in a distressed community.

''(c) QUALIFIED DEPOSITORY INSTITUTION.—For purposes of this section, an institution is a qualified depository institution if—

''(1) such institution is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)),

''(2) such institution is located in, or has a branch located in, a qualified distressed community, and

''(3) as of the last day of the taxable year, at least 85 percent of its loans from its location within the qualified distressed community are local community loans (as defined in section 11(d)(4)(B)).

''(d) DISTRESSED COMMUNITY.—For purposes of this section, the term 'distressed community' has the meaning given the term 'qualified distressed community' by section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(b)).''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 140A the following:

''Sec. 140B. Banking services within distressed communities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. BAUCUS (for himself and Mr. ROCKEFELLER):

S. 2222. A bill to amend titles XIX and XXI of the Social Security Act to clarify and ensure that the authority granted to the Secretary of Health and Human Services under section 1115 of that Act is used solely to promote the objectives of the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Medicaid and CHIP Safety Net Preservation Act, a bill to clarify existing law and to preserve the core elements of Medicaid, the State Children's Health Insurance Program, (CHIP), and our health care safety net, which provide needed health services to more than sixty million Americans. These programs, which are so critical to the health of our children, our parents and grandparents, and to our communities, have been threatened in recent years by waivers that undermine the very foundations of these programs. I am introducing this bill with my colleague, good friend, and the Ranking Member of the Finance Committee's Subcommittee on Health, Senator ROCKEFELLER.

I have long been concerned about the inappropriate use of the so-called ''Section 1115'' waiver authority with respect to Medicaid and CHIP. Section 1115 of the Social Security Act permits the Secretary of HHS to waive provisions of the Medicaid and CHIP statutes at the request of a state if the waiver is determined to ''promote the Objectives'' of the program, and if it meets certain other criteria established in statute. The waiver authority has existed since before Medicaid's inception, and it is designed to allow states before Medicaid's inception, and it is designed to allow states to experiment and engage in pilot and demonstration programs in a variety of Social Security Act programs. It has long been used to allow States to try innovative approaches to deliver or finance healthcare for some of our most vulnerable citizens—poor children, pregnant women and parents, individuals with disabilities, and the elderly, including many in nursing homes.

But in recent years, the waiver authority has been used increasingly aggressively and, in my view, irresponsibly. I first became concerned about these waivers when I learned that waiver programs, which now affect millions of people and tens of billions of dollars annually, were being negotiated and approved in the dark. In some cases, Medicaid enrollees literally could not find what the operative Medicaid rules were in their state, because laws and rules had been waived and the new program requirements were not published in a place accessible to the public. In 2001, I and my colleague, Chairman CHUCK GRASSLEY, wrote to Secretary Thompson with our concerns that the waiver process was not adequately transparent, and that there could be no accountability without transparency.

After many months and much correspondence with Secretary Thompson, I noticed some improvement in the posting of approved waiver applications. By that time, the General Accounting Office had reported that there were serious problems with 1115 waivers. Waivers were being approved without adequate public input; waivers were being approved that used funds set aside by Congress for children's health care on childless adults; and waiver applications were being negotiated and approved with different standards applied, depending on the identity of the state applicant. Finally, and most disturbing, the GAO noted that HHS was applying a condition to one type of waiver that imposed a hard cap on Federal spending for a state's elderly Medicaid enrollees over a five-year period.

Most recently, I was deeply disturbed to read press reports indicating that HHS was inviting states to prepare new more comprehensive waiver applications that would impose enforceable, global caps on state Medicaid programs. One of the crucial elements of the Medicaid program is its unique state-federal financing structure, which requires every state dollar expended on Medicaid to be matched by at least one Federal dollar. This guaranteed matching structure provides financial stability and an incentive for states to maintain levels of health care spending in good and bad economic times. The matching structure has, over time, allowed a swift response to economic recessions, high rates of uninsurance, epidemics, disasters like 9/11, and innovative treatment advances, like the advent of expensive protease inhibitors to threat AIDS. The law does not, and it should not, allow a Secretarial waiver of such a core element of Medicaid.

Another press report indicated that one governor intended to seek a waiver to the Medicaid entitlement in exchange for accepting a hard cap on Federal Medicaid spending. In the absence of the individual entitlement, a state could turn away eligible applicants; impose waiting lists; or terminate a health care benefit in the middle of treatment for a serious illness or a stay in a nursing home. For the poor, for children, for individuals with disabilities, such as ''innovation'' in Medicaid could be devastating.

I also heard reported an instance where HHS announced in court, for the very first time, that the Secretary has waived the essential ''EPSDT'' benefit for children in one state. Beneficiaries did not even know that they were no longer entitled to the comprehensive benefit for children until they were in litigation with the State over inadequacies in the state's Medicaid program.

And finally, I am concerned about efforts to undermine Medicaid financing for Community Health Clinics and Rural Health Clinics through the use of the 1115 waiver authority. These clinics provide desperately needed care for Medicaid and CHIP enrollees as well as millions of uninsured Americans. Without fair payment from Medicaid, CHCs and RHCs have reduced capacity to see the patients who rely on them for care.

There are some features of the Medicaid program that are so fundamental to the program that they should never be waived with the stroke of the pen of one person. And I am pleased to quote the new Administrator of the Centers on Medicare and Medicaid Services, Mark McClellan, who agreed at his nomination hearing that, and I quote from a news article citing his testimony, ''federally imposed caps on spending are not envisioned as part of Medicaid's structure.'' He also said that core Medicaid principles, such as the program's state and federal funding partnership and citizens' entitlement to benefits, should not be waived.

I am hopeful that, one day in the not too distant future, the Congress can have a meaningful debate on how to improve the Medicaid program that is now a healthcare lifeline for more than 50 million people, and how to improve CHIP and expand coverage to the uninsured. But in the meantime, we must ensure that efforts to innovate through waivers are made publicly and openly, with an opportunity for stakeholder

input at every level of decision making, and with a promise that innovation will ''do no harm'' to the foundational principles of these safety net programs. I urge my colleagues to cosponsor this bill, which will improve the integrity of Medicaid and CHIP and ensure that they remain available and responsive to the needs of so many Americans.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2222

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicaid and CHIP Safety Net Preservation Act of 2004''.

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

SEC. 2. FINDINGS; PURPOSES; RULE OF CONSTRUCTION.

(a) FINDINGS.—Congress makes the following findings:

(1) Certain requirements of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) are central to the overall objectives of the medicaid and State children's health insurance programs and are not properly subject to waiver, modification, or disregard under the authority of section 1115 of the Social Security Act (42 U.S.C. 1315).

(2) Some of the requirements of titles XIX and XXI of the Social Security Act that promote the overall objectives of the medicaid and State children's health insurance programs have been waived, modified, or otherwise disregarded by the Secretary of Health and Human Services under such section 1115, despite the explicit requirement in that section that certain requirements of the medicaid and State children's health insurance programs only may be waived, modified, or disregarded for the purpose of approving an experimental, pilot, or demonstration project if the waiver, modification, or disregard ''is likely to assist in promoting the objectives'' of those programs.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To clarify that certain requirements of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), which are among those critical to achieving the objectives of the medicaid and State children's health insurance programs, may not be waived, modified, or otherwise disregarded by the Secretary of Health and Human Services under the authority of section 1115 of the Social Security Act (42 U.S.C. 1315).

(2) To ensure that the authority granted to the Secretary of Health and Human Services under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the medicaid and State children's health insurance programs for the purpose of approving experimental, pilot, or demonstration projects is not used inappropriately.

(c) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act shall be construed to—

(1) authorize the waiver, modification, or other disregard of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.); or

(2) imply congressional approval of any demonstration project affecting the medicaid program under title XIX of the Social Security Act or the State children's health insurance program under title XXI of such Act that has been approved by the Secretary of Health and Human Services as of the date of enactment of this Act.

SEC. 3. CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT A CAP ON FEDERAL FINANCIAL PARTICIPATION.

Title XIX of the Social Security Act is amended by inserting after section 1925 the following:

''CLARIFICATIONS OF AUTHORITY UNDER SECTION 1115

''SEC. 1926. (a) CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT A CAP ON FEDERAL FINANCIAL PARTICIPATION.—The Secretary may not impose or approve under the authority of section 1115 a cap, limitation, or other restriction on payment under section 1903(a) to a State for amounts expended as medical assistance in accordance with the requirements of this title.''.

SEC. 4. CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OF, OR MODIFICATION LIMITING, INDIVIDUAL ENTITLEMENT.

Section 1926 of the Social Security Act, as added by section 3, is amended by adding at the end the following:

''(b) CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OF, OR MODIFICATION LIMITING, INDIVIDUAL ENTITLEMENT.—The Secretary may not approve or impose under the authority of section 1115 an elimination of, or modification limiting, the entitlement (established under section 1902(a), 1905(a), or otherwise) of an individual to receive any medical assistance for which Federal financial participation is claimed under this title.''.

SEC. 5. CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OR MODIFICATION OF REQUIREMENTS RELATING TO EPSDT SERVICES.

Section 1926 of the Social Security Act, as added by section 3 and amended by section 4, is amended by adding at the end the following:

''(c) CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OR MODIFICATION OF REQUIREMENTS RELATING TO EPSDT SERVICES.—The Secretary may not impose or approve under the authority of section 1115 an elimination or modification of the amount, duration, or scope of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r))) or of the requirements of subparagraphs (A) through (C) of section 1902(a)(43).''.

SEC. 6. CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OR MODIFICATION OF REQUIREMENTS RELATING TO CERTAIN SAFETY-NET SERVICES.

Section 1926 of the Social Security Act, as added by section 3 and amended by sections 4 and 5, is amended by adding at the end the following:

''(d) CLARIFICATION THAT SECTION 1115 AUTHORITY DOES NOT PERMIT ELIMINATION OR MODIFICATION OF REQUIREMENTS RELATING TO CERTAIN SAFETY-NET SERVICES.—The Secretary may not impose or approve under the authority of section 1115 an elimination or modification of the amount, duration, or scope of the services described in subparagraphs (B) and (C) of section 1905(a)(2) (relating to services provided by a rural health clinic (as defined in section 1905(l)(1)) and services provided by a Federally-qualified health center (as defined in section 1905(l)(2))) or of the requirements of section 1902(bb) (relating to payment for such services).''.

SEC. 7. PROHIBITION ON USE OF CHIP FUNDS FOR HEALTH BENEFITS COVERAGE FOR CHILDLESS ADULTS.

(a) IN GENERAL.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:''

''(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), on and after the date of enactment of this subsection, the Secretary may not approve a waiver, experimental, pilot, or demonstration project, or an amendment to such a project, that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of such Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting ''and may not include coverage of a nonpregnant childless adult'' after ''section 2101)''; and

(2) by adding at the end the following: ''For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.''.

SEC. 8. IMPROVEMENT OF THE PROCESS FOR THE DEVELOPMENT AND APPROVAL OF MEDICAID AND CHIP DEMONSTRATION PROJECTS.

Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by inserting after subsection (c) the following:

''(d) In the case of any experimental, pilot, or demonstration project under subsection (a) to assist in promoting the objectives of title XIX or XXI in a State that would result in a substantive change in eligibility, enrollment, benefits, financing, or cost-sharing (to the extent permitted under section 1916(f)) with respect to a State program under title XIX or XXI (in this subsection referred to as a 'demonstration project') the following shall apply:

''(1) The Secretary may not approve a proposal for a demonstration project, or for an amendment of a demonstration project, submitted by a State on or after the date of enactment of this subsection, unless the State requesting approval certifies that the State provided reasonable public notice and a reasonable opportunity for receipt and consideration of public comment on the proposal

prior to submission of the proposal to the Secretary. Such notice shall include—

''(A) the proposal;

''(B) the methodologies underlying the proposal;

''(C) the justifications for the proposal;

''(D) the State's projections regarding the likely effect and impact of the proposal on individuals eligible for assistance and providers or suppliers of items or services under title XIX or XXI (including under any demonstration project conducted in conjunction with either of those titles); and

''(E) the State's assumptions on which the projections described in subparagraph (D) are based.

''(2) With respect to any proposal for a demonstration project, or for an amendment or extension of a demonstration project, which has not been approved or disapproved by the Secretary as of the date of enactment of this subsection, the Secretary shall—

''(A) provide public notice in the Federal Register and on the Internet website of the Centers for Medicare & Medicaid Services of the proposal, any revisions of the proposal, and any conditions for the financing or approval of the proposal;

''(B) provide adequate opportunity for public comment on the proposal, any revisions of the proposal, and any such conditions;

''(C) approve such proposal, any revisions of the proposal, and any such conditions only if, after consideration of the public comments received, the Secretary determines that the proposal, any revisions of the proposal, and any such conditions are likely to assist in promoting the objectives of title XIX or XXI and identifies in writing the basis for such determination; and

''(D) publish on such website all documentation relating to the proposal (including the written determination required under subparagraph (C)), any revisions of the proposal, and any such conditions, including if the proposal, any revisions of the proposal, and any such conditions are approved—

''(i) the final terms and conditions for the demonstration project; and

''(ii) a list identifying each provision of title XIX or XXI, and each regulation relating to either such title, with which compliance is waived, modified, or otherwise disregarded or for which costs that would otherwise not be permitted under such title will be allowed.''.

SEC. 9. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by sections 3 through 6 shall apply to the approval on or after the date of enactment of this Act of—

(1) a waiver, experimental, pilot, or demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315); and

(2) an amendment or extension of such a project.

(b) EXCEPTION.—The amendment made by section 5 shall not apply with respect to any extension of approval of a waiver, experimental, pilot, or demonstration project with respect to title XIX of the Social Security Act that was first approved before 1994 and that provides a comprehensive and preventive child health program under such project that includes screening, diagnosis, and treatment of children who have not attained age 21.

Mr. ROCKEFELLER. Mr. President, I rise today to join the distinguished ranking member from Montana, Mr. BAUCUS, in introducing the Medicaid and CHIP Safety Net Preservation Act of 2004. Medicaid and the Children's Health Insurance Program (CHIP) provide health insurance coverage to more than 50 million vulnerable Americans, including pregnant women, kids, people with disabilities, and seniors in nursing homes. Preserving the integrity of each of these programs should be one of our top priorities. The bill that we are introducing today would ensure that Section 1115 of the Social Security Act—the so-called ''1115 waiver authority''—does not erode the core objectives of Medicaid and CHIP.

Medicaid and CHIP form the foundation of our Nation's health care safety net. Without them, many more Americans would be uninsured. Unfortunately, the central objectives of these entitlement programs have been threatened in recent years by shortsighted proposals to cap Federal funding, questionable administrative rules and regulations, and inappropriate waivers that essentially waive the requirements of Federal law. The Medicaid and CHIP Safety Net Preservation Act would address each of these issues by reaffirming the core requirements of Medicaid and SCHIP.

Congress created Medicaid in 1965 as Federal-State partnership to provide health insurance coverage to low-income families on welfare. Over the years, Medicaid has evolved into a multi-faceted health insurance program that serves working families, the disabled, and the elderly. Throughout the evolution of Medicaid, two aspects of the program have remained the same: Federal guidelines for program administration and shared Federal and State responsibility for financing. This structure has served the Medicaid program well. It maintains the national health care safety net, while also allowing Federal and State policymakers to tailor the program to meet local needs.

In 1997, I was joined by Senator CHAFEE in introducing the Children's Health Insurance Program as part of the Balanced Budget Act. The purpose of this program has always been to help the children of families that do not qualify for Medicaid. At the time that CHIP was enacted, 10 million children were uninsured. Today, over 5 million children have coverage through CHIP; this includes nearly 23,000 children in the State of West Virginia. While we still have a long way to go in order to provide every child with health insurance, I believe the families touched by the CHIP program thus far would agree it serves its purpose well.

The legislation that Senator BAUCUS and I are introducing today is designed to make it very clear that certain requirements under Medicaid and CHIP are central to the overall objectives of these programs and are not subject to waiver. Specifically, this legislation would ensure that 1115 waivers are not used to impose global caps on Federal payments to Medicaid. It would protect the Federal guarantee of Medicaid for any eligible individual. Children would continue to have access to comprehensive health benefits under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. Money intended for the care of children under CHIP would be used for that purpose. Finally, the process for reviewing and approving 1115 waivers would be more transparent, allowing greater opportunities for public notice and comment.

The Medicaid and CHIP Safety Net Preservation Act is a good first step toward preserving these critical health insurance programs. However, in order to strengthen Medicaid and CHIP for the future, we must also enact legislation that gives States the resources they need to cover eligible Medicaid beneficiaries, restores funding for the CHIP program, and allows states greater flexibility within the guidelines of the law. I urge my colleagues to support all of these important measures.

By Mr. ALLARD (for himself, Mr. BROWNBACK, Mr. ENZI, Mr. INHOFE, Mr. MILLER, Mr. LOTT, Mr. SANTORUM, Mr. SESSIONS, and Mr. SHELBY):

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

S.J. RES. 30

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE—

''SECTION 1. SHORT TITLE.

''This Article may be cited as the 'Federal Marriage Amendment'.

''SECTION 2. MARRIAGE AMENDMENT.

''Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 322—DESIGNATING AUGUST 16, 2004, AS ''NATIONAL AIRBORNE DAY''

Mr. HAGEL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 322

Whereas the airborne forces of the United States Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16, 2004, marks the anniversary of the first official validation of the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute;

Whereas the United States experiment of airborne infantry attack began on June 25,

1940, when the Army Parachute Test Platoon was first authorized by the United States Department of War, and was launched when 48 volunteers began training in July of 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that, since then, have served with distinction and repeated success in armed hostilities;

Whereas among those units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd, 507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Batallions, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II provided a basis of evolution into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf Region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment which, together with other units, comprise the quick reaction force of the Army's XVIII Airborne Corps when not operating separately under a regional combatant commander;

Whereas that modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Force Reconnaissance units, Navy SEALs, and Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command;

Whereas in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas in the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 173rd Airborne Brigade, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affair missions, and assisting in establishing democracy in Iraq;

Whereas the airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded;

Whereas of the members and former members of the United States combat airborne forces, all have achieved distinction by earning the right to wear the airborne's ''Silver Wings of Courage'', thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operations forces, and (in former days) glider troops; and

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people as the airborne community celebrates August 16, 2004, as the 64th anniversary of the first official jump by the Army Parachute Test Platoon: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2004, as ''National Airborne Day''; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe ''National Airborne Day'' with appropriate programs, ceremonies, and activities.

Mr. HAGEL. Mr. President, I am pleased to rise today to submit a Senate resolution which designates August 16, 2004 as ''National Airborne Day.''

Our friend and former colleague, the late Senator Strom Thurmond, introduced this resolution in past years. Senator Thurmond served with the 82nd Airborne Division, one of the first airborne divisions to be organized in the U.S. Army.

During a 2-year period during World War II, the regiments of the 82nd Airborne served in Italy at Anzio, in France at Normandy, and at the Battle of the Bulge.

As a member of the 82nd Airborne Division, Senator Strom Thurmond participated in the landings at Normandy in June 1944.

Later this year we will celebrate the 60th Anniversary of the D–Day landings and the Battle of Bulge.

On June 25, 1940, the War Department authorized the Parachute Test Platoon to experiment with the potential use of airborne troops. The Parachute Test Platoon, which was composed of 48 volunteers, performed the first official Army parachute jump on August 16, 1940. The success of the Platoon led to the formation of a large and successful airborne contingent that has served from World War II until the present.

The 11th, 13th, 17th, and 101st Airborne Divisions and numerous other regimental and battalion size airborne units were also organized following the success of the Parachute Test Platoon. In the last 64 years, these airborne forces have performed in important military and peace-keeping operations all over the world, including Operation Iraqi Freedom, and it is only appropriate that we designate a day to salute the contributions they have made to this Nation.

Through passage of ''National Airborne Day,'' the Senate will reaffirm our support for the members of the airborne community.

I would like to thank Airborne veterans and Airborne units for their tireless commitment to our Nation's defense and for the ideals of duty, honor, country they embody. Airborne!

AMENDMENTS SUBMITTED AND PROPOSED

SA 2860. Mrs. BOXER 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 2861. Mr. VOINOVICH (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2862. 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 2863. 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 2864. 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 2865. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2866. Mr. BUNNING (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2867. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2868. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2869. Mr. GRAHAM, of Florida (for himself, Mr. NELSON, of Florida, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2870. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2871. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2872. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2873. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2874. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2875. Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr. CHAFEE, Mr. DASCHLE, and Mr. SMITH) submitted an amendment intended to be proposed by her

to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2876. Mrs. HUTCHISON (for herself, Mr. SMITH, and 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 2877. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2878. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2879. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2880. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2881. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. SARBANES, Mr. KERRY, and Ms. MIKULSKI) proposed an amendment to the bill S. 1637, supra.

SA 2882. Mr. GRASSLEY (for Mr. BUNNING (for himself, Mrs. LINCOLN, Mr. SANTORUM, Mr. CONRAD, and Mr. BAUCUS)) proposed an amendment to amendment SA 2686 proposed by Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) to the bill S. 1637, supra.

SA 2883. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2884. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2885. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2886. Mr. MCCONNELL (for Mr. FRIST) submitted an amendment intended to be proposed by Mr. MCCONNELL to the bill S. 1637, supra.

SA 2887. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2888. Mrs. HUTCHISON (for herself, Mr. FRIST, Ms. CANTWELL, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2889. 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 2890. 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.

TEXT OF AMENDMENTS

SA 2860. Mrs. BOXER 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:

At the appropriate place, insert the following:

SEC. ___. CREDIT AGAINST FICA TAXES FOR EMPLOYERS OF FIRST RESPONDERS WHO ARE CALLED TO ACTIVE DUTY.

(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. CREDIT AGAINST TAX FOR EMPLOYERS OF FIRST RESPONDERS.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter an amount equal to 50 percent of the wages paid to each qualified first responder of the employer.

''(b) QUALIFIED FIRST RESPONDER.—For purposes of this section, the term 'qualified first responder' means any person who is—

''(1) employed as a law enforcement official, a firefighter, or a paramedic,

''(2) a member of the Ready Reserve of a reserve component of an Armed Force of the United States (as defined in section 10142 and 10101 of title 10, United States Code), and

''(3)(A) serving on active duty for a period of more than 30 days (within the meaning of section 101(d) of such title 10),

''(B) hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of such active duty, or

''(C) not present at work during the 14-day period beginning at the end of such active duty or the end of the period referred to in paragraph (2).''.

(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. Credit against tax for employers of first responders.

''Sec. 3129. Short title.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after the date of the enactment of this Act.

SA 2861. Mr. VOINOVICH (for himself and Mr. BAUCUS) 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. ___. BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the ''Blue Ribbon Commission on Comprehensive Tax Reform'' (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(i) 3 shall be appointed by the majority leader of the Senate;

(ii) 3 shall be appointed by the minority leader of the Senate;

(iii) 3 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the minority leader of the House of Representatives; and

(v) 5 shall be appointed by the President, of which no more than 3 shall be of the same party as the President.

(B) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(C) DATE.—The appointments of the members of the Commission shall be made not later than October 30, 2004.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(3) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to subsection (a)(2), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic

pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out this section.

SA 2863. 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 end of the bill, add the following:

TITLE V—NON-REVENUE PROVISIONS

SEC. 501. LCD PANEL ASSEMBLIES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.24	LCD panel assemblies for use in LCD projection type televisions (provided for in subheading 9013.80.90)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 2864. 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 end of the bill, add the following:

TITLE V—NON-REVENUE PROVISIONS

SEC. 501. PLASMA DISPLAY PANELS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.23	Plasma display panels for use in plasma flat screen televisions (provided for in subheading 8529.90.53)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 2865. Mr. HATCH 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—NON-REVENUE PROVISIONS

SEC. 501. ELECTRON GUNS FOR CATHODE RAY TUBES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.85.25	Electron guns actually used for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9 (provided for in subheading 8540.91.50)	Free	No change	No change	On or before 12/31/2006	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SA 2877. 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. . REVISIONS TO REIT PROVISIONS.

(a) RULES OF APPLICATION FOR FAILURE TO SATISFY SECTION 856(c)(4).—Section 856(c) (relating to definition of real estate investment trust), as amended by section 101, is amended by inserting after paragraph (6) the following new paragraph:

''(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4)—

''(A) DE MINIMUS FAILURE.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

''(I) 1 percent of the total value of the trust's assets at the end of the quarter for which such measurement is done, and

''(II) $10,000,000, and

''(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(B) FAILURES EXCEEDING DE MINIMIS AMOUNT.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

''(i) such failure involves the ownership of assets the total value of which exceeds the de minimis standard described in subparagraph (A)(i) at the end of the quarter for which such measurement is done,

''(ii) following the corporation, trust, or association's identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

''(iii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect,

''(iv) the corporation, trust, or association pays a tax computed under subparagraph (C), and

''(v)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (ii) within 6 months after the last day of the quarter in which the corporation, trust or association's identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

''(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

''(C) TAX.—For purposes of subparagraph (B)(iv)—

''(i) TAX IMPOSED.—If a corporation, trust, or association elects the application of this subparagraph, there is hereby imposed a tax on the failure described in subparagraph (B) of such corporation, trust, or association. Such tax shall be paid by the corporation, trust, or association.

''(ii) TAX COMPUTED.—The amount of the tax imposed by clause (i) shall be the greater of—

''(I) $50,000, or

''(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (B)(ii) for the period specified in clause (iii) by the highest rate of tax specified in section 11.

''(iii) PERIOD.—For purposes of clause (ii)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

''(iv) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.''.

''(b) MODIFICATION OF RULES OF APPLICATION FOR FAILURE TO SATISFY SECTIONS 856(c)(2) OR 856(c)(3).—Paragraph (6) of section 856(c) (relating to definition of real estate investment trust) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) following the corporation, trust, or association's identification of the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year, a description of each item of its gross income described in such paragraphs is set forth in a schedule for such taxable year filed in accordance with regulations prescribed by the Secretary, and''.

(c) REASONABLE CAUSE EXCEPTION TO LOSS OF REIT STATUS IF FAILURE TO SATISFY REQUIREMENTS.—Subsection (g) of section 856 (relating to termination of election) is amended—

(1) in paragraph (1) by inserting before the period at the end of the first sentence the following: ''unless paragraph (5) applies'', and

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

''(5) ENTITIES TO WHICH PARAGRAPH APPLIES.—This paragraph applies to a corporation, trust, or association—

''(A) which is not a real estate investment trust to which the provisions of this part apply for the taxable year due to one or more failures to comply with one or more of the provisions of this part (other than subsection (c)(6) or (c)(7) of section 856),

''(B) such failures are due to reasonable cause and not due to willful neglect, and

''(C) if such corporation, trust, or association pays (as prescribed by the Secretary in regulations and in the same manner as tax) a penalty of $50,000 for each failure to satisfy a provision of this part due to reasonable cause and not willful neglect.''.

(d) DEDUCTION OF TAX PAID FROM AMOUNT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) is amended by striking ''(7)'' and inserting ''(7) of this subsection, section 856(c)(7)(B)(iii), and section 856(g)(1).''.

(e) EXPANSION OF DEFICIENCY DIVIDEND PROCEDURE.—Subsection (e) of section 860 is amended by striking ''or'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; or,'' and by adding at the end the following new paragraph:

''(4) a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after date of the enactment of this Act.

SA 2866. Mr. BUNNING (for himself and Mr. CONRAD) 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 179, after line 25, insert the following:

SEC. ___. CONSOLIDATION OF LIFE INSURANCE COMPANIES WITH OTHER COMPANIES PERMITTED.

(a) IN GENERAL.—Section 1504(b) (defining includible corporation) is amended by striking paragraph (2) and by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 1503 is amended by striking subsection (c) (relating to special rule for application of certain losses against income of insurance companies taxed under section 801) and by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(2) Section 1504 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(3) Section 243(b)(2)(A) is amended by striking ''sections 1504(b)(2), 1504(b)(4), and 1504(c)'' and inserting ''section 1504(b)(3)''.

(4) Section 542(b)(5) is repealed.

(5) Section 805(a)(4)(E) is amended by striking ''1504(b)(3)'' and inserting ''1504(b)(2)''.

(6) Section 806(b)(3)(C) is repealed.

(7) Section 818(e)(1) is amended to read as follows:

''(1) ITEMS OF COMPANIES OTHER THAN INSURANCE COMPANIES.—If an affiliated group includes members which are and which are not life insurance companies, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.''.

(8) Section 832(b)(5)(D)(ii)(II) is amended by striking ''1504(b)(3)'' and inserting ''1504(b)(2)''.

(9) Section 847(8) is amended by striking ''without regard to the limitations'' and all that follows and inserting a period.

(10) Section 864(e)(5)(A) is amended by striking ''paragraph (4)'' and inserting ''paragraph (3)''.

(11) Section 936(i)(5)(A) is amended by striking ''section 1504(b)(3) or (4)'' and inserting ''section 1504(b)(2) or (3)''.

(12) Section 952(c)(1)(B)(vii)(II) is amended by striking ''1504(b)(3)'' and inserting ''1504(b)(2)''.

(13) Section 953(d)(3) is amended by striking ''1503(d)'' and inserting ''1503(c)''.

(14) Section 954(h)(4)(F)(ii) is amended by striking ''1504(b)(3)'' and inserting ''1504(b)(2)''.

(15) Section 6166(b)(10)(B)(ii)(V) is amended by striking ''1504(b)(3)'' and inserting ''1504(b)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ___. PHASE-IN OF APPLICATION OF CERTAIN LOSSES AGAINST INCOME OF INSURANCE COMPANIES.

(a) PHASE-IN.—

(1) IN GENERAL.—For taxable years beginning after December 31, 2003, and before January 1, 2010, if—

(A) an affiliated group includes 1 or more domestic insurance companies subject to tax under section 801 of the Internal Revenue Code of 1986,

(B) the common parent of such group has not elected under subsection (b) to treat all such insurance companies as corporations which are not includible corporations, and

(C) the consolidated taxable income of the members of the group not taxed under such section 801 results in a consolidated net operating loss for such taxable year,

then, under regulations prescribed by the Secretary of the Treasury or his delegate, the amount of such loss which cannot be absorbed in the applicable carryback periods against the taxable income of such members not taxed under such section 801 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of the applicable percentage of such loss or the applicable percentage of the taxable income of the members taxed under such section 801, whichever is less. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

For taxable years beginning in:	The applicable percentage is:
2004	40
2005	50
2006	60
2007	70
2008	80
2009	90.

(b) ELECTION FOR PRE-2010 YEARS OF GROUPS WITH INSURANCE COMPANIES.—For taxable years beginning after December 31, 2003, and before January 1, 2010, the common parent of an affiliated group (determined without regard to section 1504(b)(2) of the Internal Revenue Code of 1986 as in effect on the day before the date of enactment of this Act) which includes 1 or more domestic insurance companies subject to tax under section 801 of such Code may elect to treat all such insurance companies as corporations which are not includible corporations within the meaning of subsection (b) of section 1504 of such Code, if, as of the date of enactment of this section—

(1) such affiliated group included 1 or more insurance companies subject to tax under section 801 of such Code, and

(2) no additional election was in effect under section 1504(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

(c) NO CARRYBACK BEFORE JANUARY 1, 2004.—To the extent that a consolidated net operating loss is allowed or increased by reason of this section or the amendments made by this Act, such loss may not be carried back to a taxable year beginning before January 1, 2004.

(d) NONTERMINATION OF GROUP.—No affiliated group shall terminate solely as a result of this section or the amendments made by this Act.

(e) SUBSIDIARY STOCK BASIS ADJUSTMENTS.—A member corporation's basis in the stock of a subsidiary corporation shall be adjusted upon consolidation to reflect the preconsolidation income, gain, deduction, loss, distributions, and other relevant amounts during a period when such corporations were members of an affiliated group (determined without regard to section 1504(b)(2) of the Internal Revenue Code of 1986 as in effect on the day before the date of enactment of this Act) but were not included in a consolidated return of such group by operation of section 1504(c)(2)(A) of such Code (as in effect on the day before the date of the enactment of this Act) or by reason of the election allowed under subsection (b).

(f) WAIVER OF 5-YEAR WAITING PERIOD.—An automatic waiver from the 5-year waiting period for reconsolidation provided in section 1504(a)(3) of the Internal Revenue Code of 1986 shall be granted to any corporation which was previously an includible corporation but was subsequently deemed a nonincludible corporation as a result of becoming a subsidiary of a corporation which was not an includible corporation solely by operation of section 1504(c)(2) of such Code (as in effect on the day before the date of enactment of this Act), subject to such conditions as the Secretary may prescribe.

SA 2867. Mr. BENNETT 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 179, after line 25, add the following:

SEC. ___. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR BUSINESSES AFFECTED BY THE SEPTEMBER 11TH TERRORIST ATTACKS.

(a) IN GENERAL.—Subsection (g) of section 1400L is amended to read as follows:

''(g) MODIFICATION OF RULES APPLICABLE TO NONRECOGNITION OF GAIN.—In the case of property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone—

''(1) which was held by a corporation which is a member of an affiliated group filing a consolidated return, such corporation shall be treated as satisfying the purchase requirement of section 1033(a)(2) with respect to such property to the extent such requirement is satisfied by another member of the group, and

''(2) notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.''.

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to involuntary conversions occurring on or after September 11, 2001.

SA 2868. Mrs. DOLE 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:

At the appropriate place, insert the following:

SEC. ___. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation which is a real estate investment trust, which is a non-operating class III railroad, and substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons in railroad transportation, then, for purposes of section 115 of the Internal Revenue Code of 1986—

(1) income derived from such activities by the corporation shall be treated as accruing to the State, and

(2) such activities shall be treated as the exercise of an essential governmental function of the State to the extent such activities are of a type which are an essential government function (within the meaning of section 115 of such Code).

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of the corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—Any obligation issued by an entity described in subsection (a) shall be treated as an obligation of the State for purposes of applying section 103 and part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986.

(d) DEFINITIONS.—For purposes of this section—

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.) and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a).

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2005.

SA 2869. Mr. GRAHAM of Florida (for himself, Mr. NELSON of Florida, Ms. CANTWELL, and Mrs. MURRAY) 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 subtitle C of title II add the following:

SEC. ___. DELAY IN EFFECTIVE DATE OF FINAL REGULATIONS GOVERNING EXCLUSION OF INCOME FROM INTERNATIONAL OPERATION OF SHIPS OR AIRCRAFT.

Notwithstanding the provisions of Treasury regulation §1.883–5, the final regulations issued by the Secretary of the Treasury relating to income derived by foreign corporations from the international operation of ships or aircraft (Treasury regulations §1.883–1 through §1.883–5) shall apply to taxable years of a foreign corporation seeking qualified foreign corporation status beginning after September 24, 2004.

SA 2870. Mr. GRAHAM of Florida 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 179, after line 25, insert the following:

SEC. ___. EXPANSION OF PERIOD WITHIN WHICH CONVERTED CITRUS TREE PROPERTY MUST BE REPLACED.

(a) IN GENERAL.—Section 1033 (relating to period within which property must be replaced) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) COMMERCIAL TREES DESTROYED BECAUSE OF CITRUS TREE CANKER.—In the case of commercial citrus trees which are compulsorily or involuntarily converted under a public order as a result of the citrus tree canker, clause (i) of subsection (a)(2)(B) shall be applied as if such clause read: '2 years after the close of the taxable year in which a State or Federal plant health authority determines that the land on which such trees grew is free from the bacteria that causes citrus tree canker and permits replanting to begin'.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. ___. 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

(a) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by inserting after section 1301 the following new section:

''SEC. 1302. 10-YEAR RATABLE INCOME INCLUSION FOR CITRUS CANKER TREE PAYMENTS.

''(a) IN GENERAL.—At the election of the taxpayer, any amount taken into account as income or gain by reason of receiving a citrus canker tree payment shall be included in the income of the taxpayer ratably over the 10–year period beginning with the taxable year in which the payment is received or accrued by the taxpayer.

''(b) CITRUS CANKER TREE PAYMENT.—For purposes of subsection (a), the term 'citrus canker tree payment' means a payment made to an owner of a commercial citrus grove to recover income that was lost as a result of the removal of commercial citrus trees to control canker under the amendments to the citrus canker regulations (7 C.F.R. 301) made by the final rule published in the Federal Register by the Secretary of Agriculture on June 18, 2001 (66 Fed. Reg. 32713, Docket No. 00-37-4).''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after the item relating to section 1301 the following new item:

''Sec. 1302. 10-year ratable income inclusion for citrus canker tree payments.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made before, on, or after the date of the enactment of this Act.

SA 2871. Mr. GRAHAM of Florida 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. ___. 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 by striking subparagraph (F).

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking paragraphs (2) and (5),

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively,

(3) by adding at the end of paragraph (2) (as so redesignated) 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.'', and

(4) by striking ''CERTAIN'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2004.

SA 2872. Mr. GRAHAM of Florida 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 179, after line 25, insert the following:

SEC. ___. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) (relating to exempt facility bonds) is amended to read as follows:

''(1) airports and spaceports,''.

(b) TREATMENT OF GROUND LEASES.—Paragraph (1) of section 142(b) (relating to certain facilities must be governmentally owned) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR SPACEPORT GROUND LEASES.—For purposes of subparagraph (A), spaceport property which is located on land owned by the United States and which is used by a governmental unit pursuant to a lease (as defined in section 168(h)(7)) from the United States shall be treated as owned by such unit if—

''(i) the lease term (within the meaning of section 168(i)(3)) is at least 15 years, and

''(ii) such unit would be treated as owning such property if such lease term were equal to the useful life of such property.''.

(c) DEFINITION OF SPACEPORT.—Section 142 is amended by adding at the end the following new subsection:

''(l) SPACEPORT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1), the term 'spaceport' means—

''(A) any facility directly related and essential to servicing spacecraft, enabling spacecraft to launch or reenter, or transferring passengers or space cargo to or from spacecraft, but only if such facility is located at, or in close proximity to, the launch site or reentry site, and

''(B) any other functionally related and subordinate facility at or adjacent to the launch site or reentry site at which launch services or reentry services are provided, including a launch control center, repair shop, maintenance or overhaul facility, and rocket assembly facility.

''(2) ADDITIONAL TERMS.—For purposes of paragraph (1)—

''(A) SPACE CARGO.—The term 'space cargo' includes satellites, scientific experiments, other property transported into space, and any other type of payload, whether or not such property returns from space.

''(B) SPACECRAFT.—The term 'spacecraft' means a launch vehicle or a reentry vehicle.

''(C) OTHER TERMS.—The terms 'launch', 'launch site', 'launch services', 'launch vehicle', 'payload', 'reenter', 'reentry services', 'reentry site', and 'reentry vehicle' shall have the respective meanings given to such terms by section 70102 of title 49, United States Code (as in effect on the date of enactment of this subsection).''.

(d) EXCEPTION FROM FEDERALLY GUARANTEED BOND PROHIBITION.—Paragraph (3) of section 149(b) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(E) EXCEPTION FOR SPACEPORTS.—Paragraph (1) shall not apply to any exempt facility bond issued as part of an issue described in paragraph (1) of section 142(a) to provide a spaceport in situations where—

''(i) the guarantee of the United States (or an agency or instrumentality thereof) is the result of payment of rent, user fees, or other charges by the United States (or any agency or instrumentality thereof), and

''(ii) the payment of the rent, user fees, or other charges is for, and conditioned upon, the use of the spaceport by the United States (or any agency or instrumentality thereof).''.

(e) CONFORMING AMENDMENT.—The heading for section 142(c) is amended by inserting '', SPACEPORTS,'' after ''AIRPORTS''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 2873. Mr. THOMAS 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 179, after line 25, add the following:

SEC. ___. DEFINITION OF MANUFACTURING FACILITY FOR SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(12) (relating to termination dates) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in—

''(i) the manufacture of tangible personal property (including processing which results in a change in the condition of such property),

''(ii) the manufacture or development of any software product or process if—

''(I) it takes more than 6 months to manufacture or develop such product,

''(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months, and

''(III) the software product or process comprises programs, routines, and attendant

documentation developed and maintained for use in computer and telecommunications technology, or

''(iii) the manufacture or development of any biobased product or bioenergy if—

''(I) it takes more than 6 months to manufacture or develop, and

''(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months.

''(D) RELATED FACILITIES.—For purposes of subparagraph (C), the term 'manufacturing facility' includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

''(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

''(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility.

''(E) OTHER DEFINITIONS.—For purposes of subparagraph (C)(iii)—

''(i) BIOBASED PRODUCT.—The term 'biobased product' means a commercial or industrial product (other than food or feed) which utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

''(ii) BIOENERGY.—The term 'bioenergy' means biomass used in the production of energy, including liquid, solid, or gaseous fuels, electricity, and heat.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SA 2874. Mr. THOMAS 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 179, after line 25, add the following:

SEC. 3___. SODA ASH ROYALTIES.

Section 24 of the Mineral Leasing Act (30 U.S.C. 262) is amended—

(1) by striking ''SEC. 24. That upon'' and inserting the following:

''SEC. 24. LEASES.

''(a) IN GENERAL.—Upon''; and

(2) by adding at the end the following:

''(b) SODA ASH ROYALTIES.—Notwithstanding subsection (a), during the 5-year period beginning on the date of enactment of this subsection, the royalty rate applicable to any soda ash lease entered into under subsection (a) before, on, or after the date of enactment of this subsection shall be 2 percent.''.

SA 2875. Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr. CHAFEE, Mr. DASCHLE, and Mr. SMITH) 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:

At the end add the following:

TITLE VI—CIVIL RIGHTS TAX RELIEF

SEC. 601. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON ACCOUNT OF CERTAIN UNLAWFUL DISCRIMINATION.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 140 as section 140A and by inserting after section 139 the following new section:

''SEC. 140. AMOUNTS RECEIVED ON ACCOUNT OF CERTAIN UNLAWFUL DISCRIMINATION.

''(a) IN GENERAL.—

''(1) EXCLUSION.—Gross income does not include amounts received by a claimant (whether by suit or agreement and whether as lump sums or periodic payments) on account of a claim of unlawful discrimination (as defined in subsection (b)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code.

''(2) AMOUNTS COVERED.—For purposes of paragraph (1), the term 'amounts' does not include—

''(A) backpay or frontpay, as defined in section 1302(b), or

''(B) punitive damages.

''(b) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of this section, the term 'unlawful discrimination' means an act that is unlawful under any of the following:

''(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

''(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

''(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

''(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

''(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

''(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

''(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

''(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

''(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

''(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

''(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

''(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

''(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

''(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

''(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

''(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

''(18) Any provision of Federal, State, or local law, or common law claims permitted under Federal, State, or local law—

''(A) providing for the enforcement of civil rights, or

''(B) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 140. Amounts received on account of certain unlawful discrimination.

''Sec. 140. Cross references to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages received in taxable years beginning after December 31, 2002.

SEC. 602. LIMITATION ON TAX BASED ON INCOME AVERAGING FOR BACKPAY AND FRONTPAY RECEIVED ON ACCOUNT OF CERTAIN UNLAWFUL EMPLOYMENT DISCRIMINATION.

(a) IN GENERAL.—Part I of subchapter Q of chapter 1 (relating to income averaging) is amended by adding at the end the following new section:

''SEC. 1302. INCOME FROM BACKPAY AND FRONTPAY RECEIVED ON ACCOUNT OF CERTAIN UNLAWFUL EMPLOYMENT DISCRIMINATION.

''(a) GENERAL RULE.—If employment discrimination backpay or frontpay is received by a taxpayer during a taxable year, the tax imposed by this chapter for such taxable year shall not exceed the sum of—

''(1) the tax which would be so imposed if—

''(A) no amount of such backpay or frontpay were included in gross income for such year, and

''(B) no deduction were allowed for such year for expenses (otherwise allowable as a deduction to the taxpayer for such year) in connection with making or prosecuting any claim of unlawful employment discrimination by or on behalf of the taxpayer, plus

''(2) the product of—

''(A) the number of years in the backpay period and frontpay period, and

''(B) the amount by which the tax determined under paragraph (1) would increase if the amount on which such tax is determined were increased by the average annual net backpay and frontpay amount.

''(b) DEFINITIONS.—For purposes of this section—

''(1) EMPLOYMENT DISCRIMINATION BACKPAY OR FRONTPAY.—The term 'employment discrimination backpay or frontpay' means backpay or frontpay receivable (whether as lump sums or periodic payments) on account of a claim of unlawful employment discrimination.

''(2) UNLAWFUL EMPLOYMENT DISCRIMINATION.—The term 'unlawful employment discrimination' has the meaning provided the term 'unlawful discrimination' in section 140(b).

''(3) BACKPAY AND FRONTPAY.—The terms 'backpay' and 'frontpay' mean amounts includible in gross income in the taxable year—

''(A) as compensation which is attributable—

''(i) in the case of backpay, to services performed, or that would have been performed but for a claimed violation of law, as an employee, former employee, or prospective employee before such taxable year for the taxpayer's employer, former employer, or prospective employer; and

''(ii) in the case of frontpay, to employment that would have been performed but for

a claimed violation of law, in a taxable year or taxable years following the taxable year; and

''(B) which are—

''(i) ordered, recommended, or approved by any governmental entity to satisfy a claim for a violation of law, or

''(ii) received from the settlement of such a claim.

''(4) BACKPAY PERIOD.—The term 'backpay period' means the period during which services are performed (or would have been performed) to which backpay is attributable. If such period is not equal to a whole number of taxable years, such period shall be increased to the next highest number of whole taxable years.

''(5) FRONTPAY PERIOD.—The term 'frontpay period' means the period of foregone employment to which frontpay is attributable. If such period is not equal to a whole number of taxable years, such period shall be increased to the next highest number of whole taxable years.

''(6) AVERAGE ANNUAL NET BACKPAY AND FRONTPAY AMOUNT.—The term 'average annual net backpay and frontpay amount' means the amount equal to—

''(A) the excess of—

''(i) employment discrimination backpay and frontpay, over

''(ii) the amount of deductions that would have been allowable but for subsection (a)(1)(B), divided by

''(B) the number of years in the backpay period and frontpay period.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter Q of chapter 1 is amended by inserting after section 1301 the following new item:

''Sec. 1302. Income from backpay or frontpay received on account of certain unlawful employment discrimination.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received in taxable years beginning after December 31, 2002.

SEC. 603. INCOME AVERAGING FOR BACKPAY AND FRONTPAY RECEIVED ON ACCOUNT OF CERTAIN UNLAWFUL EMPLOYMENT DISCRIMINATION NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) COORDINATION WITH INCOME AVERAGING FOR AMOUNTS RECEIVED ON ACCOUNT OF EMPLOYMENT DISCRIMINATION.—Solely for purposes of this section, section 1302 (relating to averaging of income from backpay or frontpay received on account of certain unlawful employment discrimination) shall not apply in computing the regular tax.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SA 2876. Mrs. HUTCHISON (for herself, Mr. SMITH, and 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:

On page 76, strike lines 3 through 14 and insert the following:

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(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.—Such term also includes the gross receipts of the taxpayer which are derived from any construction, engineering, or architectural services performed in the United States for construction projects in the United States.

SA 2877. Mr. BAUCUS 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 164, strike line 12 through page 165, line 2, and insert the following:

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(29).''.

On page 168, strike lines 16 through 18 and insert the following:

(f) EFFECTIVE DATES.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

SA 2878. Mr. PRYOR 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 section 487 in amendment No. 2645, as agreed to.

SA 2879. Mrs. CLINTON 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:

At the appropriate place, insert the following:

SEC. ___. TRANSMISSION OF PERSONALLY IDENTIFIABLE INFORMATION TO FOREIGN AFFILIATES OR SUBCONTRACTORS.

(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) BUSINESS ENTERPRISE.—The term ''business enterprise'' means any organization, association, or venture established to make a profit.

(2) COUNTRY WITH ADEQUATE PRIVACY PROTECTION.—The term ''country with adequate privacy protection'' means a country that has been certified by the Federal Trade Commission as having a legal system that provides adequate privacy protection for such information.

(3) HEALTH CARE BUSINESS.—The term ''health care business'' means any business enterprise or nonprofit organization that collects or retains personally identifiable information about consumers in relation to medical care, including—

(A) hospitals;

(B) health maintenance organizations;

(C) medical partnerships;

(D) emergency medical transportation companies;

(E) medical transcription companies; and

(F) subcontractors, or potential subcontractors, of the entities described in subparagraphs (A) through (E).

(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' includes name, bank account information, social security number, address, telephone number, passwords, mother's maiden name, and age.

(b) TRANSMISSION OF INFORMATION.—

(1) IN GENERAL.—A business enterprise may transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is a country with adequate privacy protection.

(2) CONSENT REQUIRED.—A business enterprise may not transmit personally identifiable information regarding a citizen of the United States to any foreign affiliate or subcontractor located in a country that is not a country with adequate privacy protection, unless—

(A) the business enterprise obtains consent from the citizen, before a consumer relationship is established or before the effective date of this section, to transmit such information to such foreign affiliate or subcontractor; and

(B) the consent referred to in subparagraph (A) is renewed by the citizen within 1 year before such information is transmitted.

(3) LIABILITY.—A business enterprise shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(4) RULEMAKING.—The Chairman of the Federal Trade Commission shall promulgate regulations through which the Chairman may enforce the provisions of this subsection and impose a fine for a violation of this subsection.

(c) HEALTH CARE INFORMATION.—

(1) IN GENERAL.—A health care business shall be liable for any damages arising from the improper storage, duplication, sharing, or other misuse of personally identifiable information by the business enterprise or by any of its foreign affiliates or subcontractors that received such information from the business enterprise.

(2) NO OPT OUT PROVISION.—A health care business may not terminate an existing relationship with a consumer of health care services to avoid the consent requirement under subsection (b)(2).

(3) RULEMAKING.—The Secretary of Health and Human Services shall promulgate regulations through which the Secretary may enforce the provisions of this subsection and impose a fine for the violation of this subsection.

(d) EFFECTIVE DATE.—This section shall take effect on the date which is 90 days after the date of enactment of this Act.

SA 2880. Mr. DURBIN 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 179, after line 25, insert the following:

SEC. ___. CREDIT FOR QUALIFIED EXPENDITURES FOR MEDICAL PROFESSIONAL MALPRACTICE INSURANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business tax credits) is amended by adding at the end the following:

"SEC. 45G. CREDIT FOR EXPENDITURES FOR MEDICAL PROFESSIONAL MALPRACTICE INSURANCE.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a taxpayer which is an eligible person, the medical malpractice insurance expenditure tax credit determined under this section for a covered year shall equal the applicable percentage of the qualified medical malpractice insurance expenditures incurred by an eligible person during the covered year.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) in the case of an eligible person described in subsection (c)(2)(A), 20 percent,

''(2) in the case of an eligible person described in subsection (c)(2)(B), 10 percent, and

''(3) in the case of an eligible person described in subsection (c)(2)(C), 15 percent.

''(c) DEFINITIONS.—In this section:

''(1) COVERED YEAR.—The term 'covered year' means taxable years beginning in 2004 and 2005.

''(2) ELIGIBLE PERSON.—The term 'eligible person' means—

''(A) any physician (as defined in section 213(d)(4)) who practices in any surgical specialty or subspecialty, emergency medicine, obstetrics, anesthesiology or who does intervention work which is reflected in medical malpractice insurance expenditures,

''(B) any physician (as so defined) who practices in general medicine, allergy, dermatology, pathology, or any other specialty not otherwise described in this section, and

''(C) any hospital, clinic, or long-term care provider,

which meets applicable legal requirements to provide the health care services involved.

''(3) QUALIFIED MEDICAL MALPRACTICE INSURANCE EXPENDITURE.—The term 'qualified medical malpractice insurance expenditure' means so much of any professional insurance premium, surcharge, payment or other cost or expense which is incurred by an eligible person in a covered year for the sole purpose of providing or furnishing general medical malpractice liability insurance for such eligible person as does not exceed twice the average of such costs for similarly situated eligible persons.

''(d) SPECIAL RULES.—

''(1) IN GENERAL.—The credit determined under this section shall be claimed by the eligible person incurring the qualified medical malpractice insurance expenditure.

''(2) CERTIFICATION.—Each State, through its board of medical licensure and State board (or agency) regulating insurance, annually shall provide such information to the Secretary of Health and Human Services as is necessary to permit the Secretary to calculate average costs for purposes of subsection (c)(3) and to certify such average costs (rounded to the nearest whole dollar) to the Secretary of the Treasury on or before the 15th day of November of each year.

''(e) APPLICATION OF SECTION.—This section shall apply to qualified medical malpractice expenditures incurred after December 31, 2003.''.

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

''(16) the medical malpractice insurance expenditure tax credit determined under section 45G(a).''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF MEDICAL MALPRACTICE INSURANCE EXPENDITURE TAX CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year beginning before 2004.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) CREDIT FOR MEDICAL MALPRACTICE LIABILITY INSURANCE PREMIUMS.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified medical malpractice insurance expenditures otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 45G (determined without regard to section 38(c)).

''(2) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 41(f)(1).''.

(e) GRANTS TO NON-PROFIT HOSPITALS, CLINICS, AND LONG-TERM CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible non-profit hospitals, clinics, and long-term care providers to assist such hospitals, clinics, and long-term care providers in defraying qualified medical malpractice insurance expenditures.

(2) ELIGIBLE NON-PROFIT HOSPITAL, CLINIC, OR LONG-TERM CARE PROVIDER.—To be eligible to receive a grant under paragraph (1) an entity shall—

(A) be a non-profit hospital, clinic, or long-term care provider;

(B) be unable to claim the tax credit described in section 45G for the year for which an application is submitted under subparagraph (C); and

(C) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(3) AMOUNT OF GRANT.—The amount of a grant to a non-profit hospital, clinic, or long-term care provider under paragraph (1) shall equal 15 percent of the amount of the qualified medical malpractice insurance expenditures of the hospital, clinic, or long-term care provider for the year involved.

(4) QUALIFIED MEDICAL MALPRACTICE INSURANCE EXPENDITURE.—In this subsection, the term ''qualified medical malpractice insurance expenditure'' means so much of any professional insurance premium, surcharge, payment or other cost or expense which is incurred by a non-profit hospital, clinic, or long-term care provider in a year for the sole purpose of providing or furnishing general medical malpractice liability insurance for such hospital, clinic, or long-term care provider as does not exceed twice the average of such costs for similarly situated hospitals, clinics, or long-term care provider homes.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2005 and 2006.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45G. Credit for expenditures for medical professional malpractice insurance.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SA 2881. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. SARBANES, Mr. KERRY, and Ms. MIKULSKI) proposed an amendment 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; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF OVERTIME PAY.

Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(k)(1) The Secretary shall not promulgate any rule under subsection (a)(1) that exempts from the overtime pay provisions of section 7 any employee who would not be exempt under regulations in effect on March 31, 2003.

''(2) Any portion of a rule promulgated under subsection (a)(1) after March 31, 2003, that exempts from the overtime pay provisions of section 7 any employee who would not otherwise be exempt if the regulations in effect on March 31, 2003, remained in effect, shall have no force or effect.''.

SA 2882. Mr. GRASSLEY (for Mr. BUNNING (for himself, Mrs. LINCOLN,

Mr. SANTORUM, Mr. CONRAD, and Mr. BAUCUS)) proposed an amendment to amendment SA 2686 proposed by Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) 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; as follows:

At the end of the matter proposed to be inserted at the end of the bill, add the following:

SEC. ___. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting ''5-YEAR CARRYBACK OF CERTAIN LOSSES.—'' after ''(H)'', and

(2) by striking ''or 2002'' and inserting '', 2002, or 2003''.

(b) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—For purposes of this section, in the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be deemed to have made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking ''or 2002'' and inserting '', 2002, or 2003'', and

(2) 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(j) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

(4) SPECIAL RULE FOR TAXPAYERS WITH TAXABLE YEARS ENDING DURING JANUARY.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section 172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

(c) PRIOR SECTION TO HAVE NO EFFECT.—Notwithstanding section 311(e) of this Act, such section, and the amendments made by such section, shall not take effect.

SA 2883. Mr. DAYTON 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 add the following:

TITLE V—HOUSING BOND AND CREDIT MODERNIZATION AND FAIRNESS PROVISIONS

SEC. 501. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding ''and'' at the end of clause (ii), by striking '', and'' at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) of such Code is amended by striking ''(and clause (iv) of subparagraph (A))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

SEC. 502. MODIFICATION OF PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) (relating to purchase price requirement) is amended to read as follows:

''(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

''(A) 90 percent of the average area purchase price applicable to the residence, or

''(B) 3.5 times the applicable median family income (as defined in subsection (f)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to financing provided, and mortgage credit certificates issued, after the date of the enactment of this Act.

SEC. 503. DETERMINATION OF AREA MEDIAN GROSS INCOME FOR LOW-INCOME HOUSING CREDIT PROJECTS.

(a) IN GENERAL.—Paragraph (4) of section 42(g) (relating to certain rules made applicable) is amended by striking the period at the end and inserting ''and the term 'area median gross income' means the amount equal to the greater of—

''(A) the area median gross income determined under section 142(d)(2)(B), or

''(B) the statewide median gross income for the State in which the project is located.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof.

SA 2884. Mr. DAYTON 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 179, after line 25, add the following:

SEC. ___. REPEAL OF CHECK-THE-BOX RULES.

(a) IN GENERAL.—Paragraph (3) of section 7701(a) (relating to corporation) is amended by inserting at the end the following new sentence: ''The determination as to whether any foreign business entity is a corporation shall be made without regard to any election regarding the classification of the business form of such entity and shall be made under rules similar to the rules for determining the status of such entity on December 31, 1996 (except that any foreign business entity which is defined as a corporation under regulations on the date of the enactment of this sentence shall continue to be classified as a corporation).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning in calendar years beginning after the date of the enactment of this Act.

SA 2885. Mr. DAYTON 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 85, line 20, strike all through page 146, line 23, and insert the following:

SEC. 201. 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.

SA 2886. Mr. MCCONNELL (for Mr. FRIST) submitted an amendment intended to be proposed by Mr. MCCONNELL 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; 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.—

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 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 2004.—The phaseout percentage for 2004 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 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.

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 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:
2004, 2005, or 2006	5
2007	6
2008	7.

''(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. The preceding sentence shall not apply to any entity all of the ownership interests of which are held directly or indirectly by members of the same expanded affiliated group.

''(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) 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—

''(I) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

''(II) 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, but for this paragraph, would be deductible under subsection (a) by the organization and is 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 a deduction under subsection (a) with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

''(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) in the case of an organization described in subparagraph (A)(i)(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.

''(9) SEPARATE APPLICATION TO FILMS AND VIDEOTAPE.—In the case of qualifying production property described in section 168(f)(3), this section shall be applied separately to qualified production activities income of the taxpayer allocable to each of the following markets with respect to such property:

''(A) Theatrical.

''(B) Broadcast television (including cable, foreign, pay-per-view, and syndication).

''(C) Home video.''.

(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 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). For purposes of this paragraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). 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, which is predominantly engaged in the active conduct of a trade or business outside the United States, 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.

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 512(b) (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(29).''.

(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 the date of the enactment of this Act and before the date which is 12 months after the date of the enactment of this Act.

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) COORDINATION WITH ACCUMULATED EARNINGS TAX.—Section 532(b) is amended by adding at the end the following flush sentence:

''Paragraph (1) shall not apply to any taxable year to which section 541 does not apply.''

(c) EFFECTIVE DATE.—The amendments 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. FIVE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended—

(1) by inserting ''5-YEAR CARRYBACK OF CERTAIN LOSSES.—'' after ''(H)'', and

(2) by striking ''or 2002'' and inserting '', 2002, or 2003''.

(b) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) RULES RELATING TO CERTAIN EXTENDED NET OPERATING LOSSES.—For purposes of this section, in the case of a taxpayer which has a net operating loss for any taxable year ending during 2003 and does not make an election under subsection (j), such taxpayer shall be deemed to have made an election under paragraphs (4)(E) and (2)(C)(iii) of section 168(k) with respect to all classes of property for such taxable year.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(1) by striking ''or 2002'' and inserting '', 2002, or 2003'', and

(2) 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(j) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

(4) SPECIAL RULE FOR TAXPAYERS WITH TAXABLE YEARS ENDING DURING JANUARY.—Any taxpayer which has a taxable year ending during January may elect under this paragraph to apply section 172(b)(1)(H) of the Internal Revenue Code of 1986 (as amended by this section) to its taxable year ending in 2004 rather than its taxable year ending in 2003. If such election is made, then section 172(k) of such Code (as added by this section) shall be applied to the taxpayer's taxable year ending in 2004. Such election shall be made in such manner and at such time as may be prescribed by the Secretary of the Treasury. Such election, once made, shall be irrevocable.

SEC. 312. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

SEC. 313. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) 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) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.''.

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) RESEARCH CONSORTIUM.—

''(A) IN GENERAL.—The term 'research consortium' means any organization—

''(i) which is—

''(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

''(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

''(ii) which is not a private foundation,

''(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

''(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

''(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).''.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting ''(other than a research consortium)'' after ''organization''.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

''(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

''(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

''(I) an eligible small business,

''(II) an institution of higher education (as defined in section 3304(f)), or

''(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

''(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with

respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

''(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

''(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

''(iii) SMALL BUSINESS.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

''(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

''(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 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) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.''.

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking ''or (n)'' and inserting ''(n), or (q)''.

(c) 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.''.

(d) 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,

''(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

''(V) 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,

''(IV) is not signed by all individuals who are principal authors of the opinion, or

''(V) 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, which is—

''(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

''(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.''.

(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 $10,000.

''(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) $100,000, or

''(II) 50 percent of the amount 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.

SEC. 419. INCREASES IN PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENTS.

(a) IN GENERAL.—Section 6701(b) is amended to read as follows:

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—The amount of the penalty imposed by subsection (a) shall be the greater of—

''(A) $2,000, or

''(B) 50 percent of the gross income derived (or to be derived) from the activity giving rise to the penalty.

''(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, paragraph (1)(A) shall be applied by substituting '$20,000' for '$2,000'.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 420. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.

(a) STUDY.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) REPORT.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

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. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax 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 of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 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 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending 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 (including remediation of property) for damage or harm caused by or which may be 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.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(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 DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after February 13, 2003.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations 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.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(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:

''(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

''(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

''(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

''(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

''(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such

securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

''(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

''(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

''(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State.''

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

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) 0f 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 (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible 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 item 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 that an amount attributable to such item (reduced by properly allowable deductions and qualified deficits under section 952(c)(1)(B)) is includible 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 CERTAIN DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATION.—

''(i) IN GENERAL.—This paragraph shall apply to an applicable 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.

''(ii) APPLICABLE DISPOSITION.—For purposes of clause (i), the term 'applicable disposition' means any disposition of any share of stock in a controlled foreign corporation in a transaction or series of transactions if, immediately before such transaction or series of transactions, the taxpayer owned more than 50 percent (by vote or value) of the stock of the controlled foreign corporation.

''(iii) EXCEPTION.—A disposition shall not be treated as an applicable disposition under clause (ii) if it is part of a transaction or series of transactions—

''(I) to which section 351 or 721 applies, or under which the transferor receives stock in a foreign corporation in exchange for the stock in the controlled foreign corporation and the stock received is exchanged basis property (as defined in section 7701(a)(44)), and

''(II) immediately after which, the transferor owns (by vote or value) at least the same percentage of stock in the controlled foreign corporation (or, if the controlled foreign corporation is not in existence after such transaction or series of transactions, in another foreign corporation stock in which was received by the transferor in exchange for stock in the controlled foreign corporation) as the percentage of stock in the controlled foreign corporation which the taxpayer owned immediately before such transaction or series of transactions.

Clause (i) shall apply to any gain recognized on any disposition to which this clause applies.

''(iv) CONTROLLED FOREIGN CORPORATION.—For purposes of this subparagraph, the term 'controlled foreign corporation' has the meaning given such term by section 957.

''(v) STOCK OWNERSHIP.—For purposes of this subparagraph, ownership of stock shall be determined under the rules of subsections (a) and (b) of section 958.

(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:

''(1) 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) MODIFICATIONS OF QUALIFIED COVERED CALL EXCEPTION.—

(1) MARKETS ON WHICH OPTIONS MAY BE TRADED.—

(A) IN GENERAL.—Section 1092(c)(4)(B)(i) is amended by striking ''or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph''.

(B) REGULATIONS.—Section 1092(c)(4)(H) is amended by adding at the end the following new sentence: ''Such regulations shall not add any exchange or market not described in subparagraph (B)(i) to the exchanges or markets on which qualified covered call options may be traded.''

(2) HOLDING PERIOD FOR DIVIDEND EXCLUSION.—The last sentence of section 246(c) is amended by inserting: '', other than a qualified covered call option to which section 1092(f) applies'' before the period at the end.

(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) of the Internal Revenue Code of 1986 (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—

''(I) which is primarily designed or which can be used to carry passengers over public streets, roads, or highways (except any vehicle operated exclusively on a rail or rails),

''(II) which is not subject to section 280F, and

''(III) which 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) is designed to have a seating capacity of more than 9 persons behind the driver's seat,

''(II) is equipped with a cargo area of at least 6 feet in interior length which is an open area or is designed for use as an open area but is enclosed by a cap and is not readily accessible directly from the passenger compartment, or

''(III) 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.''.

(b) EFFECTIVE DATE.—The amendment 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) thereof and determined as if property described in section 167(f)(1)(B) were tangible property). Such term shall not include property with respect to which the credit under section 42 is allowed and which, but for this sentence, would be tax-exempt property solely by reason of section 168(h)(6).

''(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 OR FEDERAL FUNDS.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from—

''(A) 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, or

''(B) Federal funds.

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) set aside or expected to be set aside,

to or for the benefit of the lessor or a lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease. Funds shall be treated as described in clause (ii) only if a reasonable person would conclude, based on the facts and circumstances, that such funds are so described.

''(B) ARRANGEMENTS.—The arrangements referred to in this subparagraph are—

''(i) a defeasance arrangement, a loan by the lessee to the lessor or a 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 a fixed price or 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.

''(iv) NO ALLOWABLE AMOUNT FOR CERTAIN ARRANGEMENTS.—The allowable amount shall be zero in the case of any arrangement which involves—

''(I) a loan from the lessee to the lessor or a lender,

''(II) any deposit, letter of credit, or payment undertaking agreement involving a lender, or

''(III) any credit support made available to the lessor in which a lender (if any) does not have a claim which is senior to the lessor.

For purposes of subclause (I), the term 'loan' shall not include any amount treated as a loan under section 467 with respect to a section 467 rental agreement.

''(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.

Subparagraphs (A)(ii) and (B) shall not apply if the lease term is described in section 168(h)(1)(C)(ii), or in the case of qualified technological equipment, is described in section 168(h)(3). For purposes of subparagraph (B), the fair market value at the end of the lease term shall be reduced to the extent that a person other than the lessor bears a risk of loss in the value of the property.

''(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 were 25 percent less than its reasonably expected 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) PROPERTY WITH MORE THAN 7-YEAR CLASS LIFE.—In the case of a lease—

''(A) of property with a class life (as defined in section 168(i)(1)) of more than 7 years, and

''(B) under which the lessee has the option to purchase the property,

the lease meets the requirements of this paragraph only if the purchase price under the option equals the fair market value of the property (determined at the time of exercise).

''(6) 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 November 18, 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) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term ''applicable taxpayer'' means 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).

(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.

SEC. 498. HOLDING PERIOD FOR PREFERRED STOCK.

(a) IN GENERAL.—Section 1(h)(11)(B)(iii)(I) is amended to read as follows:

''(I) with respect to which the holding period requirements of section 246(c) are not met, determined by substituting '60 days' for '45' days each place it appears, by substituting '120-day' for '90-day' each place it appears, and by substituting '120 days' for '90 days' and '240-day' for '180-day' in paragraph (2).''

(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 V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

''(a) CONVERSIONS TO CONTRACTOR PERFORMANCE OF FEDERAL ACTIVITIES.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

''(b) OTHER FEDERAL CONTRACTS.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

''(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

''(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

''(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

''(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

''(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

''(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

''(c) STATE CONTRACTS.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

''(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

''(A) the chief executive of such State—

''(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

''(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

''(B) the head of the executive agency receiving the notification of such determination—

''(i) confirms that the facts warrant the determination;

''(ii) approves the determination; and

''(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

''(3) In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

''(d) Subsections (b) and (c) shall not apply to procurement covered by the World Trade Organization Government Procurement Agreement.

''(e) NATIONAL SECURITY EXEMPTION.—Subsection (b) shall not apply to any procurement for national security purposes entered into by—

''(1) the Department of Defense or any agency or entity thereof;

''(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

''(3) the Department of Homeland Security;

''(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

''(5) any element of the intelligence community.

''(f) RESPONSIBILITIES OF OMB.—The Director of the Office of Management and Budget shall—

''(1) maintain—

''(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

''(B) the notifications received under subsection (c)(2)(B)(iii); and

''(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

''(A) the waivers that were granted under subsection (b)(2) during such quarter; and

''(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

''(g) ANNUAL GAO REVIEW.—The Comptroller General shall—

''(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exceptions in subsections (c)(2) and (e); and

''(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract to the maximum extent feasible outside the United States.''.

(2) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

''Sec. 42. Limitations on off-shore performance of contracts.''.

(b) INAPPLICABILITY TO STATES DURING FIRST TWO FISCAL YEARS.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the United States economy. The initial certification shall be made by the Secretary of Commerce no later than 90 days after the enactment of this Act. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The provisions of this title shall not apply to the extent that they may be inconsistent with obligations under international agreements. Within 90 days of this legislation, the Office of Management and Budget, in consultation with the Office of the United States Trade Representative, shall develop guidelines for the implementation of this provision.

TITLE VI—OTHER PROVISIONS

Subtitle A—Provisions Relating to Housing

SEC. 601. TREATMENT OF QUALIFIED MORTGAGE BONDS.

(a) YEAR HOLIDAY.—Section 143(a)(2)(iv) of the Internal Revenue Code of 1986 shall not apply to amounts received during the 1-year period beginning on the date of the enactment of this Act with respect to any bond outstanding on such date.

(b) REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON MORTGAGE SUBSIDY BOND FINANCINGS TO REDEEM BONDS.—

(1) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (defining qualified mortgage issue) is amended by adding ''and'' at the end of clause (ii), by striking '', and'' at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) is amended by striking ''(and clause (iv) of subparagraph (A))''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued after the date of the enactment of this Act.

SEC. 602. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).''.

(b) DEFINITION AND SPECIAL RULES.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Home Loan Guaranty Program of the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued in taxable years beginning after December 31, 2004, and ending before January 1, 2006.

SEC. 603. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE REGARDING CERTAIN HISTORIC STRUCTURES.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

''(1) which is placed in service after the date of the enactment of this subsection,

''(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

''(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting '25 percent' for '20 percent'.''.

(b) APPLICATION OF MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Bonds

SEC. 611. EXPANSION OF NEW YORK LIBERTY ZONE TAX BENEFITS.

(a) ADDITIONAL EXTENSION OF TAX-EXEMPT BOND FINANCING.—Section 1400L(d)(2)(D), as amended by this Act, is amended by striking ''2006'' and inserting ''2010''.

(b) EXTENSION OF ADVANCE REFUNDINGS.—Section 1400L(e)(1) is amended by striking ''2005'' and inserting ''2006''.

SEC. 612. MODIFICATIONS OF TREATMENT OF QUALIFIED ZONE ACADEMY BONDS.

(a) PROCEEDS OF BONDS MAY BE USED FOR CONSTRUCTION AND LAND ACQUISITION.—Paragraph (5) of section 1397E(d) (defining qualified purpose) is amended—

(1) by striking ''rehabilitating or repairing'' in subparagraph (A) and inserting ''constructing, rehabilitating, or repairing'', and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following:

''(B) acquiring the land on which the facility is to be constructed,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2003.

SEC. 613. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS.

(a) IN GENERAL.—Paragraph (1) of section 7871(c) (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

''(1) IN GENERAL.—Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

''(A) such obligation—

''(i) is part of an issue 95 percent or more of the net proceeds of which are to be used to

finance any facility located on an Indian reservation, and

''(ii) is issued before January 1, 2006, or

''(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.''.

(b) SPECIAL RULES AND DEFINITIONS.—Subsection (c) of section 7871 is amended by inserting at the end the following new paragraph:

''(4) SPECIAL RULES AND DEFINITIONS.—

''(A) EXCLUSION OF GAMING.—An obligation described in subparagraph (A) or (B) of paragraph (1) may not be used to finance any portion of a building in which class II or III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2702)) is conducted or housed.

''(B) INDIAN RESERVATION.—For purposes of paragraph (1), the term 'Indian reservation' means—

''(i) a reservation, as defined in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and

''(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 614. DEFINITION OF MANUFACTURING FACILITY FOR SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(12) (relating to termination dates) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) MANUFACTURING FACILITY.—For purposes of this paragraph, the term 'manufacturing facility' means any facility which is used in—

''(i) the manufacture of tangible personal property (including processing which results in a change in the condition of such property),

''(ii) the manufacture or development of any software product or process if—

''(I) it takes more than 6 months to manufacture or develop such product,

''(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months, and

''(III) the software product or process comprises programs, routines, and attendant documentation developed and maintained for use in computer and telecommunications technology, or

''(iii) the manufacture or development of any biobased product or bioenergy if—

''(I) it takes more than 6 months to manufacture or develop, and

''(II) the manufacture or development could not with due diligence be reasonably expected to occur in less than 6 months.

''(D) RELATED FACILITIES.—For purposes of subparagraph (C), the term 'manufacturing facility' includes a facility which is directly and functionally related to a manufacturing facility (determined without regard to subparagraph (C)) if—

''(i) such facility, including an office facility and a research and development facility, is located on the same site as the manufacturing facility, and

''(ii) not more than 40 percent of the net proceeds of the issue are used to provide such facility.

''(E) OTHER DEFINITIONS.—For purposes of subparagraph (C)(iii)—

''(i) BIOBASED PRODUCT.—The term 'biobased product' means a commercial or industrial product (other than food or feed) which utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

''(ii) BIOENERGY.—The term 'bioenergy' means biomass used in the production of energy, including liquid, solid, or gaseous fuels, electricity, and heat.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 615. CONSERVATION BONDS.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term ''qualified forest conservation bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $1,500,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term ''qualified project costs'' means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ''qualified harvesting activity'' means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of

timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term ''qualified conservation plan'' means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term ''unrelated person'' means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting ''25 percent'' for ''50 percent'' each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

Subtitle C—Provisions Relating to Depreciation

SEC. 621. SPECIAL PLACED IN SERVICE RULE FOR BONUS DEPRECIATION PROPERTY.

(a) IN GENERAL.—Section 168(k)(2)(D) (relating to special rules) is amended by adding at the end the following new clause:

''(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

''(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

''(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date so placed in service (or, in the case of multiple units of property subject to the same lease, within 3 months after the date the final unit is placed in service, so long as the period between the time the first unit is placed in service and the time the last unit is placed in service does not exceed 12 months), and

''(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale, so long as no previous owner of such property elects the application of this subsection with respect to such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 622. MODIFICATION OF DEPRECIATION ALLOWANCE FOR AIRCRAFT.

(a) AIRCRAFT TREATED AS QUALIFIED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) CERTAIN AIRCRAFT.—The term 'qualified property' includes property—

''(i) which meets the requirements of clauses (ii) and (iii) of subparagraph (A),

''(ii) which is an aircraft which is not a transportation property (as defined in subparagraph (B)(iii)) other than for agricultural or firefighting purposes,

''(iii) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of—

''(I) 10 percent of the cost, or

''(II) $100,000, and

''(iv) which has—

''(I) an estimated production period exceeding 4 months, and

''(II) a cost exceeding $200,000.''.

(2) PLACED IN SERVICE DATE.—Clause (iv) of section 168(k)(2)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(b) CONFORMING AMENDMENTS.—

(1) Section 168(k)(2)(B) is amended by adding at the end the following new clause:

''(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply to any property which is described in subparagraph (C).''.

(2) Section 168(k)(4)(A)(ii) is amended by striking ''paragraph (2)(C)'' and inserting ''paragraph (2)(D)''.

(3) Section 168(k)(4)(B)(iii) is amended by inserting ''and paragraph (2)(C)'' after ''of this paragraph)''.

(4) Section 168(k)(4)(C) is amended by striking ''subparagraphs (B) and (D)'' and inserting ''subparagraphs (B), (C), and (E)''.

(5) Section 168(k)(4)(D) is amended by striking ''Paragraph (2)(E)'' and inserting ''Paragraph (2)(F)''.

(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. 623. MODIFICATION OF CLASS LIFE FOR CERTAIN TRACK FACILITIES.

(a) 7-YEAR PROPERTY.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any motorsports entertainment complex, and''.

(b) DEFINITION.—Section 168(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(15) MOTORSPORTS ENTERTAINMENT COMPLEX.—

''(A) IN GENERAL.—The term 'motorsports entertainment complex' means a racing track facility that is permanently situated on land and which during the applicable period is scheduled to host one or more racing events for automobiles (of any type), trucks, or motorcycles that are open to the public for the price of admission.

''(B) ANCILLARY AND SUPPORT FACILITIES.—Such term shall include, if owned by the complex and provided for the benefit of patrons of the complex—

''(i) ancillary grounds and facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

''(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

''(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

''(C) EXCEPTION.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.

''(D) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means the period ending the later of the last day of—

''(i) the 24 month period following the first day of the month in which the asset is or was placed in service, or

''(ii) the 24 month period ending December 31, 2003, to the extent that the asset remains in service during such period.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any property placed in service after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to affect the treatment of expenses incurred on or before the date of the enactment of this Act.

SEC. 624. MINIMUM TAX RELIEF FOR CERTAIN TAXPAYERS.

(a) ELECTION TO INCREASE MINIMUM TAX CREDIT LIMITATION IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(e) ADDITIONAL CREDIT IN LIEU OF BONUS DEPRECIATION.—

''(1) IN GENERAL.—In the case of a corporation making an election under this subsection for a taxable year, the limitation under subsection (c) shall be increased by an amount equal to 50 percent of the bonus depreciation amount.

''(2) BONUS DEPRECIATION AMOUNT.—For purposes of paragraph (1), the bonus depreciation amount for any taxable year is an amount (not in excess of $10,000,000) equal to the product of—

''(A) 30 percent, and

''(B) the excess (if any) of—

''(i) the aggregate amount of depreciation which would be determined under section 168 for property placed in service during such taxable year if no election under this subsection were made, over

''(ii) the aggregate allowance for depreciation allowable with respect to such property placed in service for such taxable year.

''(3) AGGREGATION RULE.—All members of the same controlled group of corporations shall be treated as 1 corporation for purposes of this subsection.

''(4) ELECTION.—Sections 168(k) (other than paragraph (2)(F) thereof) shall not apply to any property placed in service during a taxable year by a corporation making an election under this subsection for such taxable year. An election under this subsection may only be revoked with the consent of the Secretary.

''(5) CREDIT REFUNDABLE.—The aggregate increase in the credit allowed by this section for any taxable year by reason of this subsection shall for purposes of this title (other than subsection (b)(2) of this section) be treated as a credit allowed to the taxpayer under subpart C.''.

(2) CONFORMING AMENDMENTS.—Subsection (k) of section 168 is amended by adding at the end the following new paragraph:

''(5) CROSS REFERENCE.—For an election to claim certain minimum tax credits in lieu of the allowance determined under this subsection, see section 53(e).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2003.

(b) USE OF GENERAL BUSINESS CREDITS AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitations based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULE FOR 2004.—Notwithstanding the preceding provisions of this paragraph, in the case of any taxable year beginning in 2004, the credit allowed under subsection (a) shall not exceed the greater of—

''(A) the amount determined under this subsection without regard to this paragraph, or

''(B) 50 percent of the lesser of—

''(i) the amount which would be determined under this subsection if the tentative minimum tax were treated as being zero in applying paragraph (1) to such credit, or

''(ii) the amount of the current year business credit.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning in 2004.

Subtitle D—Expansion of Business Credit

SEC. 631. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by redesignating sections 45E and 45F as sections 45F and 45G, respectively, and by inserting after section 45E the following new section:

''SEC. 45D. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the Native American new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the reservation development entity for such investment at its original issue.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 5 percent with respect to the first 3 credit allowance dates, and

''(B) 6 percent with respect to the remainder of the credit allowance dates.

''(3) CREDIT ALLOWANCE DATE.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

''(A) the date on which such investment is initially made, and

''(B) each of the 6 anniversary dates of such date thereafter.

''(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a reservation development entity if—

''(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

''(B) substantially all of such cash is used by the reservation development entity to make qualified low-income reservation investments, and

''(C) such investment is designated for purposes of this section by the reservation development entity.

Such term shall not include any equity investment issued by a reservation development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

''(2) LIMITATION.—The maximum amount of equity investments issued by a reservation development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

''(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the reservation development entity are invested in qualified low-income reservation investments.

''(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

''(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

''(6) EQUITY INVESTMENT.—The term 'equity investment' means—

''(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

''(B) any capital interest in an entity which is a partnership.

''(c) RESERVATION DEVELOPMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'reservation development entity' means any domestic corporation or partnership if—

''(A) the primary mission of the entity is serving, or providing investment capital for, low-income reservations,

''(B) the entity maintains accountability to residents of low-income reservations through their representation on any governing board of the entity or on any advisory board to the entity, and

''(C) the entity is certified by the Secretary for purposes of this section as being a reservation development entity.

''(2) EXCEPTION.—For purposes of subparagraph (C) of paragraph (1), the Secretary shall not certify an entity as a reservation development entity if such entity is also certified as a qualified community development entity under section 45D(c).

''(d) QUALIFIED LOW-INCOME RESERVATION INVESTMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-income reservation investment' means—

''(A) any capital or equity investment in, or loan to, any qualified active low-income reservation business,

''(B) the purchase from another reservation development entity of any loan made by such entity which is a qualified low-income reservation investment,

''(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income reservations, and

''(D) any equity investment in, or loan to, any reservation development entity.

''(2) QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income reservation business' means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

''(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income reservation,

''(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income reservation,

''(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income reservation,

''(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for

sale to customers in the ordinary course of such business, and

''(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

''(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

''(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—The term 'qualified active low-income reservation business' includes any trades or businesses which would qualify as a qualified active low-income reservation business if such trades or businesses were separately incorporated.

''(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 45D(d)(3).

''(e) LOW-INCOME RESERVATION.—For purposes of this section, the term 'low-income reservation' means any Indian reservation (as defined in section 168(j)(6)) which has a poverty rate of at least 40 percent.

''(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

''(1) IN GENERAL.—There is a Native American new markets tax credit limitation of $50,000,000 for each of calendar years 2004 through 2007.

''(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among reservation development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

''(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

''(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income reservation investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

''(3) CARRYOVER OF UNUSED LIMITATION.—If the Native American new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a reservation development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a reservation development entity if—

''(A) such entity ceases to be a reservation development entity,

''(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

''(C) such investment is redeemed by such entity.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

''(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

''(2) which prevent the abuse of the purposes of this section,

''(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

''(4) which impose appropriate reporting requirements, and

''(5) which apply the provisions of this section to newly formed entities.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 is amended by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and by inserting after paragraph (13) the following new paragraph:

''(14) the Native American new markets tax credit determined under section 45E(a),''.

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

''(10) NO CARRYBACK OF NATIVE AMERICAN NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2004.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2004.''.

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by redesignating paragraph (10) as paragraph (11), by striking ''and'' at the end of paragraph (9), and by inserting after paragraph (9) the following new paragraph:

''(10) the Native American new markets tax credit determined under section 45E(a), and''.

(d) CONFORMING AMENDMENTS.—

(1) Section 38(b)(15), as redesignated by subsection (b)(1), is amended—

(A) by striking ''45E(c)'' and inserting ''45F(c)'', and

(B) by striking ''45E(a)'' and inserting ''45F(a)''.

(2) Section 38(b)(16), as redesignated by subsection (b)(1), is amended by striking ''45F(a)'' and inserting ''45G(a)''.

(3) Section 39(d)(11), as redesignated by subsection (b)(2), is amended by striking ''section 45E'' and inserting ''section 45F''.

(4) Section 196(c)(11), as redesignated by subsection (c), is amended by striking ''45E(a)'' and inserting ''45F(a)''.

(5) Section 1016(a)(28) is amended—

(A) by striking ''under section 45F'' and inserting ''under section 45G'', and

(B) by striking ''section 45F(f)(1)'' and inserting ''section 45G(f)(1)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the items relating to sections 45E and 45F and inserting the following:

''Sec. 45E. Native American new markets tax credit.

''Sec. 45F. Small employer pension plan startup costs.

''Sec. 45G. Employer-provided child care credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2003.

(f) GUIDANCE ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45E(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2007 and 2010, the Comptroller General of the United States shall, pursuant to an audit of the Native American new markets tax credit program established under section 45E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all reservation development entities that receive an allocation under the Native American new markets credit under such section.

(f) GRANTS IN COORDINATION WITH CREDIT.—

(1) IN GENERAL.—The Secretary of the Treasury is authorized to award a grant of not more than $1,000,000 to the First Nations Oweesta Corporation.

(2) USE OF FUNDS.—The grant awarded under paragraph (1) may be used—

(A) to enhance the capacity of people living on low-income reservations (within the meaning of section 45E(e) of the Internal Revenue Code of 1986, as added by this section) to access, apply, control, create, leverage, utilize, and retain the financial benefits to such low-income reservations which are attributable to qualified low-income reservation investments (within the meaning of section 45E(d) of such Code), and

(B) to provide access to appropriate financial capital for the development of such low-income reservations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal years 2004 through 2014 to carry out the provisions of this subsection.

SEC. 632. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD 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:

"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) $15,000.

''(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.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—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.''.

(b) 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).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45H(a),'' after ''45A(a),''.

(d) 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.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 633. RURAL INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 42A. RURAL INVESTMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the amount of the rural investment credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified rural investment building.

''(b) APPLICABLE PERCENTAGE: 70 PERCENT PRESENT VALUE CREDIT FOR NEW BUILDINGS; 30 PERCENT PRESENT VALUE CREDIT FOR EXISTING BUILDINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of—

''(A) the first month of the credit period with respect to a rural investment building, or

''(B) at the election of the taxpayer, the month in which the taxpayer and the rural investment credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the rural investment credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

''(2) METHOD OF PRESCRIBING PERCENTAGES.—The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to—

''(A) 70 percent of the eligible basis of a new building, and

''(B) 30 percent of the eligible basis of an existing building.

''(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined—

''(A) as of the last day of the 1st year of the 10-year period referred to in paragraph (2),

''(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of paragraph (1) and compounded annually, and

''(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

''(c) ELIGIBLE BASIS; QUALIFIED RURAL INVESTMENT BUILDING.—For purposes of this section—

''(1) ELIGIBLE BASIS.—

''(A) IN GENERAL.—The eligible basis of any qualified rural investment building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that—

''(i) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

''(ii) such basis shall include development costs properly attributable to such building.

''(B) DEVELOPMENT COSTS.—For purposes of subparagraph (A)(ii), the term 'development costs' includes—

''(i) site preparation costs,

''(ii) State and local impact fees,

''(iii) reasonable development costs,

''(iv) professional fees related to basis items,

''(v) construction financing costs related to basis items other than land, and

''(vi) on-site and adjacent improvements required by State and local governments.

''(2) QUALIFIED RURAL INVESTMENT BUILDING.—The term 'qualified rural investment building' means any building which is part of a qualified rural investment project at all times during the period—

''(A) beginning on the 1st day in the compliance period on which such building is part of such an investment project, and

''(B) ending on the last day of the compliance period with respect to such building.

''(d) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING.—Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

''(e) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

''(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is first placed in service.

''(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

''(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by multiplying such credit by the fraction—

''(i) the numerator of which is the number of full months of such year during which such building was in service, and

''(ii) the denominator of which is 12.

''(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

''(3) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

''(f) QUALIFIED RURAL INVESTMENT PROJECT; QUALIFYING COUNTY.—For purposes of this section—

''(1) QUALIFIED RURAL INVESTMENT PROJECT.—The term 'qualified rural investment project' means any investment project of 1 or more qualified rural investment buildings located in a qualifying county (and, if necessary to the project, any contiguous county) and selected by the State according to its qualified rural investment plan.

''(2) QUALIFYING COUNTY.—The term 'qualifying county' means any county which—

''(A) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

''(B) during the 20-year period ending with the calendar year preceding the date of the enactment of this section, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

''(g) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO INVESTMENT PROJECTS LOCATED IN A STATE.—

''(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the rural investment credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1).

''(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR.—Any rural investment credit dollar amount allocated to any building for any calendar year—

''(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

''(B) shall reduce the aggregate rural investment credit dollar amount of the allocating agency only for such calendar year.

''(3) RURAL INVESTMENT CREDIT DOLLAR AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate rural investment credit dollar amount which a rural investment credit agency may allocate for any calendar year is the portion of the State rural investment credit ceiling allocated under this paragraph for such calendar year to such agency.

''(B) STATE CEILING INITIALLY ALLOCATED TO STATE RURAL INVESTMENT CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State rural investment credit ceiling for each calendar year shall be allocated to the rural investment credit agency of such State. If there is more than 1 rural investment credit agency of a State, all such agencies shall be treated as a single agency.

''(C) STATE RURAL INVESTMENT CREDIT CEILING.—The State rural investment credit ceiling applicable to any State and any calendar year shall be an amount equal to the sum of—

''(i) the unused State rural investment credit ceiling (if any) of such State for the preceding calendar year,

''(ii) $185,000 for each qualifying county in the State,

''(iii) the amount of State rural investment credit ceiling returned in the calendar year, plus

''(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State rural investment credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate rural investment credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State rural investment credit ceiling returned in the calendar year equals the rural investment credit dollar amount previously allocated within the State to any investment project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified rural investment project within the period required by this section or the terms of the allocation or to any investment project with respect to which an allocation is canceled by mutual consent of the rural investment credit agency and the allocation recipient.

''(D) UNUSED RURAL INVESTMENT CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(i) IN GENERAL.—The unused rural investment credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

''(ii) UNUSED RURAL INVESTMENT CREDIT CARRYOVER.—For purposes of this subparagraph, the unused rural investment credit carryover of a State for any calendar year is the excess (if any) of the unused State rural investment credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of—

''(I) the unused State rural investment credit ceiling for the year preceding such year, over

''(II) the aggregate rural investment credit dollar amount allocated for such year.

''(iii) FORMULA FOR ALLOCATION OF UNUSED RURAL INVESTMENT CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused rural investment credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

''(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

''(I) which allocated its entire State rural investment credit ceiling for the preceding calendar year, and

''(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

''(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

''(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

''(G) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a calendar year after 2005, the $185,000 amount in subparagraph (C) 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 by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—Any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

''(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—

''(A) IN GENERAL.—At least 10 percent of the State rural investment credit ceiling for any State for any calendar year shall be allocated to qualified rural investment projects described in subparagraph (B).

''(B) INVESTMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS.—For purposes of subparagraph (A), a qualified rural investment project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the investment project throughout the compliance period.

''(C) QUALIFIED NONPROFIT ORGANIZATION.—For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if—

''(i) such organization is described in any paragraph of section 501(c) and is exempt from tax under section 501(a),

''(ii) such organization is determined by the State rural investment credit agency not to be affiliated with or controlled by a for-profit organization; and

''(iii) 1 of the exempt purposes of such organization includes the fostering of rural investment.

''(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

''(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

''(ii) QUALIFIED CORPORATION.—For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

''(E) STATE MAY NOT OVERRIDE SET-ASIDE.—Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

''(F) CREDITS FOR QUALIFIED NONPROFIT ORGANIZATIONS.—

''(i) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified rural investment building of a qualified nonprofit organization if such organization were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such organization.

''(ii) USE OF CREDIT.—A qualified nonprofit organization may assign, trade, sell, or otherwise transfer any credit allowable to such organization under subparagraph (A) to any taxpayer.

''(iii) CREDIT NOT INCOME.—A transfer under subparagraph (B) of any credit allowable under subparagraph (A) shall not result in income for purposes of section 511.

''(5) SPECIAL RULES.—

''(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A rural investment credit agency may allocate its aggregate rural investment credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

''(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate rural investment credit dollar amounts allocated by a rural investment credit agency for any calendar year exceed the portion of the State rural investment credit ceiling allocated to such agency for such calendar year, the rural investment credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

''(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC.—

''(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

''(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

''(I) the rural investment credit dollar amount allocated to such building bears to

''(II) the credit amount determined in accordance with clause (iii).

''(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

''(D) RURAL INVESTMENT CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM ELIGIBLE BASIS.—In allocating a rural

investment credit dollar amount to any building, the rural investment credit agency shall specify the applicable percentage and the maximum eligible basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum eligible basis so specified shall not exceed the applicable percentage and eligible basis determined under this section without regard to this subsection.

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

''(A) RURAL INVESTMENT CREDIT AGENCY.—The term 'rural investment credit agency' means any agency authorized to carry out this subsection.

''(B) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

''(7) PORTION OF STATE CEILING SET-ASIDE FOR QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDITS.—Not more than 10 percent of the State rural investment credit ceiling for any State for any calendar year may be allocated to qualified rural small business investment credits under section 42B.

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

''(1) COMPLIANCE PERIOD.—The term 'compliance period' means, with respect to any building, the period of 10 taxable years beginning with the 1st taxable year of the credit period with respect thereto.

''(2) NEW BUILDING.—The term 'new building' means a building the original use of which begins with the taxpayer.

''(3) EXISTING BUILDING.—The term 'existing building' means any building which is not a new building.

''(4) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (i) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

''(i) RECAPTURE OF CREDIT.—If—

''(1) as of the close of any taxable year in the compliance period, the amount of the eligible basis of any building with respect to the taxpayer is less than

''(2) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).

''(j) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

''(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified rural investment building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

''(A) the taxable year, and calendar year, in which such building was first placed in service,

''(B) the eligible basis of such building as of the beginning of the credit period,

''(C) the maximum applicable percentage and eligible basis permitted to be taken into account by the appropriate rural investment credit agency under subsection (g),

''(D) the election made under subsection (f) with respect to the qualified rural investment project of which such building is a part, and

''(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

''(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

''(A) the eligible basis for the taxable year of each qualified rural investment building of the taxpayer,

''(B) the information described in paragraph (1)(C) for the taxable year, and

''(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

''(3) ANNUAL REPORTS FROM RURAL INVESTMENT CREDIT AGENCIES.—Each agency which allocates any rural investment credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

''(A) the amount of rural investment credit amount allocated to each building for such year,

''(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

''(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

''(k) RESPONSIBILITIES OF RURAL INVESTMENT CREDIT AGENCIES.—

''(1) PLANS FOR ALLOCATION OF CREDIT AMONG INVESTMENT PROJECTS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, the rural investment credit dollar amount with respect to any building shall be zero unless—

''(i) such amount was allocated pursuant to a qualified rural investment plan of the agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part,

''(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such investment project and provides such individual a reasonable opportunity to comment on the investment project,

''(iii) a comprehensive market study of the development needs of individuals in the qualifying county to be served by the investment project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

''(iv) a written explanation is available to the general public for any allocation of a rural investment credit dollar amount which is not made in accordance with established priorities and selection criteria of the rural investment credit agency.

''(B) QUALIFIED RURAL INVESTMENT PLAN.—For purposes of this section, the term 'qualified rural investment plan' means any plan—

''(i) which sets forth selection criteria to be used to determine priorities of the rural investment credit agency which are appropriate to qualifying counties,

''(ii) which also gives preference in allocating rural investment credit dollar amounts among selected investment projects to—

''(I) investment projects that target those small rural counties with consistently high rates of net out-migration,

''(II) investment projects that link the economic development and job creation efforts of 2 or more small rural counties with high rates of net out-migration, and

''(III) investment projects that link the economic development and job creation efforts of 1 or more small rural counties in the State with high rates of net out-migration to related efforts in regions of such State experiencing economic growth, and

''(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance through regular site visits.

''(C) CERTAIN SELECTION CRITERIA MUST BE USED.—The selection criteria set forth in a qualified rural investment plan must include—

''(i) investment project location,

''(ii) technology and transportation infrastructure needs, and

''(iii) private development trends.

''(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE INVESTMENT PROJECT FEASIBILITY.—

''(A) IN GENERAL.—The rural investment credit dollar amount allocated to an investment project shall not exceed the amount the rural investment credit agency determines is necessary for the financial feasibility of the investment project and its viability as a qualified rural investment project throughout the compliance period.

''(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the rural investment credit agency shall consider—

''(i) the sources and uses of funds and the total financing planned for the investment project,

''(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

''(iii) the percentage of the rural investment credit dollar amount used for investment project costs other than the cost of intermediaries, and

''(iv) the reasonableness of the developmental and operational costs of the investment project.

Clause (iii) shall not be applied so as to impede the development of investment projects in hard-to-develop areas.

''(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

''(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

''(I) The application for the rural investment credit dollar amount.

''(II) The allocation of the rural investment credit dollar amount.

''(III) The date the building is first placed in service.

''(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the rural investment credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

''(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) dealing with—

''(A) investment projects which include more than 1 building or only a portion of a building,

''(B) buildings which are sold in portions,

''(2) providing for the application of this section to short taxable years,

''(3) preventing the avoidance of the rules of this section, and

''(4) providing the opportunity for rural investment credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following:

''(18) the rural investment credit determined under section 42A(a).''.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

''(12) NO CARRYBACK OF RURAL INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the rural investment credit determined under section 42A may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) is amended by inserting ''or subsection (i) or (j) of section 42A'' after ''section 42''.

(2) Subsections (i)(c)(3), (i)(c)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting ''or 42A'' after ''section 42''.

(3) Section 772(a) is amended by striking ''and'' at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

''(11) the rural investment credit determined under section 42A, and''.

(4) Section 774(b)(4) is amended by inserting '', 42A(i),'' after ''section 42(j)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

''Sec. 42A. Rural investment credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 634. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

(a) 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. 42B. QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of a qualified rural small business, the amount of the qualified rural small business investment credit determined under this section for any taxable year is equal to 30 percent of the qualified expenditures for the taxable year of such business.

''(b) DOLLAR LIMITATION.—

''(1) IN GENERAL.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

''(A) $5,000, or

''(B) the amount when added to the aggregate credits allowable to the taxpayer under subsection (a) for all preceding taxable years does not exceed $25,000.

''(2) NO DOUBLE CREDIT ALLOWED.—In the case of any qualified rural small business which places in service a qualified rural investment building with respect to which a rural investment credit is allowed under section 42A for any taxable year, paragraph (1)(A) shall be applied with respect to such taxable year by substituting 'zero' for '$5,000'.

''(c) QUALIFIED RURAL SMALL BUSINESS.—For purposes of this section, the term 'qualified rural small business' means any person if such person—

''(1) employed not more than 5 full-time employees during the taxable year,

''(2) materially and substantially participates in management,

''(3) is located is a qualifying county, and

''(4) submitted a qualified business plan with respect to which the rural investment credit agency with jurisdiction over such qualifying county has allocated a portion of the State rural investment ceiling for such taxable year under section 42A(g)(7).

For purposes of paragraph (1), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

''(d) QUALIFIED EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified expenditures' means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant and equipment, inventory expenses, and wages, but not including interest costs.

''(2) ONLY CERTAIN EXPENDITURES INCLUDED FOR EXISTING BUSINESSES.—In the case of a qualified rural small business with respect to which a credit under subsection (a) was allowed for a preceding taxable year, such term shall include only so much of the expenditures described in paragraph (1) for the taxable year as exceed the aggregate of such expenditures for the preceding taxable year.

''(e) QUALIFIED BUSINESS PLAN.—For purposes of this section, the term 'qualified business plan' means a business plan which—

''(1) has been approved by the rural investment credit agency with jurisdiction over the qualifying county in which the qualified rural small business is located pursuant to such agency's rural investment plan, and

''(2) meets such requirements as the agency may specify.

''(f) DENIAL OF DOUBLE BENEFIT.—In the case of the amount of the credit determined under this section—

''(1) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

''(2) no increase in the adjusted basis of any property shall result from such amount.

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

''(1) any term which is used in this section which is used in section 42A shall have the meaning given such term by section 42A, and

''(2) rules similar to the rules under subsections (j)(2), (j)(3), and (k) of section 42A shall apply.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following:

''(19) the qualified rural small business investment credit determined under section 42B(a).''.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits), as amended by this Act, is amended by adding at the end the following:

''(13) NO CARRYBACK OF QUALIFIED RURAL SMALL BUSINESS INVESTMENT CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualified rural small business investment credit determined under section 42B may be carried back to a taxable year beginning before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act.''.

(d) 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 42A the following:

''Sec. 42B. Qualified rural small business investment credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after the date of the enactment of this Act.

SEC. 635. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) 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 new section:

''SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is an amount equal to 15 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

''(1) $10,000, and

''(2) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year.

''(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means—

''(1) any Class II or Class III railroad, and

''(2) any person who transports property using the rail facilities of a person described in paragraph (1) or who furnishes railroad-related property or services to such a person.

''(d) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—

''(1) CLASS II OR CLASS III RAILROAD.—For purposes of this section, the terms 'Class II railroad' and 'Class III railroad' have the meanings given such terms by the Surface Transportation Board.

''(2) CONTROLLED GROUPS.—Rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this section.

''(3) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45I may be carried to a taxable year beginning before January 1, 2005.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the railroad track maintenance credit determined under section 45I(a).''.

(2) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) in the case of railroad track with respect to which a credit was allowed under section 45I, to the extent provided in section 45I(e)(3).''.

(d) 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 45F the following new item:

''Sec. 45I. Railroad track maintenance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 636. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

(a) RAILROAD REVITALIZATION AND SECURITY INVESTMENT 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 new section:

''SEC. 45J. RAILROAD REVITALIZATION AND SECURITY INVESTMENT CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad revitalization and security investment credit determined under this section for the taxable year is the amount equal to 50 percent of the qualified project expenditures paid or incurred by the taxpayer during the taxable year.

''(b) QUALIFIED PROJECT EXPENDITURES.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified project expenditures' means, with respect to any project for intercity passenger rail transportation (as defined under section 24102 of title 49, United States Code) which is included in a State rail plan, expenditures (whether or not otherwise chargeable to capital account) for—

''(A) planning,

''(B) environmental review and environmental impact mitigation,

''(C) track and track structure rehabilitation, relocation, improvement, and development,

''(D) railroad safety and security improvements,

''(E) communications and signaling improvements,

''(F) intercity passenger rail equipment acquisition, and

''(G) rail station and intermodal facilities development.

''(2) EXCEPTIONS.—An expenditure shall not be treated as a qualified project expenditure unless all persons which conduct rail operations over the infrastructure with respect to which such an expenditure is made—

''(A) are employers for purposes of the Railroad Retirement Act of 1974 and are carriers for purposes of the Railway Labor Act (unless such a person is an operator with respect to commuter rail passenger transportation (as defined in section 24102(4) of title 49, United States Code) of a State or local government authority (as such terms are defined in section 5302 of such title) eligible to receive financial assistance under section 5307 of such title, a contractor performing services in connection with the operations with respect to commuter rail passenger transportation (as so defined), or the Alaska Railroad or its contractors),

''(B) provide assurances to the State that any collective bargaining agreements with such a person's employees (including terms regulating the contracting of work) will remain in full force and effect according to the terms of the agreements for work performed for such a person on the railroad transportation corridor, and

''(C) comply with the protective agreements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by actions taken in connection with the project.

''(c) LIMITATION.—

''(1) IN GENERAL.—The amount of the credit allowed under subsection (a) for any taxable year with respect to any project for which qualified project expenditures are made shall not exceed the limitation allocated to such project under this subsection for the calendar year in which the taxable year begins.

''(2) STATE LIMITATION.—

''(A) IN GENERAL.—There is a State railroad revitalization and security investment credit limitation for each calendar year. Such limitation is the amount which bears the same ratio to $165,000,000 as the allocation number for such State bears to the allocation number for all States.

''(B) ALLOCATION NUMBER.—For purposes of subparagraph (A), the allocation number is, with respect to any State, the sum of the following:

''(i) The number of railroad and public road grade crossings on intercity passenger rail routes within the State.

''(ii) The number of intercity passenger rail miles within the State.

''(iii) The number of intercity embarkations and disembarkations for each passenger within the State.

''(3) UNUSED CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(A) IN GENERAL.—The unused credit carryover for all States for any calendar year shall be reallocated to each qualified State in an amount which bears the same ratio to the unused credit carryover for all States for the calendar as the allocation number for such qualified State bears to the allocation number for all qualified States.

''(B) UNUSED CREDIT CARRYOVER.—For purposes of this paragraph, the term 'unused credit carryover' means, with respect to any State, the excess of the State limitation (determined under paragraph (2)) for the calendar year over the amount allocated by the State under paragraph (4) for such calendar year.

''(C) QUALIFIED STATES.—For purposes of this paragraph, the term 'qualified State' means any State—

''(i) which allocated its entire State limitation amount under paragraph (4) for the calendar year, and

''(ii) for which a request is made to receive an allocation under this paragraph.

''(4) ALLOCATION WITHIN STATES.—Each State shall allocate the limitation amount allocated to such State under paragraphs (2) and (3) to projects for intercity passenger rail transportation which are included in the State rail plan of such State.

''(5) NEW YORK CITY RAIL PROJECTS.—In addition to the amounts allocated under paragraph (2), the Secretary shall allocate a limitation of $100,000,000 for each calendar year to New York City for qualified project expenditures within such city.

''(d) STATE RAIL PLAN.—For purposes of this section, the term 'State rail plan' means a plan prepared and maintained in accordance with chapter 225 of title 49, United States Code.

''(e) 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.

''(f) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any expenditures for which a credit is allowed under section 45I.

''(g) CREDIT TRANSFERABILITY.—Any credit allowable under this section may be transferred (but not more than once) if—

''(1) the credit exceeds the tax liability of the taxpayer for the taxable year, or

''(2) the taxpayer is not subject to any tax imposed by this chapter by reason of having a tax-exempt status.

''(h) APPLICATION OF SECTION.—This section shall apply to qualified project expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2008.''.

(2) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45J(a) may be carried back to any taxable year beginning before January 1, 2005.''.

(3) 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 (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the railroad revitalization and security investment credit determined under section 45J(a).''.

(B) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) in the case of property with respect to which a credit was allowed under section 45J, to the extent provided in section 45J(e).''.

(4) 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 45I the following new item:

''Sec. 45J. Railroad revitalization and security investment credit.''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(b) STATE RAIL PLANS.—

(1) IN GENERAL.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 225—STATE RAIL PLANS

''§ 22501. Authority

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this chapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) make the State's approved plan available to the public and transmit a copy to the Secretary of Transportation; and

''(4) revise the plan no less frequently than once every 5 years.

''§ 22502. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(3) To serve as the basis for Federal and State rail investments within the State.

''(b) CONTENT.—The State rail plan shall establish the period covered by such plan.

''(c) CONSISTENCY WITH STATE TRANSPORTATION EFFORTS.—A State rail plan shall be consistent with the State transportation planning goals and programs and shall set forth rail transportation's role within the State transportation system.

''§ 22503. Transparency; coordination

''(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input on a proposed State rail plan under this chapter to the following:

''(1) The public.

''(2) Rail carriers.

''(3) Commuter and transit authorities operating in, or affected by rail operations within, the State.

''(4) Units of local government.

''(5) Other parties interested in the preparation and review of the State rail plan.

''(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives of regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

''§ 22504. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A comprehensive review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A statement of the State's passenger rail service objectives, including minimum service levels, for intercity passenger rail transportation routes in the State.

''(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

''(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

''(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

''(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

''(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this chapter, and a plan for funding any recommended development of such corridors in the State.

''(12) A statement that the State satisfies the conditions set forth in section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) Two lists for rail capital projects, 1 list for freight rail capital projects and 1 list for intercity passenger rail capital projects.

''(B) A detailed funding plan for the projects.

''(2) PROJECT LIST CONTENT.—The lists of freight and intercity passenger rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority shall take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects to highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''§ 22505. Approval

''The State rail plan approval authority established or designated under section 22501(b)(2) may approve a State rail plan for the purposes of this chapter if—

''(1) the plan meets all of the requirements applicable to State plans under this chapter;

''(2) for each ready-to-commence project listed on the ranked list of freight and intercity passenger rail capital improvement projects under the plan—

''(A) the project meets all safety and environmental requirements, including those prescribed under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) that are applicable to the project under law; and

''(B) the State has entered into an agreement with any owner of rail infrastructure or right-of-way directly affected by the project that provides for the State to proceed with the project and includes assurances regarding capacity and compensation for use of such infrastructure or right-of-way, if applicable; and

''(3) the content of the plan is coordinated with State transportation plans developed pursuant to section 135 of title 23.

''§ 22506. Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit'—

''(A) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or other means; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the affected persons or private entities.

''(2) PUBLIC BENEFIT.—The term 'public benefit'—

''(A) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and other positive community effects; and

''(B) shall be determined on a project-by-project basis, based upon an agreement between the State and the persons or private entities involved in the project.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

''(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Chief Executive of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan under this chapter.''.

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 223 the following:

''225. STATE RAIL PLANS .....22501.''.

Subtitle E—Miscellaneous Provisions

SEC. 641. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subsection (b) of section 512 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES.—

''(A) IN GENERAL.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

''(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible taxpayer' means, with respect to a property, any organization exempt from tax under section 501(a) which—

''(I) acquires from an unrelated person a qualifying brownfield property, and

''(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

''(ii) EXCEPTION.—Such term shall not include any organization which is—

''(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

''(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

''(III) the result of a reorganization of a business entity which was so potentially liable.

''(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualifying brownfield property' means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

''(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

''(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

''(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

''(I) such property is transferred by the eligible taxpayer to an unrelated person, and

''(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

For purposes of subclause (II), before issuing such certification, the Environmental Protection Agency or appropriate State agency shall respond to comments received pursuant to clause (ii)(V) in the same form and manner as required under section 117(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

''(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

''(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

''(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

''(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

''(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

''(V) Public notice and the opportunity for comment on the request for certification was completed before the date of such request. Such notice and opportunity for comment shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph). For purposes of this subclause, public notice shall include, at a minimum, publication in a major local newspaper of general circulation.

''(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

''(iv) SUBSTANTIAL COMPLETION.—For purposes of this subparagraph, a remedial action is substantially complete when any necessary physical construction is complete, all immediate threats have been eliminated, and all long-term threats are under control.

''(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible remediation expenditures' means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

''(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

''(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

''(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

''(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

''(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

''(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

''(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

''(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

''(G) SPECIAL RULES FOR PARTNERSHIPS.—

''(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

''(ii) QUALIFYING PARTNERSHIP.—The term 'qualifying partnership' means a partnership which—

''(I) has a partnership agreement which satisfies the requirements of section

514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

''(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if 'qualified partnership' is substituted for 'eligible taxpayer' each place it appears therein (except subparagraph (D)(iii)), and

''(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

''(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

''(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

''(I) the use of special allocations of gains or losses, or

''(II) changes in ownership of partnership interests held by eligible taxpayers.

''(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

''(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

''(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

''(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

''(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

''(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

''(I) RECAPTURE.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

''(J) RELATED PERSONS.—For purposes of this paragraph, a person shall be treated as related to another person if—

''(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting '25 percent' for '50 percent' each place it appears therein, and

''(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.''

(b) EXCLUSION FROM DEFINITION OF DEBT-FINANCED PROPERTY.—Section 514(b)(1) (defining debt-financed property) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ''; or'', and by inserting after subparagraph (D) the following new subparagraph:

''(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(18) in computing the gross income of any unrelated trade or business.''.

(c) SAVINGS CLAUSE.—Nothing in the amendments made by this section shall affect any duty, liability, or other requirement imposed under any other Federal or State law. Notwithstanding section 128(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a certification provided by the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4) of the Internal Revenue Code of 1986) shall not affect the liability of any person under section 107(a) of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after December 31, 2004.

SEC. 642. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) IN GENERAL.—Section 514(c)(6) (relating to acquisition indebtedness) is amended—

(1) by striking ''include an obligation'' and inserting ''include—

''(A) an obligation'',

(2) by striking the period at the end and inserting '', or'', and

(3) by adding at the end the following:

''(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(i) issued by such company under section 303(a) of such Act, and

''(ii) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions made on or after the date of the enactment of this Act.

SEC. 643. CIVIL RIGHTS TAX RELIEF.

(a) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (18) the following new item:

''(19) COSTS INVOLVING DISCRIMINATION SUITS, ETC.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code. The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.''.

(b) UNLAWFUL DISCRIMINATION DEFINED.—Section 62 is amended by adding at the end the following new subsection:

''(e) UNLAWFUL DISCRIMINATION DEFINED.—For purposes of subsection (a)(19), the term 'unlawful discrimination' means an act that is unlawful under any of the following:

''(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).

''(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

''(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

''(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

''(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

''(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

''(8) Title IX of the Education Amendments of 1972 (29 U.S.C. 1681 et seq.).

''(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 201 et seq.).

''(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

''(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

''(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

''(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

''(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3, or 2000e–16).

''(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

''(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

''(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

''(18) Any provision of State or local law, or common law claims permitted under Federal, State, or local law—

''(i) providing for the enforcement of civil rights, or

''(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against

an employee for asserting rights or taking other actions permitted by law.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fees and costs paid after December 31, 2002, with respect to any judgment or settlement occurring after such date.

SEC. 644. EXCLUSION FOR PAYMENTS TO INDIVIDUALS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.

(a) IN GENERAL.—Section 108(f) (relating to student loans) is amended by adding at the end the following new paragraph:

''(4) PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act or under a State program described in section 338I of such Act.''.

(b) TREATMENT FOR PURPOSES OF EMPLOYMENT TAXES.—Each of the following provisions is amended by inserting ''108(f)(4),'' after ''74(c),'':

(1) Section 3121(a)(20).

(2) Section 3231(e)(5).

(3) Section 3306(b)(16).

(4) Section 3401(a)(19).

(5) Section 209(a)(17) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received by an individual in taxable years beginning after December 31, 2003.

SEC. 645. CERTAIN EXPENSES OF RURAL LETTER CARRIERS.

(a) IN GENERAL.—Section 162(o) (relating to treatment of certain reimbursed expenses of rural mail carriers) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) SPECIAL RULE WHERE EXPENSES EXCEED REIMBURSEMENTS.—Notwithstanding paragraph (1)(A), if the expenses incurred by an employee for the use of a vehicle in performing services described in paragraph (1) exceed the qualified reimbursements for such expenses, such excess shall be taken into account in computing the miscellaneous itemized deductions of the employee under section 67.''.

(b) CONFORMING AMENDMENT.—The heading for section 162(o) is amended by striking ''REIMBURSED''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 646. METHOD OF ACCOUNTING FOR NAVAL SHIPBUILDERS.

(a) IN GENERAL.—In the case of a qualified naval ship contract, the taxable income of such contract during the 5-taxable year period beginning with the taxable year in which the contract commencement date occurs shall be determined under a method identical to the method used in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(b) RECAPTURE OF TAX BENEFIT.—In the case of a qualified naval ship contract to which subsection (a) applies, the taxpayer's tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the first taxable year following the 5-taxable year period described in subsection (a) shall be increased by the excess (if any) of—

(1) the amount of tax which would have been imposed during such period if this section had not been enacted, over

(2) the amount of tax so imposed during such period.

(c) QUALIFIED NAVAL SHIP CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term ''qualified naval ship contract'' means any contract or portion thereof that is for the construction in the United States of 1 ship or submarine for the Federal Government if the taxpayer reasonably expects the acceptance date will occur no later than 9 years after the construction commencement date.

(2) ACCEPTANCE DATE.—The term ''acceptance date'' means the date 1 year after the date on which the Federal Government issues a letter of acceptance or other similar document for the ship or submarine.

(3) CONSTRUCTION COMMENCEMENT DATE.—The term ''construction commencement date'' means the date on which the physical fabrication of any section or component of the ship or submarine begins.

(d) EFFECTIVE DATE.—This section shall apply to contracts for ships or submarines with respect to which the construction commencement date occurs after the date of the enactment of this Act.

SEC. 647. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.

(a) IN GENERAL.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following new subsection:

''(g) APPLICATION OF SECTION.—This section shall not apply to stock life insurance companies for taxable years beginning after December 31, 2003, and beginning before January 1, 2006.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 648. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 649. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY.—Subsection (f) of section 1033 (relating to involuntary conversions) is amended—

(1) by inserting ''drought, flood, or other weather-related conditions, or'' after ''because of'',

(2) by inserting ''in the case of soil contamination or other environmental contamination'' after ''including real property'', and

(3) by striking ''WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION'' in the heading and inserting ''IN CERTAIN CASES''.

(b) EXTENSION OF REPLACEMENT PERIOD OF INVOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking ''CONDITIONS.—For purposes'' and inserting ''CONDITIONS.—

''(1) IN GENERAL.—For purposes'', and

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

''(2) EXTENSION OF REPLACEMENT PERIOD.—

''(A) IN GENERAL.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

''(B) FURTHER EXTENSION BY SECRETARY.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.''.

(c) INCOME INCLUSION RULES.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

''(3) SPECIAL ELECTION RULES.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 650. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as ''termination payment'') are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting ''2 years'' for ''180 days''.

(b) RULES FOR ELECTION.—

(1) FORM OF ELECTION.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) ELECTION ON AMENDED RETURN.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) STATUTE OF LIMITATIONS.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

SEC. 651. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(g) EXPANSION OF DESIGNATED AREAS.—

''(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

''(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

''(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

''(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

''(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

''(B) AREA.—An area is described in this subparagraph if—

''(i) the area is adjacent to at least 1 other area designated as a renewal community,

''(ii) the area has a population less than the population required under subsection (c)(2)(C), and

''(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

''(II) the area contains a population of less than 100 people.

''(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).''.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SEC. 652. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.

(a) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) (relating to definition of property used in the trade or business) is amended by striking ''and horses''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 653. BLUE RIBBON COMMISSION ON COMPREHENSIVE TAX REFORM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the ''Blue Ribbon Commission on Comprehensive Tax Reform'' (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(i) 3 shall be appointed by the majority leader of the Senate;

(ii) 3 shall be appointed by the minority leader of the Senate;

(iii) 3 shall be appointed by the Speaker of the House of Representatives;

(iv) 3 shall be appointed by the minority leader of the House of Representatives; and

(v) 5 shall be appointed by the President, of which no more than 3 shall be of the same party as the President.

(B) FEDERAL EMPLOYEES.—The members of the Commission may be employees or former employees of the Federal Government.

(C) DATE.—The appointments of the members of the Commission shall be made not later than October 30, 2004.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(2) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner that generates appropriate revenue for the Federal Government.

(3) REPORT.—Not later than 18 months after the date on which all initial members of the commission have been appointed pursuant to subsection (a)(2), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out this section.

SEC. 654. TREATMENT OF DISTRIBUTIONS BY ESOPS WITH RESPECT TO S CORPORATION STOCK.

(a) IN GENERAL.—Section 4975(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new flush sentences:

''A plan shall not be treated as violating the requirements of section 401, 409, or subsection (e)(7), or as engaging in a prohibited transaction for purposes of paragraph (3), merely by reason of any distribution described in section 1368(a) with respect to S corporation stock which constitutes qualifying employer securities if the distribution is, in accordance with the plan provisions, used to make payments on a loan described in paragraph (3) the proceeds of which were used to acquire the qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1998.

SEC. 655. CLARIFICATION OF WORKING CAPITAL FOR REASONABLY ANTICIPATED NEEDS OF A BUSINESS FOR PURPOSES OF ACCUMULATED EARNINGS TAX.

(a) IN GENERAL.—Section 537(b) (relating to special rules) is amended by adding at the end the following new paragraph:

''(6) WORKING CAPITAL.—The reasonably anticipated needs of a business for any taxable year shall include working capital for the business in an amount which is not less than the sum of the cost of goods, operating expenses, taxes, and interest expense which the business incurred during the preceding taxable year. Any amounts incurred as part of a plan a principal purpose of which is to increase the limitation under this subsection shall not be taken into account.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003, and before January 1, 2009.

Subtitle F—Revenue Provisions

PART I—GENERAL REVENUE PROVISIONS

SEC. 661. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901, as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

SEC. 662. NONATTRIBUTION OF CERTAIN MANUFACTURING BY PERSONS OTHER THAN CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 954(d) (defining foreign base company sales income) is amended by adding at the end the following new paragraph:

''(5) NONATTRIBUTION OF CERTAIN MANUFACTURING ACTIVITIES.—For purposes of this subsection, in determining whether income of a controlled foreign corporation is foreign base company sales income, any manufacturing, production, or construction by a person other than an individual who is an employee of the corporation shall not be attributed to the corporation.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning on or after the date of the enactment of this Act, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) NO INFERENCE.—Nothing in the amendment made by this section shall be construed to infer the proper treatment of manufacturing, production, or construction for taxable years beginning before the date of the enactment of this Act.

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) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

PART II—PENSION AND DEFERRED COMPENSATION

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 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 qualified employer plan of the employer which has the fewest investment options, or

''(B) if there is no such qualified employer 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.

''(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 earned 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 been includible in gross income for the taxable year in which first deferred or, if later, the first taxable in which such amounts is 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.

''(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(b) of such Code (defining excess parachute payment) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR CERTAIN PAYMENTS FROM NONQUALIFIED DEFERRED COMPENSATION PLANS.—

''(A) IN GENERAL.—In the case of any applicable payment—

''(i) such payment shall be treated as a parachute payment without regard to any exception otherwise applicable under this subsection, and

''(ii) notwithstanding paragraph (1), the entire amount of the payment shall be treated as an excess parachute payment.

''(B) COORDINATION WITH OTHER PAYMENTS.—An applicable payment shall be taken into account in determining whether any payment other than an applicable payment is a parachute payment under paragraph (2) or an excess parachute payment under paragraph (1).

''(C) APPLICABLE PAYMENT.—For purposes of this paragraph, the term 'applicable payment' means any distribution from a nonqualified deferred compensation plan (as defined in section 409A(d)) which is made—

''(i) to a participant who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934, and

''(ii) 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.''

(c) W–2 FORMS.—

(1) IN GENERAL.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking ''and'', 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)(2) 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 elects to exchange an option to purchase employer securities—

''(1) to which subsection (a) applies, or

''(2) which is described in subsection (e)(3), 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.

SEC. 673. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS IN EXCESS OF $1,000,000.

(a) IN GENERAL.—If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent (or the corresponding rate in effect under section 1(i)(2) of the Internal Revenue Code of 1986 for taxable years beginning in the calendar year in which the payment is made).

(b) SPECIAL RULE FOR LARGE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding subsection (a), if the supplemental wage payment, when added to all such payments previously made by the employer to the employee during the calendar year, exceeds $1,000,000, the rate used with respect to such excess shall be equal to the maximum rate of tax in effect under section 1 of such Code for taxable years beginning in such calendar year.

(2) AGGREGATION.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subsection.

(c) CONFORMING AMENDMENT.—Section 13273 of the Revenue Reconciliation Act of 1993 (Public Law 103–66) is repealed.

(d) EFFECTIVE DATE.—The provisions of, and the amendment made by, this section shall apply to payments made after December 31, 2003.

SEC. 674. TREATMENT OF SALE OF STOCK ACQUIRED PURSUANT TO EXERCISE OF STOCK OPTIONS TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) IN GENERAL.—Section 421 of the Internal Revenue Code of 1986 (relating to general rules for certain stock options) is amended by adding at the end the following new subsection:

''(d) CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.—If—

''(1) a share of stock is transferred to an eligible person (as defined in section 1043(b)(1)) pursuant to such person's exercise of an option to which this part applies, and

''(2) such share is disposed of by such person pursuant to a certificate of divestiture (as defined in section 1043(b)(2)),

such disposition shall be treated as meeting the requirements of section 422(a)(1) or 423(a)(1), whichever is applicable.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 675. DETERMINATION OF BASIS OF AMOUNTS PAID FROM FOREIGN PENSION PLANS.

(a) IN GENERAL.—Section 72 of the Internal Revenue Code of 1986 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (w) as subsection (x) by inserting subsection (v) the following new subsection:

''(w) DETERMINATION OF BASIS OF FOREIGN PENSION PLANS.—Notwithstanding any other provision of this section, for purposes of determining the portion of any distribution from a foreign pension plan which is includible in gross income of the distributee, the investment in the contract with respect to the plan shall not include employer or employee contributions to the plan (or any earnings on such contributions) unless such contributions or earnings were subject to taxation by the United States or any foreign government.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after the date of the enactment of this Act.

TITLE VII—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 701. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking ''and'' at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

''(2) on or after January 1, 2004, and before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act, and

''(3) after December 31, 2005.''.

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''on or after December 31, 2004'' and inserting ''after December 31, 2005''.

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking ''on or after December 31, 2004'' and inserting ''after December 31, 2005''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to benefits for services furnished on or after December 31, 2003.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to benefits for services furnished on or after December 31, 2004.

SEC. 702. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION OF CREDIT.—

(1) Subparagraph (B) of section 51(c)(4) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(2) Subsection (f) of section 51A is amended by striking by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(e) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''

(f) EFFECTIVE DATES.—

(1) EXTENSION OF CREDITS.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) MODIFICATIONS.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 703. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 51(d) 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) a long-term family assistance recipient.''

(b) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''

(c) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''

(d) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Section 51A is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 704. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2003'' and inserting ''2003, 2004, and 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 705. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 706. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting ''or assembled'' after ''constructed''.

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting ''or assembling'' after ''construction''.

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(2) SPECIAL RULE EXTENDED.—Section 170(e)(6)(G) is amended by striking ''2003'' and inserting ''2005''.

(3) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 707. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2003'' and inserting '', 2003, 2004, or 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 708. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 709. EXPANSION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''2005'' and inserting ''2006''.

(b) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking '', or'' and inserting ''or the Municipal Assistance Corporation, or''.

(c) ELECTION OUT TECHNICAL AMENDMENT.—Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

''(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 710. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) IN GENERAL.—Subsection (j) of section 809 is amended by striking ''or 2003'' and inserting ''2003, 2004, or 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 711. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''December 31, 2003'' both places it appears and inserting ''December 31, 2005''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''January 1, 2004'' each place it appears and inserting ''January 1, 2006''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''December 31, 2008'' and inserting ''December 31, 2010'', and

(ii) by striking ''2008'' in the heading and inserting ''2010''.

(B) Section 1400B(g)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(C) Section 1400F(d) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 712. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

''(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.

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

SEC. 713. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR TAXABLE YEARS 2000 THROUGH 2004.—'', and

(2) by striking ''or 2003'' and inserting ''2003, or 2004''.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking ''or 2003'' and inserting ''2003, or 2004''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 714. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 715. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 716. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 717. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 718. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

SEC. 719. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) 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 ''Tax Relief Extension Act of 1999'' 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 ''Tax Relief Extension Act of 1999'' 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—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Jumpstart Our Business Strength (JOBS) Act''.

(c) 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.

SEC. 720. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENTS.—

(1) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(2) Section 55(c)(2) is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 721. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY.

(a) IN GENERAL.—Paragraph (1) of section 179A(b) is amended to read as follows:

''(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

''(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

''(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

''(C) $50,000 in the case of—

''(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

''(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

Subtitle B—Revenue Provisions

SEC. 731. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(11) CONTRIBUTIONS OF USED MOTOR VEHICLES, BOATS, AND AIRPLANES.—

''(A) IN GENERAL.—In the case of a contribution of a qualified vehicle in excess of $500—

''(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

''(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

''(B) CONTENT OF ACKNOWLEDGEMENT.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

''(i) The name and taxpayer identification number of the donor.

''(ii) The vehicle identification number or similar number.

''(iii) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply and which is sold by the donee organization—

''(I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,

''(II) the gross proceeds from the sale, and

''(III) the amount of such gross proceeds is the deductible amount.

''(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

''(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

''(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

''(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

''(i) the sale of the qualified vehicle, or

''(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

''(D) INFORMATION TO SECRETARY.—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

''(E) QUALIFIED VEHICLE.—For purposes of this paragraph, the term 'qualified vehicle' means any—

''(i) self-propelled vehicle manufactured primarily for use on public streets, roads, and highways,

''(ii) boat, or

''(iii) airplane.

Such term shall not include any property which is described in section 1221(a)(1).

''(F) REGULATIONS OR OTHER GUIDANCE.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph.''.

(b) PENALTY FOR FRAUDULENT ACKNOWLEDGMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended adding at the end the following new section:

''SEC. 6717. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

''Any donee organization required under section 170(f)(11)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(11), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

''(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(11)(A)(ii) applies, the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of such vehicle, and

''(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(11) applies, the greater of the value of the tax benefit to the donor or $5,000.''.

(2) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6717. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions after June 30, 2004.

SEC. 732. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended adding at the end the following new subparagraph:

''(M) Any trivalent vaccine against influenza.''.

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking ''October 18, 2000'' and inserting ''the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(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. 733. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, or in stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

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

''For the treatment of contingent payment convertible debt, see section 175(d)(2).''.

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

SEC. 734. MODIFICATION OF CONTINUING LEVY ON PAYMENTS TO FEDERAL VENDERS.

(a) IN GENERAL.—Section 6331(h) (relating to continuing levy on certain payments) is amended by adding at the end the following new paragraph:

''(3) INCREASE IN LEVY FOR CERTAIN PAYMENTS.—Paragraph (1) shall be applied by substituting '100 percent' for '15 percent' in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.''.

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

SA 2887. Ms. COLLINS 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:

At the end of title I, insert:

SEC. ___. MANUFACTURER'S JOBS CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45G. MANUFACTURER'S JOBS CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the manufacturer's jobs credit determined under this section is an amount equal to the lesser of the following:

''(1) The excess of the W–2 wages paid by the taxpayer during the taxable year over the W–2 wages paid by the taxpayer during the preceding taxable year.

''(2) The W–2 wages paid by the taxpayer during the taxable year to any employee who is an eligible TAA recipient (as defined in section 35(c)(2)) for any month during such taxable year.

''(3) 22.4 percent of the W–2 wages paid by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—If there is an excess described in paragraph (2)(A) for any taxable year, the amount of credit determined under subsection (a) (without regard to this subsection)—

''(A) if the value of domestic production determined under subsection (g)(2) for the taxable year does not exceed such value for the preceding taxable year, shall be zero, and

''(B) if subparagraph (A) does not apply, shall be reduced (but not below zero) by the applicable percentage of such amount.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any taxable year, the percentage equal to a fraction—

''(A) the numerator of which is the excess (if any) of the modified value of worldwide production of the taxpayer for the taxable year over such modified value for the preceding taxable year, and

''(B) the denominator of which is the excess (if any) of the value of worldwide production of the taxpayer for the taxable year over such value for the preceding taxable year.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) VALUE OF WORLDWIDE PRODUCTION.—The value of worldwide production for any taxable year shall be determined under subsection (g)(4).

''(B) MODIFIED VALUE.—The term 'modified value of worldwide production' means the value of worldwide production determined by not taking into account any item taken into account in determining the value of domestic production under subsection (g)(2).

''(c) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any taxpayer—

''(1) which has domestic production gross receipts for the taxable year and the preceding taxable year, and

''(2) which is not treated at any time during the taxable year as an inverted domestic corporation under section 7874.

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

''(1) IN GENERAL.—Any term used in this section which is also used in section 199 shall have the meaning given such term by section 199.

''(2) SPECIAL RULE FOR W–2 WAGES.—Notwithstanding paragraph (1), the amount of W–2 wages taken into account with respect to any employee for any taxable year shall not exceed $50,000.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.''

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

''(16) the manufacturer's jobs credit determined under section 45G.''

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

''Sec. 45G. Manufacturer's jobs credit.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2888. Mrs. HUTCHISON (for herself, Mr. FRIST, Ms. CANTWELL, and Mr. ALEXANDER) 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:

At the appropriate place, insert the following:

SEC. ___. DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.

(a) IN GENERAL.—Subsection (b) of section 164 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

''(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—

''(i) IN GENERAL.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

''(I) without regard to the reference to State and local income taxes,

''(II) as if State and local general sales taxes were referred to in a paragraph thereof, and

''(III) without regard to the last sentence.

''(B) DEFINITION OF GENERAL SALES TAX.—The term 'general sales tax' means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

''(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

''(i) the fact that the tax does not apply with respect to some or all of such items

shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

''(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

''(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

''(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term 'compensating use tax' means, with respect to any item, a tax which—

''(i) is imposed on the use, storage, or consumption of such item, and

''(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

''(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

''(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer's trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

''(H) AMOUNT OF DEDUCTION TO BE DETERMINED UNDER TABLES.—

''(i) IN GENERAL.—The amount of the deduction allowed under this paragraph shall be determined under tables prescribed by the Secretary.

''(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i) shall reflect the provisions of this paragraph and shall be based on the average consumption by taxpayers on a State-by-State basis, as determined by the Secretary, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2889. 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:

On page 179, after line 25, add the following:

SEC. ___. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—Notwithstanding subsection (f), in the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2007, this section shall apply with respect to coke and coke gas produced in such facility and sold during the during the period—

''(1) beginning on the later of January 1, 2004, or the date that such facility is placed in service, and

''(2) ending on the earlier of the date which is 4 years after the date such period began or December 31, 2009.

SA 2890. 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.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the following bills have been added to the agenda for the hearing scheduled for Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Thursday, March 25th, at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building.

S. 2218 a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents and establish guidelines for projects and for other purposes. S. 1727, a bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; and S. 1791, a bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Shelly Randel at 202–224–7933, Erik Webb at 202–224–4756 or Colin Hayes at 202–224–0883.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources. The purpose of this hearing is to conduct oversight on National Heritage Areas, including findings and recommendations of the General Accounting Office, the definition of a National Heritage Area, the definition of national significance as it relates to National Heritage Areas, recommendations for establishing National Heritage Areas as units of the National Park System, recommendations for prioritizing proposed studies and designations, and options for developing a National Heritage Area Program within the National Park Service.

The hearing will take place on Tuesday, March 30, 2004 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Tom Lillie at (202) 224–5161 or Sarah Creachbaum at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Monday, March 22, 2004, from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that David Sinsky of my staff be granted floor privileges for the duration of today's and tomorrow's debate.

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

RECOGNITION OF THE 91ST MEETING OF THE GARDEN CLUB OF AMERICA

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 97, and the Senate then proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The assistant journal clerk read as follows:

A concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCONNELL. Mr. President, I further ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 97) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 97

Whereas The Garden Club of America is holding its 91st annual meeting in Washington, DC April 24 through 27, 2004;

Whereas The Garden Club of America has 195 member clubs in 40 States and the District of Columbia, representing more than 17,000 members;

Whereas since its founding in 1913, The Garden Club of America has become a recognized leader in the fields of horticulture, conservation, historic preservation, and civic improvement, and an influential organization in the protection of America's environment; and

Whereas in our Nation's Capital, The Garden Club of America was instrumental in the founding of the National Arboretum, the development of the Archives of American Gardens at the Smithsonian Institution, and the creation and installation of the Butterfly Habitat Garden which now graces The National Mall at the National Museum of Natural History: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends The Garden Club of America for the many contributions it has made in our Nation's Capital and in communities across the United States, and sends its best wishes on the occasion of its 91st annual meeting in Washington, DC, April 24 through 27, 2004.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–199, appoints the following individuals to serve as members of the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission: Leo J. Hindery, Jr. of New York and Gayle E. Smith of Washington, DC.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 108–199, Section 104(c), 1(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: Ms. Christine Vick of Washington, DC.

ORDERS FOR TUESDAY, MARCH 23, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. tomorrow, Tuesday, March 23. I further ask unanimous consent 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 until 11 a.m. with the majority leader or his designee in control of the first half of the time and the Democratic leader or his designee in control of the remaining time; provided that at 11 a.m. the Senate resume consideration of S. 1637, the JOBS bill; provided further that Senator GRASSLEY be recognized at that time.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, on this side we believe we are entitled to an up-or-down vote regarding the most important issue facing many Americans; that is, overtime. I just returned from our recess when I met with the fire and police personnel in the State of Nevada. They all brought this up. We know there is an effort not to have a vote, the reason being this amendment will pass. When the Harkin amendment is offered and there is a vote on it, it will pass. The majority doesn't want to vote on this because it is embarrassing to the President who has no support from the American people on this overtime issue.

Also, we have other amendments—not many but a few amendments—one dealing with China. Senator SCHUMER has wanted to offer an amendment for a long time on this bill dealing with international trade, among other things.

Also, there is an amendment my friend, the distinguished senior Senator from Illinois, is going to speak on dealing with a tax credit for insurance premiums and medical malpractice. I support my friend from Illinois on this issue. It would not solve the medical malpractice issue, but it is something the physicians in this country approved, and it is the right thing to do. It would help alleviate some of the medical malpractice pressure we have around the country.

I say to my friend through the Chair, I can't guarantee cloture will not be invoked, but I think it is very doubtful cloture will be invoked.

I want the RECORD to reflect that on this side we are not trying to amend this bill to death. We have a handful of amendments, and we will agree to a list of finite amendments. That has been explained to the two managers.

The way things are headed, this bill is going to go down, and it is not good for the country.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

Mr. MCCONNELL. Mr. President, let me say in response to my good friend from Nevada, as he knows full well, we have already voted on this once. We voted on it last year. Having continuing votes on the same subject strikes some Members in the Senate, on this side of the aisle, as not exactly the best way to move forward. But even if it is insisted by the other side that we have repetitious votes on the same issue, I say to my friend from Nevada there will be other authorizing bills coming along shortly after the JOBS bill which will be open to such amendments, and this underlying bill happens to be one I believe Senators on both sides of the aisle think needs to pass. In fact, the imposition of penalties against U.S. companies has already begun—my understanding is March 1.

I think we all understand the need to pass this bill to prevent the escalation of those penalties against U.S. business here in the coming months.

If there were not another opportunity, I say to my good friend from Nevada, to have further repetitious votes on the same issue, I might understand it. But there will be other authorizing bills coming up shortly that will give the other side an opportunity to offer and insist on more votes on the very same subject.

I hope cloture will be invoked. The right of the minority is still there to offer these nongermane or irrelevant amendments on other authorizing bills that will be coming along very shortly.

PROGRAM

Mr. MCCONNELL. Mr. President, a short while ago I filed a cloture motion relative to the JOBS bill. That cloture vote will occur on Wednesday of this week. The chairman will be back tomorrow to discuss the importance of this legislation, and we hope to finish the bill this week. Amendments may still be considered prior to the cloture vote, and we will continue to look for an opportunity to consider amendments that are relevant to the underlying bill. Rollcall votes are, therefore, possible during tomorrow's session. Senators will be notified when the first vote is scheduled.

Mr. REID. Mr. President, if my friend will allow me to make one brief statement, we understand the importance of the underlying bill. That is the reason we have agreed to have a list of finite amendments. It is not often we have tax bills come across the floor. This is a tax bill. We have been told on many occasions: do the overtime vote later. This bill is important. As I explained earlier today, the Senator from Iowa has withheld on a number of important pieces of legislation in an effort to move them through the Senate. But that time has come to an end. He is not agreeable to doing it at a later time anymore. We are going to have a vote on this legislation.

If this legislation is important to the administration—which I am hopeful and confident it is—we should have a vote on this overtime issue.

I repeat: The reason the administration doesn't want a vote on this overtime issue is it will pass. There is no question about it. Members in the majority and virtually everyone in the minority will vote for this most important amendment.

I hope this legislation is allowed to go forward. If it isn't, it will be directed back to the President of the United States for doing what he has done affecting the rights of millions of Americans, which is the overtime issue.

Mr. MCCONNELL. Mr. President, at the risk of repeating myself, we have had this vote once. I am sure there will be other opportunities in the very near future for repetitious votes on the same issue. I know our good friends on the other side will insist on an opportunity to do that. The question is whether we should move the underlying bill now and terminate these sanctions being imposed on American businesses which cost us jobs. Jobs is an important issue here in America. We want to get this bill passed because it will preserve existing jobs and offer the opportunity for more jobs. The overtime issue, to the extent our good friends on the other side of the aisle think is a good issue, is already out there. A move is on by spending millions of dollars of George Soros' money running soft-money issue ads on this subject. I am sure those ads are not going to go away, whether or not we have this vote on this particular bill which, of course, would be our second vote on this issue without further debating the issue.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of our friend from Illinois, Senator DURBIN, for up to 20 minutes.

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

Mr. REID. Mr. 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. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. Mr. President, I know I have been given permission to speak in morning business. I have two separate issues totally unrelated, and I would like to address each of them.

The PRESIDING OFFICER. The Senator from Illinois.

MEDICAL MALPRACTICE

Mr. DURBIN. Mr. President, we face a serious medical malpractice problem in Illinois. I have had meetings in the area where I was born with doctors and most recently with hospital administrators. The recent medical malpractice insurance premium increases for this year were only—I underline ''only''—7½ percent through the Illinois State Medical Society, but adjustments will follow for specialties and for experience, and for some of these doctors that rate could be increased dramatically. I have come away from the meetings convinced now more than ever that we need to do something about the medical malpractice crisis that faces America.

I understand, and I think those who follow it understand, that in my State of Illinois and in other States around the Nation medical malpractice premiums have gone up so dramatically that good doctors who have no experience of having ever been sued successfully for medical malpractice see their premiums go up by 30, 40 percent, and more. These doctors, frankly, cannot continue to practice under those circumstances and are forced into early retirement or have to transfer their practices to adjoining States with different malpractice laws.

Hospital administrators talked to me about what it means for them. When you do not have a neurosurgeon on staff at a hospital, how can you open an emergency room or give trauma care? It is a legitimate, real concern. These doctors and hospitals are facing an increased cost for malpractice premiums that must be addressed as quickly as possible by either the States where these are occurring or by the Federal Government.

Most people point toward a solution that involves tort reform. I am one of them. I believe tort reform has to be part of the solution to the medical malpractice challenge we face. I also believe we have to include elements in this whole issue that address the number of medical errors committed each year. Some 98,000 Americans, it is estimated, die each year from medical malpractice—not from their disease or the illness that brought them to the doctor but simply because they were treated improperly and incorrectly.

It is an epidemic, according to some medical sources. Medical errors and medical negligence have to be reduced so the universe of bad results is reduced, as well. That will lead, of course, to fewer cases being filed and less litigation.

When it comes to malpractice itself in the courtroom, we have to find ways to make certain that only worthy, good, deserving suits go forward, to make certain those that should not be filed that may be frivolous or unnecessary are stopped early in the process before they cost both the doctors, hospitals, and their insurance companies the precious resources they are paying each year in premiums. We have to figure out a reasonable way to approach this. We can. We can do it on a bipartisan basis.

I reject the idea of caps, which is the only proposal that has been brought consistently to the Senate. To say we will sit as a jury for medical malpractice cases across America is to take away the jury system, which is basic to American government. Instead of 12 people in your neighborhood and community making the decision, we will make the decision, and we will decide the maximum amount one can recover, regardless of the injury which you, as an innocent patient, suffered.

We need to address tort reform that does not include caps on noneconomic losses. We can. I hope we can. I have said to the doctors and hospitals, I have reached out across the aisle to my friends on the Republican side to find common ground. Be prepared to make concessions on both sides, but let's address it now. We cannot allow this to continue.

The one thing we all agree on is even if tort reform is passed tomorrow, it will be years before it has any impact in reducing medical malpractice premiums. Why? Because the doctors in practice today who performed surgeries or dispensed medical services in years gone by are liable for years under statutes of limitations for what they have done in the past, and those years could be extended to a period when the actual injury is discovered which could be many years after the act was committed. Even if we change the law today, all of that past conduct and exposure to liability will be there, and

malpractice premiums will continue to be very high.

What I have proposed is that we do something immediately to provide relief to doctors and to hospitals. What I have suggested is that we consider the establishment of a tax credit and reimbursement of medical malpractice premiums for some doctors and hospitals. Senator LINDSEY GRAHAM, a Republican from South Carolina, has joined me in this amendment. Our amendment allows doctors and hospitals to claim a tax credit for a percentage of the malpractice premiums they are paying and will pay during the years 2004 and 2005. If a doctor is in a high-risk specialty with increased risk of complications, they would be eligible for a tax credit equivalent to 20 percent of their total malpractice premium. The credit would be taken for premiums up to twice the statewide average for the specialty in which the doctor practices.

Let me explain that. A doctor can deduct his medical malpractice insurance costs now from his business costs or his business revenue. We could add to that a 20-percent tax credit on top of the deduction. That would help these doctors immensely in dealing with the increase in these malpractice premiums. High-risk doctors include those in all surgical services and subspecialties, emergency medicine, obstetrics, or anesthesiology, or those doctors who do interventional work that is reflected in their malpractice premiums.

Doctors who practice in lower risk specialties—general medicine, for example—would be eligible for a 10-percent tax credit.

For-profit hospitals are eligible for a tax credit equivalent to 15 percent of their total malpractice premium, including nursing homes, as well, if they need malpractice insurance.

Those that are nonprofit institutions, hospitals and nursing homes, are eligible for reimbursement under a 2-year grant to the Health Resources Services Administration at the Department of Health and Human Services.

What we are trying to do is provide immediate relief while we work out the issues of reducing medical errors and tort reform, understanding if we pass legislation today, dealing with those two issues, tort reform and medical errors, these doctors and hospitals would still see staggering premiums for years to come. This is a responsible way to address the immediate need.

I say to my friends in the medical community, though you may not agree with me on the issue of caps, I hope you understand that even if you had your way and passed the caps limiting recovery for those who are victims of medical malpractice, the premiums would still continue to increase on your medical malpractice insurance.

This Durbin-Graham amendment, also supported by Senator PATTY MURRAY of Washington, provides immediate relief.

COLLEGE BASKETBALL

Mr. DURBIN. Mr. President, the second issue I would like to address is an issue that could not be more timely. The issue is ''March Madness.'' Frankly, everywhere I have gone today—in the airport, while traveling, as I came back to my office—everybody is abuzz about the basketball games over the weekend.

I am happy the University of Illinois is going into Sweet 16. There have been upsets and great victories, and those who love college basketball cannot wait each year for the NCAA tournament. It is college basketball really brought home to America in a way like no other sport. Sixty-five teams start, and in the end one will be champion.

But, frankly, when we take a closer look and understand the reality of who the players are, it calls into question whether or not in many cases this is college basketball.

Let me tell you what I mean.

Mr. President, I ask unanimous consent to have printed in the RECORD today's lead editorial in the Chicago Tribune of March 22.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune]

THE REAL MARCH MADNESS

If you're a basketball fan, you know how many college teams qualify each year for the NCAA men's tournament: 65. But can you guess how many schools would be playing if there was a requirement that they had to graduate at least half of their athletes?

If you guessed a third, you'd be about right.

Commentary about college sports often focuses on programs with serious shortcomings. So let it be noted that there are some universities that have exemplary records combining athletics and scholarships. Among the schools with teams in this year's tournament, Kansas graduates 73 percent of its players within six years of their original enrollment. At Dayton, 82 percent get a degree, and at Lehigh, the figure is 90 percent. Atop them all is Stanford, with a 100 percent graduation rate (and a number one seed in the tourney).

Three years ago, the Knight Foundation Commission on Intercollegiate Athletics proposed that postseason competition be limited to teams that graduate at least 50 percent of their players. But the NCAA obviously has a long way to go. Of the 65 teams playing this year, only 21 would qualify under that rule—down from 22 last year.

For that matter, 10 of the teams fail to graduate even 20 percent of their players. But they're not the worst. Commission Chairman William C. Friday, president emeritus of the University of North Carolina, noted that ''four of the teams in the men's tournament failed to graduate a single athlete over the period we reviewed.'' He was kind enough not to identify them.

Basketball fans may be aghast to think what March Madness would look like if the commission had its way. Only three of this year's first-round games could be played if its rule were in effect—Gonzaga v. Valparaiso, North Carolina vs. Air Force, and Mississippi State vs. Monmouth. A tournament like that would make for a short, craze-free March.

But if the rule were in effect, you can be sure schools would be taking the steps needed to strengthen their academic mission. They'd recruit kids capable of doing college-level work, and they'd structure their programs to assure that players devote as much time and energy to their studies as to their sport. If every school that hoped to play in the tournament had to graduate 50 percent of its players, just about every school would graduate 50 percent of its players.

That's as it should be. Most college basketball players will never play professionally. They need an education that prepares them for life after sports.

The Knight Foundation Commission goal is hardly outlandish, as the teams in the women's tournament regularly demonstrate. Of the 63 women's teams for which the commission had sufficient data to judge, only 10 failed to graduate half their players.

And there's no apparent conflict between success in the classroom and success on the court: At many of the perennial powers, such as Connecticut, Tennessee, Texas and Duke, upwards of 67 percent of players get degrees.

On the men's side, though, most schools apparently care more about winning than anything else. That approach creates far too many losers.

Mr. DURBIN. Mr. President, this editorial raises the following question:

[C]an you guess how many schools would be playing [in the NCAA men's tournament] if there was a requirement that they had to graduate at least half of their athletes [in a 6-year period of time]?

If you guessed a third, you'd be right.

This article goes on to note that some universities involved in this tournament have exemplary records combining athletics and scholarship; and he names Kansas, with 73 percent of its players graduating within 6 years of their original enrollment; Dayton, 82 percent; Lehigh, 90 percent; and atop the chart—which is a university which lost yesterday—Stanford, with 100 percent.

This editorial says:

Three years ago, the Knight Foundation Commission on Intercollegiate Athletics proposed that postseason competition be limited to teams that graduate at least 50 percent of their players [within 6 years]. But the NCAA obviously has a long way to go. Of the 65 teams playing [in the tournament] this year, only 21 would qualify under that rule—down from 22 last year.

For that matter, 10 of the teams [in the NCAA tournament] fail to graduate even 20 percent of their players.

This is what commission Chairman William Friday, president emeritus of the University of North Carolina, noted:

[F]our of the teams in the men's tournament failed to graduate a single athlete over the period we reviewed.

The information here talks about the general graduation rate. We call this college basketball. But if we were to learn that there was a team headed for the Sweet Sixteen or the Final Four that did not have a single college player graduate, we would cry fraud. This is supposed to be about college athletes participating against one another. But if you have schools involved in the tournament where none—absolutely none—of the athletes involved in the basketball game are ever going to graduate, are these truly college students, is this really college basketball?

Mr. President, I ask unanimous consent to have printed in the RECORD a commentary from that same newspaper written by Derrick Z. Jackson, entitled ''Suppressing the bad news on NCAA graduation rates.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPRESSING THE BAD NEWS ON NCAA GRADUATION RATES

(By Derrick Z. Jackson)

Not to be outdone by the federal government's attempts to delete key portions of reports on global warming, health disparities, and racism within the Justice Department, here comes the National Collegiate Athletic Association. That august body is eliminating the graduation rates of basketball players. What is good for the Bush administration is wonderful news for the Universities of Cincinnati, Kentucky, Louisville and Memphis.

March Madness ought to be canceled with the scandal that is in the computer banks of the NCAA's 2003 Graduation Rates Report. The report covers whether scholarship athletes who entered school in the falls of 1993, 1994, 1995 or 1996 graduated within six years. The report is the best long-term way to see whether a university is providing an education to its athletes or pimping them in an era where CBS is paying the NCAA $6 billion over 11 years to televise men's games and where an additional $3.5 billion will be wagered illegally on this year's tournament alone, according to The Wall Street Journal. The amount of betting is half the annual budget of the chronically underfunded Head Start.

That is March Madness enough, but now the NCAA has quietly adjusted the graduation rates to satisfy ''a new interpretation'' of federal laws which say that information on any category containing only one or two students ''must be suppressed.''

In basketball, which has far fewer players than football or baseball teams, the new rules amount to liberation from any accountability whatsoever on the part of college athletic departments and their presidents.

Because of the new rules, 37 of the 65 men's teams in this year's tournament did not publish graduation rates of their African-American players. Sixteen schools published no graduation rates at all.

Nine of the 16 schools that mysteriously had no graduation rate whatsoever just happen to include last year's most hideous offenders, such as:

Alabama (0 percent for black men and 13 percent overall in the 2002 report).

Cincinnati (0 percent for black men, 17 percent overall).

Louisville (0 for black men, 10 percent overall).

Kentucky (13 percent and 33 percent overall).

Southern Illinois (14 percent for black men and 27 percent overall).

Memphis (0 period).

Nevada (0 percent for black men, 20 percent overall).

Virginia Commonwealth (0 period).

Alabama State (0 period).

The ''new rules'' did not stop the schools with good and great graduation rates from publishing them, even when the numbers of players on scholarship are obviously similar to the schools that withheld the information. Kansas, Air Force, Manhattan, Gonzaga, Vanderbilt, Central Florida, Duke, Princeton, Valparaiso, Stanford, Monmouth and Xavier all had African-American player graduation rates of at least 67 percent.

Among New England schools in the men's and women's tournament, the Connecticut men's team published its general and woeful graduation rate of 27 percent, but withheld its black rate. The UConn women's team published its general graduation rate of 67 percent but withheld the black rate. Boston College's men's team published both its 46 percent overall and 67 percent African-American rate. BC's women's team published its 71 percent overall rate but withheld its black rate.

Rates for Providence's men were 42 percent overall, 50 percent for black men, Vermont's men were 55 percent overall and the school withheld a figure for black men. Maine's women were at 69 percent overall, with no black women to count.

In the case of most of the New England schools, the withholding of the black rate actually did not affect the overall rate much as the white rate was similar to the overall rate. But it was very clear that many other schools purposely hid disastrous rates. For instance, Georgia Tech did not publish the rate of its black athletes. But with a white graduation rate of 60 percent, it managed to plummet to an overall rate of 27 percent. Texas Tech did not publish the rates for black athletes. But with a white graduation rate of 60 percent, it had an overall rate of only 33 percent.

Last year, 13 men's schools had a 0 graduation rate for black men. The average black male graduation rate for the 65-team field was 35 percent. With the liberation provided by the new privacy rules, only one university in this year's field published a black male rate under 38 percent. That was Eastern Washington, where the rate was zero.

That is probably because that school is not a perennial NCAA powerhouse. Give it time. A couple more appearances in March Madness and school officials will join Kentucky, Cincinnati, and Louisville in erasing its records, too. If President Bush wins re-election and needs some more bureaucrats to delete the truth, he knows where he can find them. At the NCAA and in our nation's athletic departments.

Mr. DURBIN. Mr. JACKSON comes at this issue a little differently. Mr. JACKSON says, let's take a close look and see how many are graduating who are minorities, African Americans. He says:

This is March Madness . . . but now NCAA has quietly adjusted the graduation rates to satisfy ''a new interpretation'' of federal laws which say that information on any category containing only one or two students ''must be suppressed.''

What it basically means is that these schools will not publish the graduation rates of their athletes, and particularly will not publish the graduation rates of the African-American athletes who are playing basketball.

Because of the new rules [as interpreted by the NCAA], 37 of the 65 men's teams in this year's tournament did not publish graduation rates of their African-American players. Sixteen schools published no graduation rates at all.

Nine of the 16 schools that mysteriously had no graduation rate whatsoever just happen to include last year's most hideous offenders. . . .

He lists the following universities: Alabama University, zero-percent graduation rate for Black players, and 13 percent overall—this is in a 2002 report—Cincinnati, zero percent for African-American athletes, 17 percent overall; Louisville, zero percent for Black men, 10 percent overall; Kentucky, 13 percent for African Americans, 33 percent overall; Southern Illinois, 14 percent for Black men, 27 percent overall; Memphis, zero percent in both groups, Black and White basketball players not graduating; Nevada, zero percent for Black men, 20 percent overall; Virginia Commonwealth, zero percent in both categories; Alabama State, zero percent, period.

He goes on to list the schools that can point with pride to their graduation rates. Kansas, Air Force, Manhattan, Gonzaga, Vanderbilt, Central Florida, Duke, Princeton, Valparaiso, Stanford, Monmouth, and Xavier all had African-American player graduation rates of at least 67 percent.

Among New England schools in the men's and women's tournament, the Connecticut men's team published its general and woeful graduation rate of 27 percent, but withheld [the graduation rate for African Americans].

Rates for Providence's men were 42 percent overall; 50 percent for Black men. Vermont's men were 55 percent on their men's basketball team overall, and they withheld the figure for their African-American athletes.

Mr. President, the reason I think these two items should be in the RECORD is that all of us enjoy watching college basketball. But, frankly, if these athletes we are watching are not really college students, we are not watching the best of college basketball; we are watching the best of colleges and universities that are sending teams of so-called students who have not even a ghost of a chance of ever graduating from their institution.

These men in the men's tournament are being used. They are being used as players on the court in the hope that some of them will end up in professional basketball. I am sure that is their ambition, but such a small percentage ever do.

So we watch and applaud and talk about our alma maters and their devotion to education when, in fact, these schools know full well that the people who are being put on the court to play this game are, frankly, never going to graduate in most instances in many of these schools.

What do the universities get out of it? A lot of money. They go to the NCAA tournament, and the money comes back to them in revenue, money that might have been spent to help some of their players get the help they need to go on to graduate. But, sadly, that never happens.

Mr. President, I am going to be looking at this interpretation of the NCAA rule which allows them to suppress and, frankly, refuse to publish the graduation rate of African-American players who are at the NCAA tournament, and, frankly, in all other sports. I think that should be public knowledge. I think the leaders at the universities have an obligation to not only put the best basketball teams on the court but to make certain those teams are made up of real students who, with the help of the university,

are going to end up graduating someday and have a college education on which to build their lives.

Unfortunately, today, that is not the case. As the Chicago Tribune editorial concludes, when it comes to men's basketball, though, ''most schools apparently care more about winning than anything else. That approach creates far too many losers.''

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his suggestion of the absence of a quorum?

Mr. DURBIN. Yes, I will.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. The Senate now stands adjourned until 9:45 a.m. tomorrow.

Thereupon, the Senate, at 6:54 p.m., adjourned until Tuesday, March 23, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 2004:

DEPARTMENT OF COMMERCE

JONATHAN W. DUDAS, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE, VICE JAMES EDWARD ROGAN, RESIGNED.

DEPARTMENT OF STATE

CONSTANCE BERRY NEWMAN, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), VICE WALTER H. KANSTEINER, RESIGNED.

JENDAYI ELIZABETH FRAZER, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SOUTH AFRICA.

THOMAS NEIL HULL III, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

R. NIELS MARQUARDT, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

ROGER A. MEECE, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF THE CONGO.

LAUREN MORIARTY, OF HAWAII, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL TO THE ASIA-PACIFIC ECONOMIC COOPERATION FORUM.

MITCHELL B. REISS, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR NORTHERN IRELAND.

IN THE AIR FORCE

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD R. MOSS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF ENGINEERS/COMMANDING GENERAL, UNITED STATES ARMY CORPS OF ENGINEERS, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 3036:

To be lieutenant general

MAJ. GEN. CARL A. STROCK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. GEORGE W. WEIGHTMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. CARLA G. HAWLEY-BOWLAND, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. EDWARD H. DEETS III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. VICTOR C. SEE JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. KEVIN M. MCCOY, 0000
CAPT. WILLIAM D. RODRIGUEZ, 0000

IN THE AIR FORCE

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 major

CHRISTOPHER N. * AASEN, 0000
CHRISTOPHER C. * ABATE, 0000
DAVID W. ABBA, 0000
GAYLORD L. * ABBAS, 0000
TAMMY L. * ABBETT, 0000
LAIRD S. * ABBOTT, 0000
DAVID J. ABRAHAMSON, 0000
DANIEL R. * ABSHERE, 0000
MELISSA J. * ACHESON, 0000
PHILIP F. ACQUARO, 0000
ALAN B. ADAMS, 0000
DAVID L. * ADAMS, 0000
MATTHEW H. ADAMS, 0000
SHAWNAE L. * ADKINSLACY, 0000
RENE C. E. ADLUNG, 0000
ROBERT S. * AGDINAOAY, 0000
TODD R. * ALCOTT, 0000
LOUIS C. ALDEN, 0000
RODOLFO D. * ALEJANDRO, 0000
JAMES R. ALEXANDER, 0000
STEVEN S. ALEXANDER, 0000
DETROL W. * ALFORD, 0000
CHRISTOPHER D. * ALIPHAT, 0000
JENNIFER J. ALLEE, 0000
CHARLES L. * ALLEN, 0000
MARK A. * ALLEN, 0000
MARK B. ALLEN, 0000
MICHAEL D. ALLEN, 0000
PAUL S. * ALLEN, 0000
MONICA R. ALLORI, 0000
JAMES JAY * ALONZO, 0000
JOHN T. ALPETER, 0000
AARON D. ALTWIES, 0000
ANGEL A. * ALVAREZ III, 0000
STEVEN JEROME * ALVES, 0000
FRANCISCO R. * ALVIDREZ, 0000
BRANDON L. * AMBRUOSO, 0000
ADAM D. ANDERSON, 0000
DAVID J. * ANDERSON, 0000
GREGORY J. ANDERSON, 0000
JASON C. ANDERSON, 0000
MICHAEL P. ANDERSON, 0000
NEIL E. ANDERSON, 0000
TODD W. * ANDRE, 0000
BRIAN A. * ANGELL, 0000
THOMAS P. J. ANGELO, 0000
WILLIAM S. ANGERMAN, 0000
RALPH A. * ANTHENIEN JR., 0000
DAMON A. ANTHONY, 0000
RICHARD M. * ANTOINE, 0000
RITCHE C. * ANTONIO, 0000
DAVID R. * ANZALDUA, 0000
THOMAS G. * ARANDA, 0000
VALENTINE S. ARBOGAST, 0000
BENITA D. * ARCENEAUX, 0000
WILLIAM B. * ARCHER, 0000
ROBERT J. * ARDIZZONI, 0000
LUIS M. ARES, 0000
HERMON C. * ARMSTRONG JR., 0000
KEVIN M. * ARMSTRONG, 0000
RICHARD W. ARMSTRONG, 0000
DOUGLAS W. * ASHER, 0000
MOHAMMAD K. * ASIF, 0000
ERIC K. * ASMUSSEN, 0000
MATTHEW D. ATKINS, 0000
KEVIN T. * ATTEBERRY, 0000
LANCE W. * AUG, 0000
CRAIG R. * AUGUSTINO, 0000
CHRISTOPHER E. AUSTIN, 0000
JONATHAN F. * AUSTIN, 0000
TROY C. * AUSTIN, 0000
CHRISTIAN M. * AVERETT, 0000
NICK M. * AVLONITIS, 0000
REX O. AYERS, 0000
MAURICE C. AZAR, 0000
CRAIG R. BABBITT, 0000
ARIANNE M. * BABCOCK, 0000
BRIAN J. * BACARELLA, 0000
JASON T. * BACHELER, 0000
MICHAEL J. BACHTELL, 0000
PAMELA D. BACKEBERG, 0000
NEAL C. * BACON, 0000
RUSSELL R. * BAGNALL, 0000
SCOTT L. * BAGNELL, 0000
JAMES G. * BAILEY, 0000
JASON E. BAILEY, 0000
RICHARD F. * BAILEY JR., 0000
STEPHEN G. * BAILEY, 0000
TRENT D. * BAINES, 0000
WILLIAM E. BAIRD JR., 0000
JOHN E. * BAKER, 0000
LARRY E. BAKER JR., 0000
BRIAN T. BALDWIN, 0000
HOWARD S. * BALDWIN, 0000
JEREMIAH W. * BALDWIN, 0000
CHAD A. BALETTIE, 0000
SHANE M. * BALKEN, 0000
DEAN L. * BALSTAD, 0000
AARON D. * BANDSTRA, 0000
JEFFREY B. * BANKS, 0000
CHRISTOPHER S. * BARACK, 0000
BRIAN C. * BARKER, 0000
STEVEN G. * BARKER, 0000
JOHN V. * BARLETT, 0000
JAMES V. * BARLOW, 0000
JENNIFER M. * BARNARD, 0000
NATHANIEL D. BARNES, 0000
JOHN R. * BARNETT, 0000
DAVID J. BARNHART, 0000
DONALD J. * BARRETT, 0000
JEREME A. BARRETT, 0000
WILLIAM A. BARRINGTON, 0000
BENITO J. * BARRON, 0000
CORI E. * BARRY, 0000
JASON P. * BARRY, 0000
BRIAN Y. BARTEE, 0000
DOUGLAS H. BARTELS, 0000
MICHAEL H. BARTEN, 0000
CHRISTIAN A. * BARTHOLOMEW, 0000
ROBERT R. * BASOM, 0000
CURTIS R. * BASS, 0000
MARK A. * BASS, 0000
THOMAS E. * BASS JR., 0000
CHRISTOPHER B. BASSHAM, 0000
RICKY T. * BATEMAN, 0000
BRIAN M. BAUMANN, 0000
DOMINIC A. * BAUMANN, 0000
DYLAN S. BAUMGARTNER, 0000
BRYAN J. * BAYER, 0000
DOUGLAS J. * BAYLEY, 0000
ROYCE W. * BEAL, 0000
TODD A. * BEAN, 0000
MICHAEL P. BEASLEY, 0000
TATIANA L. * BEAUCHAMP, 0000
ALAN L. * BEAUMONT, 0000
ERIC V. * BECK, 0000
MITCHELL B. BEDESEM, 0000
BERNARD BEDGOOD II, 0000
VICTOR W. * BEELER, 0000
GARY D. BEENE, 0000
ERIC J. * BEERS, 0000
JASON H. BEERS, 0000
STEPHEN M. * BEHM, 0000
TROY D. BELIN, 0000
KENYON K. BELL, 0000
ANTHONY P. * BELLIONE, 0000
BRENT L. * BELSCHNER, 0000
ROBERT M. * BENDER, 0000
TREVOR B. BENITONE, 0000
ADAM D. BENJAMIN, 0000
CHRISTINE M. * BENJAMIN, 0000
MICHAEL J. BENSON, 0000
BRIAN D. BENTER, 0000
ROBERT A. * BENTON, 0000
JOSEPH A. * BENUCCI, 0000
MARK M. * BENYO, 0000
EDWARD W. * BERG, 0000
SHAWN D. BERNARDINI, 0000
WALTER T. BERRIDGE, 0000
RONALD H. BERZINS, 0000
OSCAR I. * BETANCOURT, 0000
WILLIAM D. BETTS, 0000
KAREN L. * BICE, 0000
JOHN A. * BIDOL III, 0000
BRIAN E. * BIEBEL, 0000
CHRISTOPHER E. * BIEGUN, 0000
MATTHEW J. BIEWER, 0000
ANDREW W. * BIGELOW, 0000
KIRK * BIGGER, 0000
MARK M. * BINKOWSKI, 0000
KATHLEEN R. * BINNS, 0000
CHRISTIAN J. BISBANO, 0000
SEAN C. * BITTNER, 0000
DANIEL A. * BLACK, 0000
MICHAEL R. BLACK, 0000
ANDREW H. * BLAIR JR., 0000
BRETT R. BLAKE, 0000
TRAVIS F. BLAKE, 0000
MICHAEL S. * BLAKELY, 0000
DENNIS W. * BLANCHARD, 0000
BRYAN A. BLIND, 0000
JAY C. * BLOCK, 0000
TED L. * BLOINK, 0000
SARAH W. BLOODWORTH, 0000
STEVEN M. BOATRIGHT, 0000
JEREMY S. * BOENISCH, 0000
MICHAEL C. * BOGER, 0000
WILLIE L. * BOHLES, 0000
DAVID P. BOHNEN, 0000
KENNETH D. * BOLE, 0000
MICHAEL A. * BOLE, 0000
MICHAEL T. BOLEN, 0000
ROBERT T. BOLINGER, 0000
BARTHOLOMEW G. * BONAR, 0000
CHAD B. BONDURANT, 0000

PETER M. * BONETTI, 0000
DAVID A. * BONIFANT, 0000
OLIVER C. * BONNEY, 0000
CHRISTOPHER A. * BOONE, 0000
STEVEN P. BORDING, 0000
BRAD W. BORKE, 0000
BENJAMIN C. BOTH, 0000
BRIAN J. * BOTKIN, 0000
KENNETH L. * BOTTARI, 0000
NOEL R. BOUCHARD, 0000
JOHN P. * BOUDREAUX, 0000
JEFFREY A. * BOUNDS, 0000
KENNETH D. * BOURLAND, 0000
DANIEL R. BOURQUE, 0000
SHANNON D. * BOUVIER, 0000
PATRICK J. BOWAR, 0000
COOPER D. * BOWDEN, 0000
NEAL E. * BOWEN, 0000
WILLIAM C. * BOWEN III, 0000
WILLIAM D. BOWER, 0000
JOSHUA D. BOWMAN, 0000
DANIEL P. BOYD, 0000
SAMUEL P. * BRABHAM, 0000
DAVID C. BRACKNEY, 0000
BRIAN L. * BRACY, 0000
BENJAMIN L. * BRADDOCK, 0000
ROBERT J. BRADEEN JR., 0000
SHAWN P. BRADY, 0000
TOBY J. BRALLIER, 0000
STEPHEN B. * BRANCH, 0000
JERRY B. * BRANDAU, 0000
KENNETH B. BRATLAND, 0000
MICHAEL A. * BRAZELTON, 0000
LAWRENCE A. * BREIGHNER, 0000
JOHN E. BREMER JR., 0000
ROBERT C. * BRENZEL JR., 0000
THEODORE A. BREUKER, 0000
DENIS * BRICENO, 0000
DAVID E. * BRICKLEY, 0000
BRADLEY E. BRIDGES, 0000
JASON E. * BRIGGS, 0000
ROBERT M. * BRINKER, 0000
KATERINA L. * BRINSON, 0000
JUSTIN Z. BRIZUELA, 0000
MICHAEL E. BROCK, 0000
DAVID A. * BROCKMAN, 0000
PAUL J. BROCKWAY, 0000
KEVIN B. * BROKAW, 0000
CHRISTOPHER J. BROMEN, 0000
JOSHUA D. * BROOKS, 0000
BRIAN R. * BROWN, 0000
CHRISTOPHER J. * BROWN, 0000
DARRAL W. * BROWN, 0000
DAVID E. * BROWN, 0000
JASON M. BROWN, 0000
JEFFRY E. * BROWN, 0000
KATHRYN A. * BROWN, 0000
KYLE D. BROWN, 0000
POLLY S. * BROWN, 0000
VICKIE T. * BROWN, 0000
PAUL A. * BROWNING JR., 0000
TRAVIS A. * BROWNLOW, 0000
MICHAEL D. * BROX, 0000
TODD P. * BROYLES, 0000
STEPHANIE L. * BRUCE, 0000
KEVIN L. * BRUMMERT, 0000
IRMA E. * BRUSSOW, 0000
FRANK D. BRYANT JR., 0000
JOHN E. BRYANT, 0000
DAVID R. BUCHANAN, 0000
DOUGLAS A. * BUCHANAN, 0000
MICHAEL S. BUCHER, 0000
TIMOTHY H. BUCK, 0000
CHRISTOPHER BUCKLEY, 0000
STEVEN R. BUCKWALTER, 0000
JEFFREY W. * BUDAI, 0000
CHRISTOPHER M. * BUDDE, 0000
RONALD A. * BUELER, 0000
ROSS M. * BULLOCK, 0000
AMY S. BUMGARNER, 0000
BRUCE M. * BUNCE, 0000
CHRISTOPHER M. BURCH, 0000
ROGER D. * BURDETTE, 0000
PAUL C. * BURGER, 0000
DARRELL O. * BURGHARD, 0000
AARON D. * BURGSTEIN, 0000
DAVID M. * BURKE, 0000
EVE M. BURKE, 0000
WILLIAM H. BURKS, 0000
BRIAN S. * BURNS, 0000
ROBERT E. BURNS, 0000
EARL W. * BURRESS JR., 0000
STEPHEN T. BURRINGTON, 0000
NORMAND A. BURROUGHS, 0000
SCOTT A. BURROUGHS, 0000
ROBIN R. * BURTON, 0000
DANIEL D. BUSH, 0000
CHAD A. BUSHMAN, 0000
BRANT C. * BUSHNELL, 0000
CHARLES H. * BUTCHER, 0000
KENNETH H. BUTLER JR., 0000
CHARLES T. * BYRD JR., 0000
LEONARD D. CABRERA, 0000
ALDO J. * CAHUE, 0000
SCOTT A. * CAIN, 0000
SCOTT A. CAIN, 0000
KEVIN M. * CALHOUN, 0000
JOSE O. * CALIBOSO, 0000
JOHN P. CALLAGHAN, 0000
MATTHEW M. CALLOW, 0000
DOUGLAS S. CAMERON, 0000
RICHARD A. * CAMP, 0000
CRAIG A. CAMPBELL, 0000
GERALD T. * CAMPBELL, 0000
JASON L. * CAMPBELL, 0000
KOFI E. * CAMPBELL, 0000
ROBERT I. * CAMPBELL, 0000
SCOTT C. CAMPBELL, 0000
RICHARD * CAO, 0000
ALEJANDRO * CARAZO, 0000
RUDY W. * CARDONA, 0000
DARRIN L. * CAREY, 0000
RONALD G. * CARL, 0000
PATRICK J. * CARLEY, 0000
MATTHEW J. * CARLISLE, 0000
MARK A. CARLSON, 0000
ROBERT K. CARLSON, 0000
SCOTT A. * CARLSON, 0000
ERIC A. * CARNEY, 0000
PHILIP E. * CARPENTER, 0000
RICHARD A. CARRELL, 0000
SCOTT E. CARRELL, 0000
JOSEPH K. * CARRICO, 0000
KEVIN W. * CARROW, 0000
DEAN J. CARTER, 0000
MARLA L. * CARTWRIGHT, 0000
EDWARD D. CASEY, 0000
MATTHEW N. * CASEY, 0000
RANDALL WILKINS CASON JR., 0000
BURTON H. * CATLEDGE, 0000
JOSEPH M. CAUTERO, 0000
SCOTT R. CERONE, 0000
MARK L. CHAFE, 0000
CHARLES F. * CHALK, 0000
MARCUS A. CHANEY, 0000
JACQUELINE D. * CHANG, 0000
LEE E. CHASE, 0000
ELLIS K. * CHATTERTON, 0000
ARCHANGE M. * CHAVANNES, 0000
KURT A. * CHELF, 0000
STEVEN R. * CHERRINGTON, 0000
RICHARD W. H. * CHONG, 0000
KARYN L. CHRISTEN, 0000
RICHARD B. CHRISTENSEN, 0000
GREGORY P. * CHRISTIANSEN, 0000
NORMAN E. CHUCHUL, 0000
EUNICE T. * CISKOWSKI, 0000
GARY M. * CIVITELLA, 0000
JAMES M. CLABORN, 0000
JOHN R. * CLARK, 0000
LANCE D. * CLARK, 0000
THOMAS W. * CLARKE, 0000
CHRISTOPHER A. CLAUS, 0000
GREGORY B. * CLAY, 0000
ROBERT K. * CLEMENT, 0000
JOHN V. CLUNE, 0000
DAVID M. COBB, 0000
WESLEY S. * COBB, 0000
SPENCER C. COCANOUR, 0000
BRIAN W. * COCHRAN, 0000
JORDON T. COCHRAN, 0000
SHAWN T. COCHRAN, 0000
JASON J. COCKRUM, 0000
EMANUEL J. * COHAN, 0000
BRANNEN C. COHEE, 0000
OFER * COHEN, 0000
ELENE R. * COLE, 0000
RUTH A. * COLE, 0000
ELBERT L. * COLEMAN JR., 0000
GREGORY B. COLEMAN, 0000
LESIA J. COLEMANLINZY, 0000
KEVIN A. * COLIN, 0000
STEVEN P. * COLLEN, 0000
CLIFFORD J. * COLLEY, 0000
JAMES E. COLLINS II, 0000
ROY W. COLLINS, 0000
THOMAS R. COLVIN, 0000
MARK A. * COMMENATOR, 0000
JOSHUA W. * CONINE, 0000
DAVID H. CONLEY JR., 0000
COLIN J. CONNOR, 0000
JOSEPH A. CONTI, 0000
WALFRIDO R. CONTRERAS, 0000
KEVIN J. COOK, 0000
CEIR CORAL, 0000
ALFREDO * CORBETT, 0000
JOHN F. * CORBETT, 0000
PAUL S. * CORMAN, 0000
WALTER T. * CORYELL, 0000
CHARLES R. COSNOWSKI, 0000
JASON W. COSTELLO, 0000
DAVID E. * COTE, 0000
SEAN M. COTTER, 0000
SHAWN T. COTTON, 0000
WILLIAM J. * COULSTON, 0000
LARRY T. * COUNCELL, 0000
WILLIAM E. * COURTEMANCHE, 0000
LANS P. COURTNEY, 0000
SEAN J. * COVENEY, 0000
DAVID L. * COWAN, 0000
MICHAEL A. * COWAN, 0000
MICHAEL T. * COX, 0000
WESLEY P. * COX, 0000
STEVEN G. COY, 0000
CAVAN K. CRADDOCK, 0000
LARA A. * CRAIG, 0000
STACY J. * CRAIG, 0000
JOHN C. * CRANE, 0000
DANE B. CRAWFORD, 0000
JEFFERY S. * CRAWFORD, 0000
KEITH I. CRAWFORD, 0000
WILLIAM C. CRAWFORD, 0000
TERESA E. * CRESIC, 0000
JEFFREY S. * CRIDER, 0000
JOHN A. * CRIER, 0000
STEPHEN C. * CRISTOFORI, 0000
JACKSON Q. * CROCKER, 0000
KEITH G. * CROOK, 0000
WILLIAM W. CROOKS, 0000
JAMES L. * CROPPER III, 0000
LUKE C. G. CROPSEY, 0000
RICHARD C. * CROSS, 0000
BRIAN J. * CROTHERS, 0000
MICHAEL P. CRUFF, 0000
JAY M. * CRYDERMAN, 0000
PETER * CSEKE JR., 0000
BRANDON L. CUFFE, 0000
JAMES R. CULPEPPER, 0000
GENE F. * CUMMINS, 0000
APRIL D. * CUNNINGHAM, 0000
MICHAEL A. CURLEY, 0000
ADAM B. * CURTIS, 0000
SARA A. * CUSTER, 0000
CAMERON * DADGAR, 0000
PATRICK C. DALEY, 0000
JEFFREY M. DAMBRA, 0000
JOSEPH F. * DAMICO II, 0000
KEVIN T. DAMP, 0000
CHRISTA L. * DANDREA, 0000
EDWARD J. * DANE, 0000
VERNON CHARLES DANIELS II, 0000
RICHARD S. * DANIELSON, 0000
JAMES R. * DARBY JR., 0000
TODD D. * DARRAH, 0000
TERESA K. * DARROW, 0000
MICHAEL A. * DAVIES, 0000
CHAD J. DAVIS, 0000
LADONNA J. * DAVIS, 0000
MICHAEL T. * DAVIS, 0000
ROBERT G. * DAVIS, 0000
STEVEN T. * DAWSON, 0000
WILLIAM A. DAYTON, 0000
LUIS C. * DE BONO PAULA, 0000
BRANDON WJ * DEACON, 0000
JASON D. DECKER, 0000
JOHN L. DECKER, 0000
THOMAS L. * DEFAZIO JR., 0000
CHRISTOPHE J. * DEGUELLE, 0000
JOSE K. * DELGADO, 0000
OSCAR * DELGADO, 0000
SHAWN P. * DELL, 0000
JOSEPH * DELLAVEDOVA, 0000
FRANK A. DELSING, 0000
ANTHONY M. DELUCA, 0000
JEFFREY R. * DELVECCHIO, 0000
JUSTIN D. * DEMARCO, 0000
CHAD W. * DENAUGHEL, 0000
WILLIAM S. DENHAM, 0000
ROBERT D. * DEPEW JR., 0000
JOHN J. * DERESKY, 0000
KY M. * DEROS, 0000
DAVID R. * DETHLEFS, 0000
BRIAN J. * DEUTSCH, 0000
BRIAN M. * DEVANNEY, 0000
LEA L. * DEVINE, 0000
DANIEL A. DEVOE, 0000
BROCK E. DEVOS, 0000
ERIKA L. DEVOS, 0000
NATHAN R. * DIAZ, 0000
JOHN C. * DIBERT JR., 0000
ANTHONY T. DICARLO, 0000
DEBORAH L. * DICKENSHEETS, 0000
TERI L. * DICKSON, 0000
DUANE JEFFREY * DIESING, 0000
GEORGE T. M. DIETRICH III, 0000
JOSEPH M. DIFIDI, 0000
BAYANI C. DILAG, 0000
JOSEPH J. * DINATALE, 0000
JOSEPH M. DINGMAN, 0000
JENNIFER N. * DINMORE, 0000
MITCHELL K. * DIXON, 0000
MICHAEL R. * DOBSON, 0000
RAY A. * DOCKERY, 0000
MARCUS A. DOMINGUEZ, 0000
MARK R. DOMINGUEZ, 0000
DAVID P. * DONAHUE, 0000
MICHAEL W. * DONAHUE II, 0000
MARK S. * DONNITHORNE, 0000
GERALD A. DONOHUE, 0000
PHILLIP R. DONOVAN, 0000
JAMES B. * DOOLEY, 0000
CHESTER M. * DOOLY, 0000
ERIC R. DOPSLAF, 0000
TOBY G. DORAN, 0000
KELLY B. * DOSER, 0000
DAVID A. * DOSS, 0000
JAMES S. DOUGLAS, 0000
MARC L. * DOUVIA, 0000
BRADLEY F. * DOW, 0000
ELIZABETH S. DOW, 0000
RICHELLE A. * DOWDELL, 0000
JESS W. DRAB, 0000
AARON D. DRAKE, 0000
LYLE K. * DREW, 0000
RUSSELL D. DRIGGERS, 0000
DARRIN B. DRONOFF, 0000
CHARLES M. DROUILLARD, 0000
JOHN J. * DUBELKO, 0000
ALEX E. * DUBOVIK, 0000
KENT K. * DUCKWALL, 0000
JAMES C. * DUECKER, 0000
PAUL * DUFRAINE, 0000
JAMESON H. * DUGDALE, 0000
JOHNATHON L. DULIN, 0000
ROBERT E. DUNKEL III, 0000
KEVIN W. * DUNLOP, 0000
TAMMY L. * DUNNIVANT, 0000
CLIFTON M. * DURHAM, 0000
DAVID A. * DURKIN, 0000
MARK H. * DURKIN, 0000
JEREMY S. DURTSCHI, 0000
DEBORAH KAYE DUSEK, 0000
MATHEW T. * DUSTON, 0000
JONDAVID M. * DUVALL, 0000
NICOLE M. * DYE, 0000
TODD A. * DYER, 0000
STACIA A. EASLEY, 0000
ROBERT K. * EASON, 0000
TODD B. EBERT, 0000
NEAL V. * EBY, 0000
BRYAN D. * ECKART, 0000

ERIC E. *ECKER, 0000
JONATHAN R. ECKERMAN, 0000
CHRISTOPHER K. EDERLE, 0000
JEFFREY B. EDWARDS, 0000
JOHN R. *EDWARDS, 0000
MICHAEL J. EDWARDS, 0000
STEVEN G. *EDWARDS, 0000
JANEL I. EGANA, 0000
MICHAEL H. *EGBALIC, 0000
KRISTOFER E. *EGGEHORN, 0000
JOHN G. *EGGERS, 0000
KEVIN R. *EILERS, 0000
SCOTT T. *EKSTROM, 0000
JEREMY A. *ELDRED, 0000
JOHN D. *ELDRIDGE, 0000
JOHN W. ELLER, 0000
ERIC S. *ELLIOTT, 0000
STAR E. *ELTON, 0000
SCOTT E. *EMERT, 0000
TERRY R. *EMORY, 0000
MATHEW M. *ENENBACH, 0000
MICHAEL W. *ENGEL, 0000
DARRYL A. *ENGELKE, 0000
JEFFREY P. *ENGELKER, 0000
STEVEN G. ENGLAND, 0000
ROBERT H. *EPSTEIN, 0000
CHARLES B. ERICSON, 0000
SCOTT P. ERNST, 0000
JOHNNY M. ERWIN, 0000
RICHARD W. *ESSARY, 0000
GREGORY T. *ESTES, 0000
MICHAEL O. *ESTIRA, 0000
MARK J. *ESTLUND, 0000
EDWARD *ESTRADA, 0000
KURT G. *ETTRICH, 0000
BRAD M. *EVANS, 0000
CRYSTAL *EVANS, 0000
EUGENE G. V. *EVANS, 0000
JARRED R. *EVANS, 0000
VALERIE D. *EVANS, 0000
JASON W. EVENSON, 0000
SCOTT C. EVERS, 0000
ROBERT T. *EWERS III, 0000
CHADWICK F. FAGER, 0000
KEVIN S. *FALLICO, 0000
JASON R. FALLIS, 0000
VICTOR O. *FALSONE, 0000
CHRISTOPHER J. *FARDELL, 0000
WILLIAM B. *FARLOW, 0000
DAVID B. *FARMER, 0000
MARTINE L. *FAUCHER, 0000
MIKE *FAUNDA II, 0000
PAUL W. FEICHTINGER, 0000
NESTOR M. *FELIZ, 0000
JOHN A. *FERKO, 0000
DEREK R. FERLAND, 0000
ANTHONY P. *FERNANDES, 0000
RAY J. *FERNANDEZ, 0000
CHAD E. FEUCHT, 0000
BRANDON M. *FEWER, 0000
ALLAN R. *FIEL, 0000
GLEN A. *FIELDS, 0000
GREGORY J. *FIKE, 0000
CHRISTOPHER A. *FILIPIETZ, 0000
MARK Z. FINIGAN, 0000
MARCO P. *FIORITO, 0000
MARK S. *FISHER, 0000
ROBERT S. *FISHER, 0000
MARK S. *FISSEL, 0000
CRISSIE D. FITZGERALD, 0000
DAVID C. *FITZGERALD, 0000
JOHN M. *FITZHUGH, 0000
ERICKA R. *FLANIGAN, 0000
CRAIG A. *FLEMING, 0000
TODD D. FLEMING, 0000
JUSTIN L. FLETCHER, 0000
RICHARD L. FLETCHER, 0000
DALE J. *FLICK, 0000
TIMOTHY D. FLIETSTRA, 0000
CHRISTINE M. *FLOREK, 0000
KARL R. *FOBES, 0000
DEEDRA D. FOGLE, 0000
MARK B. FOLEY, 0000
SCOTT M. *FOLEY, 0000
KIRK A. *FOLK, 0000
BRANT R. *FOLKEN, 0000
NICHOLAS E. *FOLZ, 0000
JOHNATHAN D. FONTENOT, 0000
JEFFREY P. *FORD, 0000
MARK A. *FORD, 0000
CHARLES B. *FORMAN, 0000
JEFFREY D. *FORSTE, 0000
WILLIAM R. FORSTER, 0000
WILLIAM H. *FOSTER, 0000
JOHN R. *FOUNTAIN, 0000
MARIO FOXBAKER, 0000
ROBERT D. *FRALICK, 0000
ROBERT S. *FRANK, 0000
SETH C. FRANK, 0000
DAMON C. *FRANKLIN, 0000
SHAWN D. FRANKLIN, 0000
LISA S. *FRANZ, 0000
DONNA K. *FRASIER, 0000
LINDEN A. *FRAVEL III, 0000
JOHN C. FRAZIER, 0000
SCOTT A. *FREDRICK, 0000
DAVID B. *FRENCH, 0000
LANCE R. *FRENCH, 0000
SURYA J. FRICKEL, 0000
SCOTT C. FROMM, 0000
TODD D. FRY, 0000
BRANT T. *FRYAR, 0000
JEFFREY L. FRYE, 0000
THOMAS J. *FUHRMANN, 0000
CHRISTOPHER K. *FULLER, 0000
CHARLES G. *GABERT, 0000
DANIEL L. GABLE, 0000
FRANKLIN D. GAILLARD II, 0000
DAVID A. *GALE, 0000
JOSEPH D. *GALLAGHER, 0000
GERALD G. GALLEGOS, 0000
MARC E. *GALLER, 0000
JOSEPH A. *GALLETTI, 0000
WILLIAM C. *GAMBRELL JR., 0000
JASON A. *GANNON, 0000
JOHN B. *GARBER III, 0000
JACK P. *GARDNER, 0000
RICHARD L. *GARDNER JR., 0000
CHERYL L. *GARNER, 0000
J. GARNETT, 0000
VIRGIL C. GARRETT, 0000
JAMES E. *GARVEY JR., 0000
KENNETH R. *GARWOOD, 0000
AVLONITIS EILEEN M. *GARZA, 0000
PATRICK K. *GATES, 0000
DAVID A. GAUCH, 0000
TORY J. *GAULKE, 0000
THOMAS A. GEISER, 0000
BRIAN L. *GERLOFF, 0000
DAVID W. *GERTS, 0000
JUDY P. *GETTYS, 0000
JASON A. GIBSON, 0000
JEFFREY M. GIBSON, 0000
STEVEN B. *GIBSON, 0000
MICHAEL G. *GIEBNER, 0000
KRISTOFER W. GIFFORD, 0000
GROVER C. *GILBERT III, 0000
TROY L. *GILBERT, 0000
MARK R. *GILCHRIST, 0000
TIMOTHY W. GILLASPIE, 0000
DONALD L. GILLES, 0000
SCOTT J. *GILSON, 0000
JOSEPH A. *GIULIANI, 0000
STEVEN A. *GIVLER, 0000
KENNETH D. GJONE, 0000
ROBERT B. *GLASS, 0000
BRADLY A. GLENN, 0000
MARCUS K. *GLENN, 0000
ROBERT A. GODDARD, 0000
ROBERT L. *GODFREY JR., 0000
MARK E. *GOEHRING, 0000
EDWARD C. *GOETZ, 0000
PIERRY GOIN, 0000
TERRI D. *GONDERMAN, 0000
CELIANN M. GONZALEZ, 0000
JERRY *GONZALEZ, 0000
JASON D. GOOCH, 0000
WILLIAM C. *GOOD JR., 0000
RICHARD K. *GOODALL, 0000
MICHAEL E. *GOODWIN, 0000
SHERMAN C. *GOODWIN, 0000
CHRISTOPHER E. *GOODYEAR, 0000
CAROL *GORDON, 0000
JOE MOTOS GORDON, 0000
CHRISTOPHER P. *GORE, 0000
DAVID G. *GORE, 0000
DOUGLAS C. GOSNEY, 0000
KELLY A. GOSSEN, 0000
WILLIAM L. *GOTTENBERG, 0000
JAMES M. GOURDE, 0000
JOSEPH G. *GOVOCEK III, 0000
FERDINAND T. *GOZUM, 0000
NATHAN E. GRABER, 0000
BETH D. *GRABORITZ, 0000
SEAN K. GRADNEY, 0000
JENNIFER L. GRANT, 0000
BRADLEY D. GRAVES, 0000
MICHAEL J. *GRAVIER, 0000
GEOFFREY T. *GRAZE, 0000
REANDRE B. *GRECIA, 0000
BRYAN C. GREEN, 0000
CHAD P. GREEN, 0000
JOSHUA D. *GREEN, 0000
PATRICK L. *GREENAWALT, 0000
JEFFREY H. GREENWOOD, 0000
MARCUS H. GREGORY, 0000
BRIAN J. GRELK, 0000
RICHARD *GRESZLER JR., 0000
GABRIEL J. GRIESS, 0000
ANDREA R. *GRIFFIN, 0000
ALLEN J. *GRIFFIS, 0000
JOHN M. *GRIFFITHS, 0000
SHANNON L. *GRIFFITHS, 0000
LOUIS A. *GRIMAUD JR., 0000
G. JOHN *GRIMM, 0000
TODD M. *GROOMES, 0000
CHRISTOPHER D. GROSJEAN, 0000
BRIAN J. GROSS, 0000
JASON H. *GROSS, 0000
PETER J. *GROSS JR., 0000
MELVIN B. *GROVE JR., 0000
ADAM W. *GROVES, 0000
JOHN M. GROVES, 0000
JULIE A. GRUNDAHL, 0000
SCOTT A. GRUNDAHL, 0000
BREJ E. GRUSKIN, 0000
MARK R. GUERBER, 0000
HARRY S. *GUESS III, 0000
PAUL A. *GUILLORY, 0000
JEFFREY A. *GUIMARIN, 0000
MARTIN H. *GUION, 0000
MICHAEL C. *GUISCHARD, 0000
PETER S. *GUMULAK, 0000
LARRY D. *GUNN, 0000
NICHOLAS O. GUTTMAN, 0000
ROBERT F. *HAAS, 0000
ERIC J. *HABERSBERGER, 0000
JAMES R. HACKBARTH, 0000
CORT O. HACKER, 0000
MICHAEL R. *HACKMAN, 0000
MARK L. *HADDORFF, 0000
ERNEST Y. *HAGA, 0000
ANN M. *HAIBACH, 0000
STEPHANIE D. HALCROW, 0000
JAMES M. *HALE, 0000
MICHAEL J. HALICK, 0000
DANIEL E. *HALL, 0000
DANIEL B. HALSTED, 0000
ERIK J. HALVORSON, 0000
DAVID J. HAMIEL, 0000
CHRISTOPHER E. *HAMILTON, 0000
DENISE M. *HAMILTON, 0000
GREGORY L. *HAMM, 0000
DARIEN J. *HAMMETT, 0000
LINDA M. *HAMPTON, 0000
SCOTT L. *HANES, 0000
JAMES B. *HANNA, 0000
JON T. *HANNAH, 0000
JOHN A. *HANRAHAN, 0000
JOHN C. *HANSEN, 0000
NATHAN M. HANSEN, 0000
RICHARD G. HANSEN, 0000
TIMMY W. *HARBOR, 0000
DAVID B. HARDEN, 0000
CRAIG A. *HARDING, 0000
NATHAN H. *HARDING, 0000
TIMOTHY R. *HARDT, 0000
THOMAS S. *HARPER, 0000
MICHAEL C. HARRELL, 0000
ANDREW H. *HARRIS, 0000
DAVID J. *HARRIS, 0000
DAVID S. *HARRIS, 0000
DEREK W. *HARRIS, 0000
EDWARD C. *HARRIS, 0000
GLENN T. HARRIS, 0000
MARK E. *HARRIS, 0000
ROBERT T. *HARRIS, 0000
RICHARD J. HARRISON, 0000
PAUL L. HARTMAN, 0000
AARON L. HARTZLER, 0000
CLIFFORD A. HARVEY, 0000
EDWARD R. HARVEY, 0000
MICHAEL C. *HARVEY, 0000
EDWARD G. HASKELL JR., 0000
RANDALL J. *HASKIN, 0000
CHRISTY L. *HASKINS, 0000
BETH A. *HASTINGS, 0000
BRENT R. HATCH, 0000
THOMAS B. *HATLEY, 0000
WALTER C. HATTEMER, 0000
RICHARD T. *HAUBEN, 0000
DAVID R. HAUCK, 0000
ERIC W. *HAUFF, 0000
JOHN A. *HAWES, 0000
DAVID P. HAWORTH, 0000
JEFFREY D. *HAYDEN, 0000
JOHNNA L. *HAYES, 0000
JEFFREY T. HAYNES, 0000
JOHN S. *HAYNES, 0000
JOHN J. *HEAPS, 0000
JAMES A. *HEARN III, 0000
MARC O. *HEDAHL, 0000
BRAD M. *HEDBLOOM, 0000
BRIAN B. *HEINRICH, 0000
ROBERT L. *HENDERSON, 0000
SUZANNE M. *HENDERSON, 0000
JEREMY P. *HENDRIX, 0000
MARC E. *HENRI, 0000
RHONDA S. *HERDT, 0000
BRIAN D. *HERIFORD, 0000
CURTIS L. *HERNANDEZ, 0000
JOSHUA L. HETSKO, 0000
JOEL *HETTINGA, 0000
EUGENE R. *HEUSCHEL III, 0000
WILLIAM E. M. *HEWITT, 0000
JEFFREY D. HEYSE, 0000
JEFFREY D. *HICKMAN, 0000
MARK A. HICKMAN, 0000
JOHN C. *HICKS, 0000
N. GRAHAM HICKS, 0000
JAMES M. *HIGDON, 0000
JOEL E. HIGLEY, 0000
DESTRY RAY *HILL, 0000
JAMES K. *HILL, 0000
LINCOLN B. HILL, 0000
STEPHEN D. *HILL, 0000
MICHAEL K. *HILLS, 0000
RENAE M. HILTON, 0000
MARC J. HIMELHOCH, 0000
JANETTE L. HO, 0000
WILLIAM K. HOBSON, 0000
RUSSELL W. *HOCH III, 0000
GEORGE H. HOCK JR., 0000
GARY W. *HOCKETT, 0000
DERRICK D. *HODGES, 0000
KENNETH G. *HODGES, 0000
TYLER L. *HODSON, 0000
COLBY D. HOEFAR, 0000
TROY C. *HOEGER, 0000
KEVIN L. *HOFFER, 0000
DONALD L. *HOFFMAN, 0000
JEFFREY N. *HOFFMAN, 0000
JUSTIN R. HOFFMAN, 0000
MARK G. HOFFMAN, 0000
PAUL J. HOFFMAN, 0000
SCOTT A. HOFFMAN, 0000
BRIAN K. *HOLBEIN, 0000
MARK A. HOLBROOK, 0000
CYNTHIA A. *HOLDEN, 0000
ROBERT B. *HOLDSWORTH, 0000
KUM H. *HOLL, 0000
MARK D. HOLLANDSWORTH, 0000
RONALD R. *HOLLENBAUGH JR., 0000
JEFFRY A. *HOLLMAN, 0000
PHILIP A. *HOLMES, 0000
JACOB J. *HOLMGREN, 0000
BJORN E. *HOLMQUIST, 0000
WILLIAM E. *HOLT, 0000
DEAN M. *HOLTHAUS, 0000
WILLIAM T. *HOOVER, 0000
GREGORY E. HOPKINS, 0000

DOUGLAS W. *HORNE, 0000
EDWARD P. *HORNER, 0000
CHRISTOPHER D. *HOSKINS, 0000
ROBERT A. *HOSKINS, 0000
THOMAS E. *HOSKINS, 0000
JENNIFER S. HOTEN, 0000
DAVID V. *HOTTLE, 0000
DEBORAH L. *HOUCHINS, 0000
TODD M. *HOUCHINS, 0000
JASON D. HOUSER, 0000
CHRISTOPHER J. *HOWARD, 0000
MARGARET L. *HOWARD, 0000
BRIAN C. *HOYBACH, 0000
TIM M. *HUANG, 0000
MICHAEL M. *HUCHKO II, 0000
KEVIN D. HUEBERT, 0000
RICARDO A. *HUERTA, 0000
FREDDRICK M. *HUGHES JR., 0000
ERIC T. *HULGAN, 0000
DARIN P. *HUMISTON, 0000
CHRISTOPHER G. HUMMEL, 0000
COREY J. *HUMMEL, 0000
ANDREW W. *HUNT, 0000
DENNIS A. *HUNT, 0000
JOHN J. *HUNT, 0000
KENNETH J. *HUNT, 0000
TANYA A. HURWITZ, 0000
JOHN S. *HUTCHESON, 0000
GREGORY E. HUTSON, 0000
RANDOLPH P. *HUTTON, 0000
LUIS U. *IBANEZ, 0000
MICHAEL P. *IMHOLZ, 0000
CHERYL A. INGBER, 0000
TRAVIS L. INGBER, 0000
CHRISTOPHER P. INGLETON, 0000
DARRYL L. *INSLEY, 0000
CHRISTOPHER P. *IRIARTE, 0000
PAUL M. *IRWIN, 0000
ALISEN A. *IVERSEN, 0000
GARY T. *IWICKI, 0000
JACK J. *JACKMAN JR., 0000
ROBERT *JACKS JR., 0000
DEBRA D. *JACKSON, 0000
GINA M. *JACKSON, 0000
MICHAEL A. JACKSON, 0000
SCOTT A. *JACKSON, 0000
TIMOTHY W. *JACKSON, 0000
MARLA J. *JACOBS, 0000
DANIEL G. *JACOBSON JR., 0000
MICHAEL D. *JACOBSON, 0000
KENNETH M. *JAMBOR, 0000
MICHAEL E. *JAMES, 0000
TRAUNA L. JAMES, 0000
JASON M. *JANAROS, 0000
BRUCE A. *JANDREY, 0000
DEAN P. JANKE, 0000
WALTER J. *JANKOWSKI, 0000
DANIEL A. *JANNING, 0000
AMY K. JARDON, 0000
TONY *JARRY, 0000
JOSEPH J. JAVORSKI III, 0000
ROBERT B. JAYME, 0000
SEAN D. *JEDDRIE, 0000
MARK A. *JEFFREY, 0000
JONATHAN E. *JEHN, 0000
BRUCE C. *JENKINS, 0000
ANDREA L. *JENSEN, 0000
BOE J. JENSEN, 0000
ROBERT A. *JENSEN, 0000
ALEX E. *JERNIGAN, 0000
CHRISTOPHER T. *JERZEWSKI, 0000
BRADLEY M. *JESSMER, 0000
CHRISTOPHER B. *JETTE, 0000
JAMES J. *JEWELL, 0000
SCOTT M. *JEWELL, 0000
DARRIN K. *JOHNS, 0000
CAREY JOHANSON *JOHNSON, 0000
DANA T. *JOHNSON, 0000
DARREL G. *JOHNSON, 0000
ERIC A. *JOHNSON, 0000
ERIC D. JOHNSON, 0000
JEFFREY A. JOHNSON, 0000
JEREMY G. *JOHNSON, 0000
JOHN P. *JOHNSON, 0000
KEVIN S. JOHNSON, 0000
MICHAEL J. *JOHNSON, 0000
MICHELE E. *JOHNSON, 0000
RICHARD L. *JOHNSON JR., 0000
SAM C. JOHNSON, 0000
SCOTT S. JOHNSON, 0000
STEPHAN K. *JOHNSON, 0000
THOMAS N. *JOHNSON, 0000
MICHAEL D. JOHNSTON, 0000
BRENT G. *JONES, 0000
CHRISTOPHER B. JONES, 0000
DONALD A. JONES, 0000
DONALD P. JONES, 0000
GARY D. *JONES, 0000
JEFFREY M. *JONES, 0000
LANCE M. *JONES, 0000
OTIS C. JONES, 0000
PAUL R. JONES, 0000
RICO M. *JONES, 0000
SHAWN R. *JONES, 0000
BRIAN R. JOSEPH, 0000
PAULA M. *JOSEPHSMILLER, 0000
JAMES R. *JOSEPHSON, 0000
JOHN J. JOYCE IV, 0000
BILLEYE S. JUAREZ, 0000
AARON D. *JUDGE, 0000
CURTIS G. *JUELL, 0000
DWIGHT F. JUNIO, 0000
WILLIAM L. *KAGIE, 0000
WILLIAM H. *KALE, 0000
CHRISTIAN D. KANE, 0000
DONNE H. KANG, 0000
RICHARD B. *KARN, 0000
CHRISTOPHER P. KARNS, 0000
DEE J. KATZER, 0000
MATTHEW J. KAUFMANN, 0000
DOUGLAS F. KAUPA, 0000
JOSEPH D. *KAYS, 0000
JUAN A. *KAYS, 0000
CHRISTOPHER S. KEAN, 0000
LEONARD C. *KEARL, 0000
KIERAN F. *KEELTY, 0000
MARK C. *KEENER, 0000
DON M. *KELLEY, 0000
JEFFREY S. *KELMAN, 0000
GREGORY L. *KENDRICK, 0000
BARTON D. *KENERSON, 0000
CATHERINE N. KENNEALLY, 0000
JASON R. *KENT, 0000
MATTHEW S. KENTON, 0000
PETER A. KERR, 0000
JUSTIN D. *KESKEY, 0000
HERBERT L. *KEYSER, 0000
RAY H. *KHAN, 0000
CHRISTOPHER E. KIBBLE, 0000
ROBERT A. *KIELTY, 0000
CHRISTOPHER S. *KILCULLEN, 0000
MICHELLE R. *KIM, 0000
PATTY B. *KIM, 0000
SONNY Y. KIM, 0000
TIMOTHY D. KIMBROUGH, 0000
DAVID B. KINCAID, 0000
ROBERT E. KINERSON, 0000
CAMPBELL NICHOLE J. *KING, 0000
CLIFFORD L. *KING, 0000
JASON S. *KING, 0000
JUDY L. *KING, 0000
ROBERT F. *KING, 0000
RONALD *KING, 0000
GARY W. *KINNEY JR., 0000
EILEEN M. W. *KIRKLAND, 0000
SHAWN L. *KIRKPATRICK, 0000
JOHN A. *KISSACK, 0000
NIKI J. *KISSIAR, 0000
ROBERT C. *KITTELL, 0000
MICHAEL A. *KLEPPE, 0000
STEVEN R. *KLINE, 0000
STEVEN W. KLINGMAN, 0000
HORST D. E. *KNORRECK, 0000
CHRISTOPHER P. KNOWLES, 0000
CHARLES H. *KNOX, 0000
KENNETH A. *KNOX, 0000
JASON M. *KNUDSEN, 0000
JASON C. *KOBYLSKI, 0000
CHRISTOPHER S. *KOCH, 0000
KARL F. KOCH, 0000
RICHARD T. KOCH, 0000
TIMOTHY A. KODAMA, 0000
KURT A. *KOENIGSFELD, 0000
TERRY A. *KOESTER, 0000
KEVIN W. *KOHL, 0000
SCOTT L. *KOHL, 0000
LAWRENCE P. KOKOCHA JR., 0000
ERIC J. *KOLB, 0000
MATTHEW E. KONVALIN, 0000
ERIC M. KOPER, 0000
CHRISTOPHER R. *KOPROSKI, 0000
RANDOLPH *KORAM, 0000
JEREMY S. *KOTKIN, 0000
JOSHUA M. *KOVICH, 0000
MATTHEW D. *KOVICH, 0000
STEVEN C. *KRAABEL, 0000
THOMAS M. *KRAMER, 0000
CHERYL L. *KREIFELS, 0000
EDWARD R. *KREINER, 0000
GREGORY KREUDER, 0000
KENNETH S. *KRINER, 0000
MURALI KRISHNAN, 0000
GEORGE J. KRIZ II, 0000
JEFFREY T. KRONEWITTER, 0000
TIMOTHY L. *KRUGER, 0000
HENRY F. KUHLMAN III, 0000
CHRISTOPHER R. *KUNZ, 0000
JOHN P. *KURY, 0000
ANTHONY R. *KUSEK, 0000
JASON J. LABANT, 0000
CHRISTOPHER W. *LABRUM, 0000
FREDERICK J. LACEY IV, 0000
AARON A. LADE, 0000
JOHN R. *LADINO, 0000
JASON B. LAMB, 0000
CHRISTOPHER L. LAMBERT, 0000
BRIAN L. *LAMIRANDE, 0000
JASON A. LAMONT, 0000
VANDY *LAMPKIN, 0000
MICHAEL D. *LAND, 0000
PAUL C. LANDESS, 0000
CHRISTOPHER A. LANE, 0000
THOMAS J. LANG JR., 0000
EDWARD W. LANGAN, 0000
BRENT T. LANGHALS, 0000
ERIC R. *LAPINE, 0000
GEOFFREY R. *LARKIN, 0000
MATTHEW P. *LARKOWSKI, 0000
MICHAEL A. *LASSEN, 0000
JOSHUA D. *LAVIN, 0000
LEO *LAWSON JR., 0000
EARL D. *LAYNE, 0000
GLENN D. *LEARN, 0000
DAVID M. *LEARNED, 0000
JOSHUA M. *LECHOWICK, 0000
JASON R. *LEDUC, 0000
CURTIS D. *LEE, 0000
JAMES W. *LEE, 0000
TODD A. *LEGRAND, 0000
KEVIN T. *LEHNERD, 0000
DANIEL W. *LEMON, 0000
JAMES R. *LENZENDORF, 0000
MARCIA E. *LEONARD, 0000
PATRICK E. *LEONARD, 0000
ANDREW C. H. LEONG, 0000
DAVID D. LEROY, 0000
BRIAN A. *LESIAK, 0000
CHARA L. B. *LESNICK, 0000
CHRISTOPHER T. LESNICK, 0000
DOUGLAS R. *LEVAN, 0000
SHERRI J. LEVAN, 0000
RONALD L. LEVY II, 0000
SCOTT S. *LEW, 0000
BRIAN E. *LEWIS, 0000
HARMON S. LEWIS JR., 0000
MARCUS L. LEWIS, 0000
MARK D. LEWIS, 0000
MATTHEW B. LEWIS, 0000
MIGUEL J. *LEZAUN, 0000
LEWIS C. *LIETCH, 0000
CHARLES A. *LIGHT, 0000
MATTHEW LILJENSTOLPE, 0000
JASON C. LINDGREN, 0000
MARK A. LINDSEY, 0000
PAUL C. *LIPS, 0000
ADAM W. *LITTLE, 0000
REX W. *LITTLE, 0000
TY D. LITTLE, 0000
CHARLES R. *LIVELY, 0000
SANDRA D. *LLEWELLYN, 0000
STEPHEN E. *LLEWELLYN, 0000
FRANK J. LOBASH, 0000
JOSEPH W. LOCKE, 0000
NATHANIEL P. LOCKWOOD, 0000
ROBERT F. LOCKWOOD JR., 0000
TONY S. LOMBARDO, 0000
PETER D. LOMMEN, 0000
WILLIAM E. *LONG, 0000
BEDE O. LOPEZ JR., 0000
MICHAEL E. *LOPEZ, 0000
CARRIE L. *LORANGER, 0000
ROBERT D. LORTON, 0000
ALTHEA F. *LOSCHINSKEY, 0000
HARRY T. *LOUGHRAN, 0000
SHANE D. *LOUIS, 0000
GARRETT M. LOWE, 0000
MARY E. *LOWE, 0000
WILLIAM M. LOWE, 0000
DENNY *LOZANO, 0000
CRAIG R. LUCEY, 0000
TRISHA A. D. *LUIKEN, 0000
WALTER C. *LUTHER III, 0000
PHI ANH THI *LUTZ, 0000
BARTON S. *LUX, 0000
STEVEN T. LYGREN, 0000
DAVID J. LYLE, 0000
GARY L. *LYLES, 0000
ANDREW T. LYONS, 0000
MICHAEL P. LYONS, 0000
BRIAN W. MACDONALD, 0000
STEVEN E. MACEDA, 0000
DAVID D. *MACHEN, 0000
DENTON T. *MACK, 0000
TODD P. MACLER, 0000
BERTHA J. *MACMILLAN, 0000
CHRISTOPHER V. MADDOX, 0000
KEVIN M. MAGALETTA, 0000
MICHAEL A. *MAHAN, 0000
WILLIAM J. MAHER, 0000
BENJAMIN R. MAITRE, 0000
THERESA L. *MALASAVAGE, 0000
JAMES S. MALLORY, 0000
KATHLEEN A. *MALONEY, 0000
MICHAEL H. MANION, 0000
ROBERT J. *MANKUS, 0000
SHAMSHER S. MANN, 0000
DANIEL R. MANNING, 0000
JENNIFER A. *MANSHIP, 0000
WESLEY E. *MANSHIP JR., 0000
SRIKANT *MANTRAVADI, 0000
STEPHANIE A. *MARCH, 0000
FRANK *MARCONI, 0000
LENORE A. *MARENTETTE, 0000
DANIEL J. *MARKHAM, 0000
MADALYN M. MARLATT, 0000
AABRAM G. *MARSH, 0000
ZANE G. MARSHALL JR., 0000
NICHOLAS J. MARTIN, 0000
RODGER E. *MARTIN, 0000
STUART C. MARTIN, 0000
LISA MARIE *MARTINEZ, 0000
DOROTHY L. *MARTINO, 0000
BRYAN P. *MARTYN, 0000
ROBERT A. MASAITIS, 0000
JOHN T. MASER, 0000
STEVEN M. *MASSEY, 0000
KEVIN B. MASSIE, 0000
JASON A. MASSIGNAN, 0000
MICHAEL L. MATESICK, 0000
STEVEN E. *MATHEWS, 0000
CURTIS M. *MATHIASEN, 0000
AUDREY E. MATHIEU, 0000
MILES L. MATHIEU, 0000
ALICIA A. MATTESON, 0000
GEORGE J. *MATUSAK, 0000
DAVIS H. *MAULDING, 0000
TIMOTHY P. *MAXWELL, 0000
WILLIAM G. *MAXWELL, 0000
GEORGE M. MAY, 0000
MELISSA J. MAY, 0000
MICHAEL J. MAY, 0000
TAMARA M. *MAYER, 0000
LIONEL W. *MAYNARD JR., 0000
SARAH F. *MAYNARD, 0000
CHRISTOPHER E. MAZZEI, 0000
KENNETH C. *MCADAMS, 0000
DANIEL P. MCALISTER, 0000
THOMAS MCAULEY, 0000
GARY E. *MCBRIDE, 0000
JONATHON W. *MCBRIDE, 0000
GLENN H. MCCADAMS, 0000

BARRETT T. MCCANN, 0000
SEAN M. *MCCARTHY, 0000
MATTHEW R. *MCCARTY, 0000
WILLIAM M. *MCCAW, 0000
CAROL A. *MCCLELLAND, 0000
MICHAEL E. MCCLOUD, 0000
WHITNEY P. MCCLOUD, 0000
REGAN E. MCCLURKIN, 0000
STEVEN W. *MCCOLLUM, 0000
PRESTON J. MCCONNELL, 0000
KEITH A. *MCCORMICK, 0000
CARRIE TARKIN *MCCOY, 0000
KELLY M. *MCCOY, 0000
BRIAN A. *MCCULLOUGH, 0000
KENNETH R. *MCDONALD, 0000
EDWIN F. *MCGEE, 0000
RICO D. *MCGEE, 0000
JAMES R. MCGLONE, 0000
SHAWN M. MCGRATH, 0000
JOHN S. *MCGUIRE, 0000
JEFFREY S. MCGUIRK, 0000
BRIAN T. *MCHENRY, 0000
JAMES A. MCHENRY, 0000
DAVID M. MCILLECE, 0000
JASON B. *MCKAY, 0000
RICHARD A. *MCKEE, 0000
PERRY L. MCKEETHEN, 0000
CLEVELAND S. *MCKENZIE, 0000
DAVID D. *MCKENZIE, 0000
KEVIN J. *MCKINLEY, 0000
JOHN D. *MCKINNEY, 0000
DEREK S. *MCLANE, 0000
LARRY E. *MCLEAN, 0000
RAYMOND S. *MCLEOD, 0000
SHAWN K. MCMANUS, 0000
DAVID C. MCMARTIN, 0000
SUZANNA J. D. *MCNABB, 0000
SHELDON L. *MCNEIL, 0000
MICHAEL L. *MCNEILL, 0000
BRENT S. *MCPHERSON, 0000
JERRY A. *MEADOWS JR., 0000
OSWALD G. MEDLEY JR., 0000
GEORGE T. *MELLEN II, 0000
STEPHEN G. MELLOTT, 0000
MATTHEW A. MELOENY, 0000
FREDERICK A. *MENA, 0000
JESSICA Q. *MENASCO, 0000
DAVID S. *MENKE, 0000
KATHRYN A. *MERCER, 0000
MARTIN J. *MERGENTHAL, 0000
JASON S. *MERGL, 0000
KEVIN J. MERRILL, 0000
DANIEL L. *MEYER, 0000
DAVID C. *MEYER, 0000
JACQUELINE T. *MEYER, 0000
NICHOLAS W. MEYER, 0000
ROBERT D. *MEYER, 0000
CHAD L. MEYERING, 0000
ADAM J. MEYERS, 0000
JEFFREY L. MEYERS, 0000
WILLIAM B. *MICKLEY, 0000
CYNTHIA D. *MIGHTEN, 0000
ANDREA C. MILLER, 0000
BETHANY JOHANNA *MILLER, 0000
CHRISTOPHER L. *MILLER, 0000
CRAIG S. *MILLER, 0000
DARRIN S. *MILLER, 0000
DEREK R. MILLER, 0000
FRANCIS K. MILLER, 0000
FRED R. *MILLER, 0000
GARY D. *MILLER, 0000
GERALD B. *MILLER, 0000
JAMES E. *MILLER, 0000
JAY D. *MILLER, 0000
JEFFREY R. *MILLER, 0000
KEITH H. *MILLER, 0000
MARK C. *MILLER, 0000
MATTHEW T. *MILLER, 0000
MICHAEL S. MILLER, 0000
PATRICK C. *MILLER, 0000
RENEE J. *MILLER, 0000
TREVOR W. MILLER, 0000
RAYMOND G. MILLERO JR., 0000
SEAN T. MILLIKEN, 0000
RICKY L. *MILLS, 0000
CHRISTOPHER J. *MILNER, 0000
THOMAS G. *MINER JR., 0000
MICHAEL W. MIRANDA, 0000
PHILIP R. *MISCHLER JR., 0000
ANTHONY C. *MISCISKIA, 0000
ANDREA E. MISENER, 0000
RENEE L. *MITCHELL, 0000
BRAD S. MITCHELTREE, 0000
RANDALL L. *MIZE, 0000
JOHN F. *MOESNER IV, 0000
PAUL D. MOGA, 0000
ROBERT M. MONBERG, 0000
KIMBERLY D. MONCRIEFFE, 0000
FRANCIS J. *MONDO JR., 0000
JEREMIAH R. MONK, 0000
SCOTT J. *MONROE, 0000
MICHAEL T. *MONTO, 0000
MICHAEL L. *MOODY JR., 0000
ANDRE F. *MOORE, 0000
JASON G. MOORE, 0000
JON B. MOORE, 0000
ROBERT B. MOORE, 0000
TIMOTHY S. *MOORE, 0000
MATTHEW A. *MORAND, 0000
ERIK M. *MORATZKA, 0000
RICHARD J. *MORBIDELLI, 0000
DAVID J. MORELAND, 0000
BRYCE A. MORGAN, 0000
JAMES L. *MORGAN, 0000
JOSEPH T. MORGAN, 0000
HEATHER L. *MORGENSTERN, 0000
LYNN R. *MORIARTY, 0000
ROGER C. *MORIN, 0000
MICHAEL K. *MORRILL, 0000
MICHAEL S. MORRIS, 0000
SCOTT A. *MORRIS, 0000
DREW D. MORRISON, 0000
JARROD M. *MOSELEY, 0000
JAMES P. MOSS, 0000
WILLIAM R. *MOSSLER, 0000
RICHARD A. MOTT, 0000
TARA J. *MUEHE, 0000
TROY J. *MUELLER, 0000
JAMES D. *MULCEY, 0000
ANTHONY B. MULHARE, 0000
MARK J. MULLARKEY, 0000
JOSE J. *MUNOZ, 0000
MICHAEL R. *MURDERS, 0000
BRIAN J. MURPHY, 0000
SHERRY B. *MURPHY, 0000
THOMAS E. MURPHY II, 0000
TIMOTHY P. MURPHY, 0000
JOHN M. *MURRAY, 0000
OREN K. *MURRAY, 0000
RICHARD M. MURRAY, 0000
DOUGLAS A. MUSSELMAN, 0000
JAMES W. MYERS, 0000
MICHAEL T. *MYERS, 0000
ROBERT L. NANCE, 0000
CRAIG T. *NARASAKI, 0000
DELEON C. *NARCISSE, 0000
ROBERT K. *NASH, 0000
SCOTT C. *NAYLOR, 0000
RICHARD J. *NEAL, 0000
ANGEL M. NEGRON, 0000
BENJAMIN B. *NELSON, 0000
ERIC S. *NELSON, 0000
JOSEPH M. *NELSON, 0000
RICHARD J. *NELSON, 0000
JACK L. NEMCEFF II, 0000
JOHN M. NEMECEK, 0000
LISA A. NEMETH, 0000
ERIC S. *NESMITH, 0000
STANLEY J. NESS, 0000
WESLEY W. *NETCHER, 0000
TY W. *NEUMAN, 0000
BRETT D. *NEVILLE, 0000
JAMES D. *NEWBERRY, 0000
HELEN M. *NEWELL, 0000
DANNY N. *NGUYEN, 0000
PHONG D. NGUYEN, 0000
QUY H. *NGUYEN, 0000
CLAYSON L. *NICHOLSON, 0000
ROBERTA L. *NICHOLSON, 0000
JUSTIN H. *NIEDERER, 0000
ANTHONY K. NISHIMURA, 0000
LOUIS A. *NOBLE, 0000
PHYLLIS D. *NOBLE, 0000
PENELOPE A. *NOE, 0000
PHILLIP L. NOLTEMEYER JR., 0000
KENNETH R. NOOJIN, 0000
ROBERT W. *NORTH, 0000
JOHN A. NORTHON, 0000
JOHN D. NORTON, 0000
JASON D. *NULTON, 0000
DAVID M. NYIKOS, 0000
SHAWN M. ODONNELL, 0000
PETER W. *OFFERMAN, 0000
BRIAN S. *OGAWA, 0000
PATRICK S. *OHARA, 0000
CLARK R. *OLANDER, 0000
BRADLEY R. *OLIVER, 0000
DAMIAN L. *OLIVIERI, 0000
JAMES P. OLSEN, 0000
MICHAEL E. *OLSEN, 0000
STEVEN W. *OLSONOWSKI, 0000
DAVID R. OMALLEY, 0000
ALAN W. *OMO, 0000
RAY V. ONDREJECH, 0000
JENNIFER L. *ONEAL, 0000
MICHAEL A. *ONEILL, 0000
JAMES S. *OQUINN, 0000
TIMOTHY W. *ORAN, 0000
AINSWORTH M. OREILLY III, 0000
DORA E. *ORENCHICK, 0000
MICHAEL G. *ORENCHICK, 0000
ROWENA Y. *ORMISTON, 0000
WILLIAM A. ORMISTON, 0000
LOUIS E. *ORNDORFF, 0000
JOSE L. *OROZCO, 0000
ESDRAS S. *ORTEGAMENENDEZ, 0000
PEDRO *ORTIZ JR., 0000
AMY *OSTERHOUT, 0000
HEIDI L. *OSTERHOUT, 0000
ROBERT E. *OSTRANDER, 0000
BRIAN D. OSWALT, 0000
JEFFERY S. *OWEN, 0000
JEFFREY R. OWEN, 0000
STEVEN G. OWEN, 0000
JEFFREY C. *OWENS, 0000
JODY M. *OWENS, 0000
GLADE G. *OXBORROW, 0000
DARIAN J. PADILLA, 0000
THOMAS B. *PALENSKE, 0000
ROBERT H. *PALEO, 0000
JASON R. PALMA, 0000
JAMES R. *PALMER, 0000
KIRSTEN M. PALMER, 0000
NATHAN A. PALMER, 0000
THOMAS S. *PALMER, 0000
DAVID D. *PANGILINAN, 0000
BONNIE LANE COX PAQUIN, 0000
JENNIFER LEA PARENTI, 0000
GERALD J. *PARISH, 0000
CHRISTOPHER M. *PARKER, 0000
DENNIS PARKER, 0000
ERIK J. *PARKER, 0000
GREGORY K. PARKER, 0000
LOUIS A. *PARKER III, 0000
PHILLIP R. PARKER JR., 0000
CHRISTOPHER L. PARSONS, 0000
MATTHEW A. PASKIN, 0000
BRYAN M. PATCHEN, 0000
BRIAN E. *PATNETT, 0000
ZACHARIAH E. PATRICK, 0000
BRIAN L. PATTERSON, 0000
STEPHEN B. *PAUL, 0000
ERIC C. *PAULSON, 0000
HEIDI A. *PAULSON, 0000
HOLLIS R. *PAYNE III, 0000
JOHN F. PEAK, 0000
JOSEPH C. *PEARSON, 0000
ABDIEL E. PEART, 0000
ROSS D. PEASE, 0000
ROBERT J. *PEDERSEN, 0000
JAY E. PELKA, 0000
JEAN PHILIPPE N. *PELTIER, 0000
CHRISTOPHER L. *PENNINGROTH, 0000
ALLEN L. *PENNINGTON, 0000
WILLIAM D. *PERCIVAL, 0000
JUAN F. *PEREZ, 0000
MANUEL P. PEREZ, 0000
RICARDO *PEREZ, 0000
ERNEST H. *PERKINS JR., 0000
LOUIS S. PERRET, 0000
STEVEN M. PERRY, 0000
BRYAN R. *PERSOHN, 0000
DOUGLAS E. *PERUCCA, 0000
MICHAEL R. *PERZ, 0000
PHILLIP D. *PETERSEN, 0000
DANA M. *PETERSON, 0000
JOHN W. *PETERSON, 0000
KIRK W. *PETERSON, 0000
LANCE M. *PETERSON, 0000
RONALD F. PETERSON, 0000
CHARITA A. *PETRINA, 0000
KIRK B. *PETTINGILL, 0000
FRANCESCO A. PFAUTH, 0000
MICHAEL J. PFINGSTEN, 0000
ANDREW E. *PHILLIPS, 0000
KIRK N. *PHILLIPS, 0000
MICHAEL E. PHILLIPS, 0000
PETER S. *PHILLIPS, 0000
SUSAN E. PHILLIPS, 0000
SCOTT *PHINNEY, 0000
SUSAN V. *PHIPPS, 0000
TIMOTHY B. PICCIN, 0000
DOUGLAS E. *PIERCE, 0000
JASON D. *PIFER, 0000
DAVID L. PIKE, 0000
JOSEPH E. *PILKUS III, 0000
GARY L. *PILLOW, 0000
MIGUEL A. *PINA JR., 0000
MARK D. PIPER, 0000
JOHN S. PISZKIN, 0000
CHRISTOPHER A. PLANTE, 0000
MICHAEL S. *PLANTENGA, 0000
JASON L. PLOURDE, 0000
CHARLES J. P. PODOLAK, 0000
DAVID A. *POE, 0000
PATRICK A. POHLE, 0000
MATTHEW G. *POLLOCK, 0000
ROBERT L. *POPE, 0000
PAUL H. *PORTER, 0000
FREDERICK T. PORTIS, 0000
ROBERT W. *POVLICH JR., 0000
BRADLEY F. *POWERS, 0000
LARRY D. *POWERS, 0000
TAMARA L. PRASSE, 0000
DAVID A. *PREISMAN, 0000
LUIS D. *PREJEAN, 0000
CHRISTOPHER I. *PRICE, 0000
DANIEL L. *PRICE, 0000
SAMUEL T. *PRICE, 0000
STEPHEN C. *PRICE, 0000
CRAIG L. PRICHARD, 0000
NICOLE R. PRICHARD, 0000
MARCUS A. *PRIMM, 0000
JOHN K. PROCTOR, 0000
NORMAN W. *PRUE JR., 0000
WILLIAM HAROLD *PRUITT, 0000
ANTHONY L. *PUENTE, 0000
DAVID M. *PUGH, 0000
PATRICE A. *PUGH, 0000
CARMINE J. PUNZIANO, 0000
STEPHEN M. *PURDUM, 0000
VARUN PURI, 0000
CHRISTOPHER S. *PUTMAN, 0000
BRADLEY L. *PYBURN, 0000
VAUGHN G. *PYPER, 0000
MICHAEL J. *QUIRK, 0000
ANDREW J. *RADKE, 0000
SEAN A. *RAESEMANN, 0000
RODNEY T. *RAGSDALE, 0000
MICHAEL C. *RAKOCZY, 0000
DAVID RAMIREZ JR., 0000
EUGENE W. *RAMMING, 0000
CARLOS S. *RAMOS, 0000
JESUS A. RAMOS, 0000
DENNIS S. RAND, 0000
ROBB M. *RANDALL, 0000
VINCENT G. *RANDALL, 0000
MICHELLE E. *RAUCHJOHNSON, 0000
GERALD I. *RAY JR., 0000
WILLIAM F. *RAY, 0000
PATRICK L. *REAGAN, 0000
CHRISTOPHER T. RECKER, 0000
CLARE H. *REED, 0000
DARIN M. *REED, 0000
ROBERT J. *REED, 0000
SHAD A. REED, 0000
BRUCE A. *REEVES, 0000
PAUL S. REHOME, 0000
GREGORY T. *REICH, 0000
MICHAEL F. *REICHARD, 0000
ERIC S. *REID, 0000

JONATHAN D. *REID, 0000
ADAM D. REIMAN, 0000
LEE A. *REISING, 0000
CHRISTOPHER J. *REIZ, 0000
LENDY G. *RENEGAR, 0000
STEPHEN G. RENY, 0000
KEITH *REPIK, 0000
TIMOTHY J. REUTIMAN, 0000
JODY R. REVEN, 0000
TRAVIS D. REX, 0000
KYLE A. *REYBITZ, 0000
DAVID A. *REYNOLDS, 0000
MICHAEL L. *REYNOLDS, 0000
STEVEN F. *REYNOLDS, 0000
TIMOTHY C. *REYNOLDS, 0000
JON M. RHONE, 0000
DONALD W. RHYMER, 0000
EDWARD J. *RICE, 0000
WALTER C. *RICE III, 0000
VINCENT E. *RICHARD, 0000
GLYNN E. *RICHARDS, 0000
DEAN A. *RICHARDSON, 0000
JOHN K. *RICHARDSON, 0000
NEIL R. *RICHARDSON, 0000
MARK A. *RICHEY, 0000
ALISA C. *RICKS, 0000
TAMMIE L. RIDDER, 0000
STEVEN A. *RIEGEL, 0000
JASON M. *RIERA, 0000
ROBB N. *RIGTRUP, 0000
MICHAEL S. RIMSKY, 0000
RAMIRO *RIOJAS, 0000
MARK A. *RISELLI, 0000
ROBERT S. RISKO, 0000
JOSE L. *RIVERAHERNANDEZ, 0000
TEAKA J. ROBBA, 0000
JASON I. *ROBERSON, 0000
MARCUS L. ROBERTS, 0000
ANGENENE L. *ROBERTSON, 0000
OSCAR G. *ROBERTSON, 0000
BRANDON J. *ROBINSON, 0000
CHRISTOPHER M. *ROBINSON, 0000
JUAN A. ROBINSON, 0000
WILLIAM R. *ROCHE, 0000
MATTHEW K. *RODMAN, 0000
DAVID E. *RODRIGUEZ, 0000
LIONEL *RODRIGUEZ, 0000
GEORGE R. ROELKE IV, 0000
KEITH M. *ROESSIG, 0000
JEREMIAH T. ROGERS, 0000
JAMES G. *ROHRBOUGH JR., 0000
JOSEPH W. *ROJAS, 0000
AUGUST J. ROLLING, 0000
JENNIFER A. ROLLINS, 0000
JAMES L. *ROMAG, 0000
MATTHEW W. *ROMAN, 0000
SUSAN A. *ROMANO, 0000
ROBERT E. *ROMERO, 0000
DAVID P. *RONDEAU, 0000
WILLIAM T. *RONDEAU JR., 0000
KEVIN D. *ROOK, 0000
FREDDIE R. *ROSAS, 0000
JASON D. *ROSE, 0000
LEONARD T. *ROSE, 0000
LEE D. ROSKOP, 0000
CLINTON A. ROSS, 0000
KEEL LOY ROSS, 0000
ROBERT J. *ROSS, 0000
TRAVIS J. *ROSS, 0000
ROBERT C. ROSSI, 0000
DOUGLAS ROTHENHOFER, 0000
KENNETH T. *ROTHROCK, 0000
TRACY A. *ROUSE, 0000
KURT P. ROUSER, 0000
BRENDEN G. ROWE, 0000
RYAN L. ROWE, 0000
JAMES S. ROWLEY, 0000
JON K. *RUCKER, 0000
RIP M. *RUCKER, 0000
JOSHUA B. *RUDDELL, 0000
CLIFFORD R. *RUDDER, 0000
KARLA K. RUDERT, 0000
MARTIN F. *RUDY, 0000
THOMAS A. *RUIZ, 0000
THOMAS A. *RUNGE, 0000
JAMES A. RUNTE, 0000
SCOTT P. RUPERT, 0000
RONALD H. *RUPPEL, 0000
COCHANNA E. *RUSH, 0000
CLAY T. *RUSS, 0000
ROBERT L. RUSS, 0000
CHRISTOPHER J. *RUSSELL, 0000
CHRISTOPHER J. *RUSSELL, 0000
NATALIE S. RUSSELL, 0000
ROBIN J. RUSSELL, 0000
TIMOTHY H. RUSSELL, 0000
ANDREW P. *RUTH, 0000
ADAM L. *RUTHERFORD, 0000
ROBB R. *RYAN, 0000
ANDREW J. RYDLAND, 0000
JAY A. SABIA, 0000
ACHILLES *SAKIS, 0000
DAVID C. SALISBURY, 0000
DAVID R. *SALVAGNINI, 0000
SHAUN G. *SALYERS, 0000
DAVID H. SANCHEZ, 0000
ERNEST W. *SANCHEZ, 0000
JERRY D. SANCHEZ, 0000
MATTHEW J. SANDELIER, 0000
BERTON T. *SANDERS, 0000
GILBERT W. SANDERS, 0000
KAREN L. *SANDERS, 0000
MICHAEL C. SANDERS, 0000
STEPHEN T. SANDERS, 0000
STEVEN G. *SANDERS, 0000
JASON R. SANDERSON, 0000
PHILLIP S. *SANDLIN, 0000
KARSON A. *SANDMAN, 0000
DAVID J. *SANFORD, 0000
RICHARD B. *SANKS, 0000
DARIN P. *SANNER, 0000
ALEXANDER SANSONE, 0000
GLENN V. *SANTOS, 0000
BRIAN J. *SATTERLEE, 0000
SUZANNE M. SAULS, 0000
CHARLES H. *SAWDERS III, 0000
TORRENCE W. SAXE, 0000
PAUL M. *SCASNY, 0000
BRIAN E. *SCHAEFFER, 0000
BRIAN M. SCHAFER, 0000
CATHERINE J. SCHAFER, 0000
NATHAN E. *SCHALLES, 0000
JAMES A. SCHARTZ, 0000
JONATHAN P. SCHEER, 0000
GEORGE F. *SCHEERS JR., 0000
KEITH S. *SCHEIRMANN, 0000
JOSEPH A. *SCHENK, 0000
JAY A. *SCHERER, 0000
TODD A. SCHERM, 0000
JOCELYN J. *SCHERMERHORN, 0000
ALFRED C. I. SCHMUTZER, 0000
PAUL M. *SCHNELL, 0000
MICHAEL C. SCHOENBEIN, 0000
CHAD H. SCHOLES, 0000
THOMAS M. *SCHRAMEL, 0000
MICHAEL J. *SCHREFFLER, 0000
MARK L. *SCHREIBER, 0000
JASON D. *SCHREUDER, 0000
BRIAN K. *SCHROEDER, 0000
ROBERT C. *SCHROETER, 0000
JOHN D. *SCHULIGER, 0000
BRIAN E. SCIANTARELLI, 0000
MICHAEL D. *SCOTT, 0000
PERCIVAL V. *SCOTT, 0000
RANDALL B. *SEALY, 0000
JOHN M. *SEDLACEK, 0000
BRADLEY A. SEGER, 0000
CHARLES K. *SEIDEL, 0000
TIMOTHY A. SEJBA, 0000
KEVIN L. SELLERS, 0000
BRIAN D. *SELLS, 0000
ALAN J. *SENECHEK, 0000
ALAN P. *SERAILE, 0000
KATRINA J. *SEWELL, 0000
STEVEN A. SEWELL, 0000
SEAN D. *SEXTON, 0000
JASON E. *SEYER, 0000
THOMAS P. SEYMOUR, 0000
BRIAN R. *SHAFFER, 0000
NARESH SHAH, 0000
DOUGLAS S. *SHAHAN, 0000
JOHN D. *SHANNON, 0000
MICHAEL A. *SHANNON, 0000
CHRISTOPHER M. *SHEA, 0000
WILLIAM G. *SHEARSTONE, 0000
MELISSA C. *SHEPAN, 0000
SCOTT B. *SHEPARD, 0000
GENE S. *SHERER, 0000
THOMAS P. SHERMAN, 0000
THOMAS S. *SHIELDS, 0000
TODD R. *SHIELDS, 0000
EDISON R. *SHINN, 0000
JOHN R. *SHINOSKIE, 0000
JOSEPH P. *SHIRVINSKY, 0000
TED V. *SHOEPE, 0000
JENNIFER M. SHORT, 0000
RONALD E. *SHOUSE, 0000
JONATHAN D. SHULTZ, 0000
STANTON C. *SHUTTLEWORTH, 0000
BRIAN D. *SIDARI, 0000
NITHYA *SIEU, 0000
ERIC J. *SIKES, 0000
DEZSO V. SILAGYI II, 0000
JOHN T. SILANCE II, 0000
PAUL T. *SILAS, 0000
JOSE R. *SILVA, 0000
JAE B. SIM, 0000
STEPHEN A. SIMKO, 0000
RAYMOND L. *SIMMONS, 0000
MICHAEL J. SIMON, 0000
CHRISTINA L. SIMPERS, 0000
EDMOND C. *SIMS JR., 0000
COLIN J. *SINDEL, 0000
VINCENT *SIPPLE, 0000
MARTIN A. *SIPULA, 0000
JOSEPH B. *SKIPPER, 0000
CHRISTOPHER M. SKORA, 0000
CHRISTOPHER M. SLATE, 0000
SEAN R. SLAUGHTER, 0000
GAYLE A. *SLEDGE, 0000
MICHAEL A. *SMART, 0000
BRIAN A. SMITH, 0000
DARRELL L. *SMITH, 0000
DOUGLAS S. SMITH, 0000
ERIC A. SMITH, 0000
IAN DODD SMITH, 0000
JAMES A. SMITH, 0000
JAMES P. *SMITH, 0000
JASON A. SMITH, 0000
JASON L. SMITH, 0000
JEFFREY S. SMITH, 0000
LAWRENCE T. *SMITH, 0000
MARK J. SMITH, 0000
SHANNON G. *SMITH, 0000
STACEY L. *SMITH, 0000
STEVEN R. *SMITH, 0000
THOMAS D. *SMITH, 0000
WAYNE L. *SMITH, 0000
WILLIAM R. *SMITH III, 0000
ANTHONY W. *SNODGRASS, 0000
JAMES L. *SNODGRASS, 0000
MICHAEL W. SNODGRASS, 0000
EDWARD C. *SNOW JR., 0000
GLENN A. *SNOW, 0000
KRISTEN R. *SNOW, 0000
ANDREW C. *SOLLEDER, 0000
PAUL G. SONGY, 0000
MARK SOTALLARO, 0000
VICTOR *SPAHIC, 0000
RYAN M. SPARKMAN, 0000
ERIC D. *SPARKS, 0000
PAUL F. SPAVEN, 0000
JOSEPH L. *SPEIGHT JR., 0000
BENJAMIN W. *SPENCER, 0000
DAVID A. *SPENCER, 0000
CHAD W. *SPICER, 0000
STEVEN F. SPIEGEL, 0000
TIMOTHY A. *SPIES, 0000
JOHN C. SPITZER, 0000
JOHN D. *SPRAGUE, 0000
ALAN R. SPRINGSTON, 0000
SUSAN M. *STANISH, 0000
MICHAEL R. STAPLES, 0000
LAVERN A. *STARMAN, 0000
ANTHONY C. *STEELE, 0000
JEFFREY R. *STEIN, 0000
SHANE D. STEINKE, 0000
ROBERT A. *STENGER, 0000
DAVID E. *STEPHENS, 0000
JOEL W. STEPHENS, 0000
SCOTT A. *STEVENS, 0000
ALLEN L. STEWART, 0000
BRITTANY D. STEWART, 0000
TRACE B. *STEYAERT, 0000
RUSSELL *STILLING, 0000
MARC A. *STITZEL, 0000
ROBERT M. *STIVERSON JR., 0000
BRETT C. STOFFEL, 0000
ADAM J. STONE, 0000
ANDREW B. STONE, 0000
DANIEL W. STONE, 0000
VANESSA L. *STONE, 0000
KENNETH B. *STONI, 0000
RONALD P. STOREY JR., 0000
JASON R. *STOWE, 0000
KERRY L. STRAIT, 0000
STEVEN W. STRASBAUGH, 0000
THOMAS J. *STRASSBERGER, 0000
STEVEN C. *STRAWBRIDGE, 0000
ANDREW J. STREICHER, 0000
JEFFREY D. *STREMEL, 0000
ANTHONY R. *STRICKLAND, 0000
MICHAEL D. STRICKLER, 0000
L. MICHELLE *STRINGER, 0000
MERL A. STRODER, 0000
JEFFREY E. *STROMMER, 0000
DAVID M. *STRONG, 0000
JAMES A. *STRUCKMEYER III, 0000
VICTOR J. *STUKOVSKY, 0000
TIMOTHY D. STUMBAUGH, 0000
STEPHEN J. STUMBO, 0000
STEPHEN G. STURM, 0000
JEFFREY A. STYERS, 0000
MARK C. *SUDDUTH, 0000
DANIEL J. *SULLIVAN, 0000
GERALD D. *SULLIVAN JR., 0000
DAVID E. *SUMERA, 0000
CHRISTOPHER L. *SUMMERS, 0000
DAVID D. SUNDLOV, 0000
KEITH E. SUROWIEC, 0000
PATRICK J. SUTHERLAND, 0000
TRAVIS C. *SWAN, 0000
MICHAEL R. *SWANSON, 0000
JAMES A. SWEENEY, 0000
PAUL E. *SWENSON, 0000
THOMAS K. *SWOVELAND, 0000
WALTER J. *SYKES, 0000
BENJAMIN J. *TABOR, 0000
DANIEL A. *TADEVICH, 0000
DAVID M. *TALBURT, 0000
JAMES T. *TANDY JR., 0000
TRAVIS W. *TANKERSLEY, 0000
TIMOTHY N. TART JR., 0000
ROBERT D. *TARWATER, 0000
BRYAN E. *TASH, 0000
MICHELE M. *TASISTA, 0000
KYLE M. *TATE, 0000
MARK E. *TATE, 0000
MICHAEL S. *TATE, 0000
ROMWALDO L. *TAYAM, 0000
JOSELITO C. *TAYAO, 0000
JEFFREY T. *TAYLOR, 0000
JOSEPH M. *TAYLOR, 0000
LYNN D. *TAYLOR, 0000
CLAY R. TEBBE, 0000
BEVERLY L. H. *TEMPLEMAN, 0000
BRIAN A. *TEMPLIN, 0000
KRISTOFER S. *TERRY, 0000
FRANK A. *TERSIGNI, 0000
ROBERT C. TESCHNER, 0000
JOHN L. *THAXTON JR., 0000
GARY L. *THEISS, 0000
ALAN F. THODE, 0000
MICHAEL C. THODE, 0000
MICHAEL D. THOMAS, 0000
TIMOTHY G. *THOMAS, 0000
CHRISTOPHER D. THOMPSON, 0000
CHRISTOPHER T. *THOMPSON, 0000
DAVID E. THOMPSON, 0000
MICHAEL A. *THOMPSON, 0000
MICHAEL E. THOMPSON, 0000
STEPHEN W. *THOMPSON, 0000
ANDREW M. *THORNE, 0000
RONALD J. THORNTON, 0000
TIMOTHY W. THURSTON II, 0000
JOHN W. *TIEKEN JR., 0000
MICHAEL D. *TIEMANN, 0000
TAGG A. *TIMM, 0000
JON K. TINSLEY, 0000
DOUGLAS F. *TIPPET, 0000
STEVEN J. *TITTEL, 0000

TODD L. *TOBERGTE, 0000
JASON W. TODD, 0000
JOSE M. *TOLENTINO JR., 0000
WILLIAM D. TOLMAN, 0000
GREGORY D. *TOLMOFF, 0000
BRIAN E. *TOLSON, 0000
CHERYL C. TONE, 0000
JASON M. TONE, 0000
HEBER F. *TORO, 0000
CHRISTOPHER R. *TORRES, 0000
JEFFERY A. *TOWNS, 0000
JEREMY N. *TOWNSEND, 0000
SHELBY L. *TOWNSEND, 0000
KATHY L. *TRAVIS, 0000
TIMOTHY G. TREGLOWN, 0000
NICHOLAS G. *TRIAL, 0000
RICARDO L. TRIMILLOS, 0000
TIMOTHY W. TRIMMELL, 0000
SCOTT A. TRINRUD, 0000
ERIC S. TROIL, 0000
ROBERT W. TRUAX, 0000
JOHN S. TRUBE, 0000
REGINALD G. *TRUJILLO JR., 0000
JUSTIN H. TRUMBO, 0000
MICHAEL E. *TUERS, 0000
TREVOR A. *TULLIE, 0000
CHRISTOHPER A. TUMILOWICZ, 0000
WALLACE R. TURNBULL III, 0000
CARLTON C. *TURNER, 0000
JEREMEY D. TURNER, 0000
KEITH R. TURNER, 0000
LANCE F. TURNER, 0000
STEVEN F. TURNER, 0000
WESLEY L. TURNER, 0000
TROY M. TWESME, 0000
SEAN K. *TYLER, 0000
BRIAN V. *UCCIARDI, 0000
WILLIAM K. *UHRIG, 0000
THOMAS R. ULMER, 0000
THEODORE *UNZICKER, 0000
ERIC V. *UPTON, 0000
PAMELA A. *URSE, 0000
ALBERT R. *VALENTINE, 0000
SUSAN M. *VALENTINE, 0000
THOMAS A. VALENTINE JR., 0000
MICHELLE *VANCOURT, 0000
DONALD G. *VANDENBUSSCHE, 0000
TRICIA A. *VANDENTOP, 0000
DALE D. *VANDYKE, 0000
MATTHEW S. VANWIEREN, 0000
SAM J. VANZANTEN, 0000
ANTONIO J. *VARGAS, 0000
BYRON J. *VARIN, 0000
JONATHAN E. VEAZEY, 0000
SERGIO J. *VEGA JR., 0000
CHARLES M. *VELINO, 0000
FRANK R. *VERDUGO, 0000
DURON CAROL M. *VERGARA, 0000
HUGH J.J. *VERHOEF, 0000
ROBERT A. VIETAS, 0000
PAUL D. VILLAGRAN, 0000
PERRY N. *VILLANUEVA, 0000
STEVEN E. *VILPORS, 0000
CRAIG A. *VINCENT, 0000
ROSS C. *VINCENT, 0000
JASON D. *VIRAG, 0000
MARK J. *VITANTONIO, 0000
WINCHESLEY R. *VIXAMA, 0000
NATHAN J. VOGEL, 0000
PATRICIA A. *VOLLMER, 0000
FRANK A. *VONHEILAND, 0000
ERIC W. *VONTROTHA, 0000
ROBERT J. *WAARVIK, 0000
DAVID F. *WACHTEL, 0000
ROBERT S. WACKER, 0000
MATTHEW F. WADD, 0000
SEAN C. *WADE, 0000
PHILLIP L. *WADSWORTH, 0000
FREDERICK W. *WAINWRIGHT JR., 0000
MICHAEL J. WAITE, 0000
DAVID J. *WAKEFIELD JR., 0000
ALEXANDER M. *WALAN, 0000
BRIAN J. *WALD, 0000
FERNANDO E. *WALDRON, 0000
LANDON K. WALKER, 0000
ROSALYN L. *WALKER, 0000
SEAN M. *WALKER, 0000
STEVEN D. WALKER, 0000
EUGENE M. *WALL, 0000
TREVOR A. *WALL, 0000
MARK *WALLACE, 0000
ADAM D. WALLEN, 0000
DAVID R. *WALLER, 0000
DAVID C. *WALLIN, 0000
DAVID J. WALSH, 0000
TERRENCE L. *WALTER, 0000
DEMETRIUS *WALTERS, 0000
PATRICK A. *WAMPLER, 0000
BONNIE S. *WARD, 0000
JASON T. WARD, 0000
TRACY T. *WARD, 0000
BRENT H. *WARDELL, 0000
DAVID M. *WARNKE, 0000
JESSE F. *WARREN, 0000
DEVIN M. *WASHINGTON, 0000
ROBERT A. *WASIK, 0000
DANIEL J. WASILAUSKY, 0000
RAQUEL C. WASILAUSKY, 0000
ERIC R. *WATERWORTH, 0000
BRIAN K. WATKINS, 0000
EVAN T. *WATKINS, 0000
ETHEL M. *WATSON, 0000
MICHAEL A. *WATSON, 0000
JEFFREY A. *WAUGH, 0000
BRIAN A. WAYPA, 0000
ERNEST L. WEARREN JR., 0000
MARK H. *WEBB, 0000
RODRICK L. *WEBB, 0000
DOUGLAS J. *WEBER, 0000
DANIEL L. *WEEKLEY, 0000
JEFFREY R. WEEKS, 0000
MAX C. WEEMS, 0000
THERESA E. *WEEMS, 0000
FREDERIC M. *WEHREY, 0000
JAY A. *WELBORN, 0000
SEAN T. WELSH, 0000
PETER A. WENELL, 0000
BRIAN R. *WERAB, 0000
ANDREW R. WERNER, 0000
ANTHONY E. *WESSEL, 0000
LOUIS *WESSELS, 0000
ROBERT D. *WESTOVER, 0000
CHRISTOPHER J. *WETMORE, 0000
STACY A. WHARTON, 0000
WILLIAM H. WHARTON, 0000
RONALD W. *WHEELER, 0000
ANDREW K. WHIAT, 0000
JEFFREY J. WHITE, 0000
JEROME K. WHITE, 0000
NATHAN A. *WHITE, 0000
WILLIAM C. *WHITE, 0000
RICHARD T. *WHITLOCK, 0000
REAGAN K. WHITLOW, 0000
MATTHEW R. WHITNEY, 0000
KEVIN A. WHITTAKER, 0000
RAYMOND K. *WHYTE, 0000
BRYAN J. WICKERING, 0000
DOUGLAS P. WICKERT, 0000
STEPHEN D. WIER, 0000
JASON B. WIERZBANOWSKI, 0000
DANIEL R. WILCOX, 0000
JOHN D. WILCOX, 0000
TRAVIS S. WILDS, 0000
TODD A. *WILES, 0000
PAUL E. *WILKERSON, 0000
ALLEN L. WILLIAMS, 0000
DAVID E. *WILLIAMS JR., 0000
KEITH P. *WILLIAMS, 0000
KEVIN L. WILLIAMS, 0000
LEE *WILLIAMS, 0000
LEONARD R. *WILLIAMS, 0000
ROBERT S. *WILLIAMS, 0000
TRENT J. *WILLIAMS, 0000
WARREN S. *WILLIAMS, 0000
WENDELL M. *WILLIAMS, 0000
CHAZ M. *WILLIAMSON, 0000
DAVID A. WILLIAMSON, 0000
DEAN G. *WILLIAMSON, 0000
ERIN C. *WILLINGHAM, 0000
JOHN T. *WILLOUGHBY JR., 0000
CHARLES T. *WILSON II, 0000
JENNIFER E. *WILSON, 0000
KENNETH W. *WILSON, 0000
KEVIN P. *WILSON, 0000
LYNDA M. Z. *WILSON, 0000
ROBERT A. *WILSON, 0000
KATHRINE M. WINANS, 0000
LORI L. *WINN, 0000
BERT G. WINSLOW, 0000
CHRISTOPHER J. WIRTANEN, 0000
CARL H. *WISWELL, 0000
RYAN E. WOERNER, 0000
JEFFREY C. *WOFFINDEN, 0000
LISA M. *WOFFINDEN, 0000
PAUL M. WOJTOWICZ, 0000
JOHN J. WOLF, 0000
GREGORY C. *WOLFF, 0000
STEPHANE L. *WOLFGEHER, 0000
JEFFERY M. WOLIVER, 0000
TIMOTHY G. WOLLER, 0000
ZUN MAY *WOO, 0000
PAUL C. WOOD, 0000
BRECK A. *WOODARD, 0000
GEORGE S. *WOODWORTH, 0000
LEANDRO T. *WORRELL, 0000
BRIAN J. *WORTH, 0000
SCOTT M. *WURZBURGER, 0000
CHARLES D. *WYATT, 0000
BENJAMIN L. WYBORNEY, 0000
WILLIAM L. *YAEGER, 0000
SURESH *YALAMANCHILI, 0000
JAE K. *YANG, 0000
STEPHEN *YANYECIC, 0000
ERIC M. YAPE, 0000
JAMES N. *YEPEZ, 0000
JOHANNA L. *YOCUM, 0000
JIN B. *YOON, 0000
SOKTAE *YOON, 0000
STEVEN J. YOUD, 0000
MICHELLE T. *YOUNG, 0000
DEREK J. A. YOUNGER, 0000
MILAD F. *YOUSSEF, 0000
PAUL J. *YUSON, 0000
ROBERT B. *ZALANKA, 0000
MATTHEW E. *ZEHR, 0000
JOSEPH B. *ZELL, 0000
ERIC J. ZIHMER, 0000
JEFFREY S. *ZORNES, 0000
BRIAN S. *ZUBEK, 0000
CHRISTOPHER J. ZUHLKE, 0000
KARL D. ZURBRUGG, 0000
STEVE P. *ZURGA, 0000
RONALD J. *ZWICKEL, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

THOMAS A. BURGESS, 0000
JOHN R. STEFANOVICH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TIMOTHY J. CALLAHAN, 0000
RONALD O. GIENAPP, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 22, 2004, withdrawing from further Senate consideration the following nomination:

GLEN L. BOWER, OF ILLINOIS, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS AFTER HE TAKES OFFICE, WHICH WAS SENT TO THE SENATE ON JANUARY 7, 2003.