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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 7, 2006, at 2 p.m.

Senate

THURSDAY, FEBRUARY 2, 2006

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

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

Let us pray.

O God who has comprehended our lives and is the author and finisher of our faith, teach us to live our days with the heights above us and on level plains. We thank You for Your grace that strengthens us for the tasks of each day and for the unfolding of Your wonderful Providence. Keep us from becoming intoxicated by the desire for success and protect us from the fear of failure that paralyzes noble striving. Lead us through the abysses of pride and across the gorges of pretension to the richness of Your transforming spirit of love.

Guide the Members of our Nation's legislative branch today with Your wisdom. Show them solutions to the problems that beset our land. Empower them with a compassion that seeks first Your glory and deliver them from coldness of heart and wanderings of mind.

Help us all to praise You with our words and deeds.

We pray in the name of the captain of our salvation.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 2, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip is recognized.

SCHEDULE

Mr. MCCONNELL. Madam President, this morning we will resume debate on the House-passed tax reconciliation bill. I would like to observe that yesterday and today, up until the time we pass the tax reconciliation bill, we are actually engaging in an utterly futile activity that should have been avoided by the simple act of granting consent. In effect, the minority, in apparently a display of pique, wants to make the Senate, in effect, do again a bill it already did in December.

I am not opposed to dilatory tactics when they are not pointless. I have been in the minority in this body and have been a proud guardian of gridlock from time to time when there was a point to it, when we were actually trying to defeat a measure. But it seems to me to some extent it demeans the institution and grates on the nerves of everyone when common courtesy of granting consent is not offered.

Nevertheless, yesterday and today, we will plod through a bill that we did about 5 weeks ago one more time; at the end, with the same result.

Let me report that at this point there are 7 hours remaining for that debate, although we do not believe all of that time will be necessary. At some point early this afternoon, we expect on this side to yield back time, and we would begin voting. The so-called vote-arama will be a series of consecutive votes on amendments to the bill which will eventually lead to passage. We hope it is not a lengthy voting series because that will simply inconvenience all Members on both sides of the aisle. However, that is up to the Members of

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

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this body as to how many amendments they choose to offer.

In any event, the majority leader has stated that we will stay on the bill until we complete it this week. I encourage Senators to stay close to the Chamber once the voting sequence begins because, as we all recall, there is not much time between those votes.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

DEFICIT REDUCTION

Mr. REID. Madam President, through the Chair to the distinguished Senator from Kentucky, and to anyone within the sound of my voice, if there were ever a grating of nerves, it is the nerves of the American people by what this piece of legislation does to them. This legislation was named by the majority in conjunction with the President. It is called the Deficit Reduction Act of 2005. If there were ever Orwellian doublespeak, it is that.

Using the numbers the majority placed in this bill, the budget Deficit Reduction Act of 2005—we are in 2006, but it was named and completed in 2005—it increases the deficit by $50 billion. The Deficit Reduction Act of 2005 increases the deficit by $50 billion using their numbers. So let's not talk about grating the nerves. If there were ever a grating of nerves, it should be the American people who are so concerned about what has happened to the economy of this country.

In just a few days we are going to be asked to increase the debt ceiling from $8.2 trillion to whatever figure they pick, $9 trillion; ''they'' meaning the majority. Talk about grating the nerves. We, the minority, need not be lectured on common courtesies as expressed by the distinguished Senator from Kentucky. There is no one in the Senate who is more bipartisan than the distinguished senior Senator from Montana who is the floor manager of this legislation. We are doing nothing but following procedure.

Frankly, what happened yesterday didn't extend common courtesy. We were not allowed to offer a single amendment. If this is how we want to start the year, by pointing fingers, we can point fingers just as well as the majority. We chose not to do that yesterday. There wasn't a speech given yesterday about how we had been prevented from offering amendments, but the Senator from Kentucky comes out here this morning and lectures us on common courtesy and grating nerves. Any time that debate needs to take place, we will be involved.

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. MCCONNELL. Madam President, I certainly don't intend to engage in a prolonged debate this morning. Let me repeat that we passed this bill about 5 weeks ago. A number of Democrats voted for it on final passage. The reason they voted for it is they know it is the only way to prevent a tax increase on many middle-class people who are counting on the tax relief that was passed several years back and hope that it will continue. My only point is, I say to my good friend from Nevada—and he is my good friend—we have been there and done that on this bill. To simply redo the same measure is arguably a waste of the Senate's time. Nevertheless, that is where we are. At some point this week we will complete, once again, the passage of this Tax Increase Prevention Act which will be to the substantial benefit of the American people.

I yield the floor.

TAX RELIEF EXTENSION RECONCILIATION ACT OF 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4297, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, we have a few hours left on this side. I believe the Senator from California, Mrs. BOXER, is on her way to the Chamber and will be here momentarily. Until that moment arrives, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Madam President, I ask unanimous consent that I may yield to the distinguished Senator from Michigan such time as she may require and that I may be recognized at the close of her remarks.

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

The Senator from Michigan.

Ms. STABENOW. Madam President, I thank the distinguished Senator from West Virginia for his kindness this morning.

I rise in support of Senator BAUCUS's amendment. At a time when middle-class families are struggling to pay their bills, the House tax bill would actually increase taxes by more than $30 billion on those families—$30 billion.

This is a very difficult time for Michigan families. Every day we hear news about another plant closing or a company entering into bankruptcy. Michigan has lost 111,000 manufacturing jobs, and that doesn't include the recent announcement by Ford to cut another 30,000 jobs.

Michigan families are worried about their jobs. They are also worried about losing the pension that they have worked hard for and paid into for the 30 years that they have worked. They see their health care premiums continue to skyrocket, and they are struggling to fill gas tanks and pay home heating bills. The average price of gasoline in Michigan last month was $2.35 a gallon. Now middle-class families are facing home heating bills that are as much as 35 percent more expensive than last year. And their salaries and their pay stubs don't show a 35-percent increase. If anything, they are going down in terms of income.

What does the House bill propose to do to help middle-class families? Raise their taxes. This was quite stunning to me when I reviewed the bill that came over from the House of Representatives. We are talking about a bill that actually raises taxes on middle-income families. That is not acceptable. We can do better than that. Our middle-class way of life is in danger. I believe very strongly that in Michigan and places all across this country we are fighting for a way of life. Will we have the standard of living that we have had? Will we have the ability to send our kids to college and be able to buy a home and be able to dream the American dream and be successful? At every turn, we are seeing action taken here that takes our way of life and our opportunities away. Before Christmas, it was a bill that is part of this whole package, cutting over $12 billion in opportunities for people to go to college, by cutting student loans.

So this is another one of those cases where people are working hard, expecting us to do the right thing and, in fact, the House bill would raise taxes on middle-income people, while lowering taxes for those who are already very blessed, earning millions of dollars a year. We need to be passing legislation that lowers health care costs, which is hurting American manufacturers. We need legislation that will protect people's pensions. This ought to be a basic premise and principle that we abide by in this country. When you work hard all your life and you pay into a pension, you should know that that will be there for you and your family.

We must also enforce our trade laws and insist that countries such as China and Japan play by the rules and stop manipulating their currency and that we don't see counterfeit products coming into this country illegally, or other countries stealing our ideas and patents.

That is the debate we should be having. These are actions we should be taking. I was deeply concerned the other night to hear the President talk about those of us who want to enforce trade laws, essentially saying we are

protectionists if we don't stand back and say that in a global economy, whatever happens happens, that those of us who care about the rules and want trade to be fair are somehow protectionists. I profoundly disagree with that.

It is our job to fight for American businesses and American workers. That is what I do every day, and I know that many colleagues feel the same way. The debate we need to be having on the floor of the Senate is how to save our middle class, save our way of life. But at a minimum, we should not be passing a tax increase on middle-class families.

Michigan is the heart and soul of the middle class. There are 52,000 families in jeopardy of facing a tax increase if we do not address the alternative minimum tax. The alternative minimum tax ceiling needs to be raised, as we know. Fundamentally, while there has been agreement in this Chamber to do that, if that does not come out of conference committee between the House and the Senate, we will see 19 million families getting a tax increase as a result of actions of the Congress.

For instance, a family with five children would be hit with this ceiling if their income exceeds $54,000. They would, under the current system, pay more taxes. But without children, their income could exceed $76,000 before they pay more taxes. Think about that. Why is that fair? If you have five children, five mouths to feed, five children to buy clothes for, five children whom you are worried about going to college, you are going to pay higher taxes than somebody without children. That makes no sense. That is a $20,000 difference, a $20,000 penalty for having children. That makes absolutely no sense. What is American about that?

Sadly, under the current system on taxes with the AMT, the larger your family, the larger taxes you pay. To add insult to injury, the House bill extends the capital gains and dividend tax rates to provide $50 billion in tax breaks to our wealthiest Americans—$50 billion in tax breaks to our wealthy Americans—while a family with five children, earning $54,000 a year, will pay more taxes.

The majority of Americans are looking at this and asking, what is going on here? Where are our priorities, our values? This is backward. Even more egregious is the fact that these tax breaks that are given under the House bill are not set to expire until 2008. So the current tax cuts being given to the wealthiest Americans don't even expire until 2008, but the current problem for middle-income families happens right away; the current tax increase happens right away.

This bill is money to ensure that the wealthiest 3 percent of Americans are given tax breaks way out until 2010. Meanwhile, right now, middle- and low-income families are facing lower wages, mounting health care costs, trying to pay the gas bill, trying to pay the home heating bill, trying to send the kids to college, while we cut student loans. I did not support that. And now we are going to say, potentially, if the House bill were to become reality, by the way, you are going to pay more in taxes. This makes absolutely no sense.

I commend my colleague, Senator BAUCUS, and I commend the chairman of the Finance Committee, as well, for working together to fix this, getting the Senate to work together to fix this. We need to fix this—and not only in the Senate because we have agreed that is not right—this needs to be fixed when the bill ends up going to the President's desk. That is when we will know whether 19 million American families will have a tax increase. My vote is ''no'' on that one, and it is ''yes'' on making sure we fight for that which will keep our way of life in this country.

Madam President, I yield the floor, and I thank the Senator from West Virginia again for allowing me to use this time.

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

Mr. BAUCUS. Madam President, several on our side wish to make statements before we get to offer amendments and vote. It is my understanding that it will begin at about 2:15. There will be a series of amendments then offered which, obviously, we will vote on. There are a good number on this side and a few on the other side of the aisle. I encourage Senators to quickly firm up those amendments so we can line things up as expeditiously as we possibly can.

In the meantime, I remind the Senate where we are. We are on the House deficit reduction bill. Later today, I expect that the majority leader will offer a substitute amendment. That will be the Senate amendment; that is a Senate-passed bill to the House bill. The Senate-passed bill will include a perfecting amendment. The perfecting amendment will modify the Senate-passed bill that previously passed in the Senate by extending the so-called tax extenders, R&D tax credit, the WOTC tax credit, tuition reduction, and savers' credit, for an additional year. Those provisions expired at the end of 2005. The Senate bill extended all those provisions, so-called extenders, for 1 more year, until the end of 2006.

The perfecting amendment that will be offered will then add another year to all those, so that those provisions, if that amendment passes, will not expire; they will have 2 more years of life. That is the major change that will be in the perfecting amendment to the Senate substitute, which the majority leader, I assume fairly quickly, will offer.

To remind Senators, the main difference between the House and Senate bill is this: The House bill includes the extension of the lower taxes—the dividend tax and capital gains taxes—for 2 more years. Currently, taxation on dividends and income taxation on capital gains enjoys a lower rate that was put into effect several years ago. That provision or lower rate is in current law and will extend under current law for 2 more years, until the end of 2008, December 31. The House-passed bill extends that provision 2 more years, so it would be in effect for not only 2006, 2007, and 2008, but the House bill would be 2009 and 2010, the full calendar years.

The House-passed bill doesn't, however, include any relief for alternative minimum taxes, which about 17 million Americans will have to pay this year, 2006. Actually, it is about 20 million because 3 million taxpayers had to pay for 2005, and 17 million more taxpayers will have to pay an additional tax under the so-called stealth tax, the alternative minimum tax in 2006. So the House bill extends provisions that need not be extended because the law doesn't change, but it does not reduce taxes for people who are going to pay more for taxes in 2006. Contrast that with the Senate-passed bill, which would be the substitute for the House bill. If it passes, it will send that back over to the House. They, presumably, will disagree with the Senate and ask for a conference. We will appoint conferees and begin a conference on the two separate bills. That will happen next week probably.

Again, the Senate bill doesn't extend dividend reduction, capital gains taxation reduction, for 2 more years. It maintains current law, which provides the current low rate in existence for not only this year but also next year and also the following year, through December 31, 2008. We did, however, in the Senate bill, say, OK, those 17 million people—Americans who are going to have to pay AMT—that is additional tax for 2006—should not have to pay that additional tax. We, in the Senate bill, said we are going to extend the provisions, the so-called AMT patch, so those Americans will not have to pay additional tax under the alternative minimum tax.

That is a major difference between the House and Senate bill. I hope that we in Senate can do what I think most Americans want. Most Americans would say, OK, 17 million Americans—let's not raise their taxes; let's make sure those taxes are not raised. And then we will worry about 2009 and 2010, when we may or may not want to extend more favorable tax treatment on capital gains income and on dividend income. We can cross that bridge when we get there. Because the budget resolution says we cannot lower taxes by more than $7 billion over 5 years, we just can't do it all. We have to make choices. If you add up all the provisions that people want—the tax extenders and other extensions of tax breaks—it is forcing us in the Congress to begin to make a choice as to what is more important: prevent the additional

taxes people have to pay next year under the AMT, or is it more important that they should pay those taxes but, more for the sake of principle than anything else, extend that dividend and capital gains preferential treatment for years 2009 and 2010.

Again, the House bill only addresses 2009 and 2010. Why? Because under current law, capital gains income and dividend income enjoy favorable tax treatment.

That is the basic posture we are in here. It should not take too long. After various amendments are brought up and Senators vote on them, we will send the bill over to the House. The House will probably disagree and request a conference. We will have a conference when we come back next week and finally work out passage of this bill.

I see the Senator from West Virginia is on the floor. I turn to the Senator from West Virginia and yield to him whatever time he desires.

Mr. BYRD. Madam President, I thank my distinguished friend. He can go ahead with whatever remarks he has. I would love to wait 2 or 3 more minutes.

Mr. BAUCUS. Madam President, if I may ask the Senator from California, how much time does she desire?

Mrs. BOXER. If I can have 20 minutes following Senator BYRD, which we think will be used by other Senators on the same topic.

Mr. BAUCUS. I will do this. Why don't I yield to the Senator from Michigan 5 minutes and then the Senator from West Virginia. Is that all right with the Senator from California?

Mrs. BOXER. If I can be in that line.

Mr. BAUCUS. Yes. I think the Senator from West Virginia would like to defer to the Senator from Michigan at this point.

Mr. BYRD. I thank the Senator.

Mr. BAUCUS. I appreciate the Senator speaking on short notice. Madam President, I yield 5 minutes to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

DETROIT AND SUPER BOWL XL

Ms. STABENOW. Madam President, after speaking in support of the Boxer amendment, which I think is extremely important, I wanted to take a moment in the middle of this very important debate, a very important bill, and rise to speak to another important event that is occurring this weekend.

I rise today to cheer not for the Pittsburgh Steelers or the Seattle Seahawks but for the city of Detroit and the State of Michigan, which is the host of the Super Bowl XL this weekend. We are very excited about this important event. It is a spotlight shining on Detroit, MI, and I am confident the city and my home State are ready for their closeup this weekend.

The State of Michigan and the city of Detroit are honored to play host to the most watched sporting event in our country. I am sure Detroit will shine, as it has before when it has hosted the Stanley Cup finals, the World Series, and the Major League Baseball All-Star Game, which was just held this last summer.

Ford Field is a beautiful stadium which will be an ideal setting for the Seahawks and Steelers, and Cobo Hall will play host to the NFL Experience, a football ''theme park'' where children and their parents can enjoy over 50 interactive football theme games and displays.

We are expecting over 100,000 visitors to downtown Detroit. I was there last week and saw that a lot of people have gotten there early to enjoy what our city offers. We are so pleased to welcome them. Not only will visitors have a chance to experience Detroit's restaurants and nightlife, but they can go to the Henry Ford Museum and see the bus on which Rosa Parks made her historic stand and visit the African-American Museum. This weekend's visitors will see all the wonderful things Detroit and the State of Michigan have to offer.

I must say that we have over 10,000 volunteers who are ready and are working to make sure everyone enjoys every minute of their stay, and I thank those volunteers for their hard work in being a part of helping Detroit shine.

Detroit is the home of Motown, and I am thrilled that Stevie Wonder will perform before the game and that Aretha Franklin will sing the National Anthem. On Saturday, Motown's music heritage will be on display when the Four Tops, the Miracles, the Contours, the Dramatics, the former ladies of the Supremes, Freda Payne, Brenda Holloway, Martha Reeves and the Vandellas, the Velvelettes, and Paul Hill play at the Masonic Temple. That will be an amazing event to participate in and listen to.

On Friday and Saturday night, Kid Rock plays at the Joe Lewis Arena before a sold-out house, proving that Detroit is the Rock City.

This weekend, Detroit will welcome home two of its native sons—Jerome Bettis and Larry Foote, both members of the Pittsburgh Steelers. Larry Foote, a graduate of Pershing High, is at the beginning of a promising NFL career, while Jerome Bettis is near the end of a Hall of Fame career where he has displayed the character and toughness of a Detroit native. Bettis graduated from MacKenzie High in the late eighties, entered the NFL in 1993, and has since been mowing down defenses on his way to ranking fifth on the NFL's alltime rushing list.

The Super Bowl will give Detroit and the State of Michigan and the region an economic boost, but it will also provide a more important opportunity for the people I represent to shine, as I know they will. I am proud of Michigan's history and excited about our future. I am sure that on Sunday night, those who have visited Detroit, those who have watched the game will be excited as well. We say welcome to all of them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. I thank the very distinguished occupant of the chair, who presides over this august Chamber with a dignity that is so rare as a day in June and a loveliness that permeates the Chamber. I thank the Chair.

MINE SAFETY

Madam President, yesterday, two more coal miners died in West Virginia—two more, two more coal miners died yesterday in West Virginia—one at Long Branch Energy's No. 18 tunnel mine in Boone County and the other at the Black Castle Surface Mine, which is also in Boone County, WV. That is a total of 16 coal miner deaths this year, and the year is only 33 days old. This situation is deplorable—ghastly deplorable.

The Governor of West Virginia, the Honorable Joseph Manchin, announced last night that he has asked the coal operators of West Virginia to cease production immediately and to go into a mine safety standdown. He has asked that miners be removed from mines in order to review safety procedures and asked that each new shift also review safety procedures before entering the mine.

The Governor has called for expedited inspections of the State's mines, and he has asked that the U.S. Labor Department send additional Federal inspectors and personnel to the State.

The Mine Safety and Health Administration of the U.S. Department of Labor announced last night that it would expand the mine safety standdown to mines across the Nation on Monday, February 6.

This is a very noble action on the part of our Governor, Joe Manchin. I have talked with Governor Manchin, and I compliment him.

I have to say that shutting down the mines for 1 hour is not a serious solution. It may be a timeout for safety, but it is not time enough for meaningful safety. Mine safety officials are displaying increasing concern about this rash of mining fatalities.

Those who consider the tragedies at the Sago and Alma mines to be random occurrences are now taking a second look. They are asking this morning: When will these mine tragedies stop? When? The answer to that question is unsettling, isn't it? It is possible that these accidents are not going to stop. God only knows. Life and death are in God's hands.

It is possible that mine safety protections have eroded so much in recent years that these actions are going to continue. Who would have thought that these mine deaths would occur as they have and in one State? It is possible that these accidents are going to continue to happen again and again unless new action—dramatic action—is taken by the Federal Government to curb these mining hazards.

The danger to our coal miners is real—very real. Yes, very, very real.

The dangers to our miners is very real. There are too many needs, from emergency communications and breathing equipment to a rapid notification and response system to penalizing the reckless disregard of Federal safety standards. Real. Too many needs, I say, are not being addressed by the Labor Department and the Mine Safety and Health Administration and require swift action by the Congress.

The longer we wait to act in Congress, the more likely another fatality and then another fatality and then another may occur. The longer we wait to act, the greater the threat to our energy infrastructure. If these tragedies continue, mines could be closed and coal and energy production could falter. The consequences could ripple throughout the national economy. We cannot delay. We cannot delay in responding.

I spoke with the distinguished majority leader yesterday. Of course, I have already spoken with our distinguished minority leader, who has joined in supporting the need for action on the bill that I have introduced, along with Senator ROCKEFELLER and along with the delegation in the House, a bipartisan delegation. I spoke with the majority leader yesterday, and I have asked mine safety legislation be considered quickly, and I publicly renew that request.

I have come to the Senate floor hoping to see the majority leader again this morning, but he is needed elsewhere, and for good reason, at the moment. But I publicly renew that request, and upon his arrival I shall discuss this matter with him. I have discussed it already with the assistant leader, Mr. MCCONNELL. I urge that this legislation be scheduled as soon as possible, that there be scheduled time as soon as possible on mine safety legislation.

The bill the West Virginia delegation introduced yesterday will help to protect the lives of our miners. It will help to keep West Virginia mines open. It will help to keep the coal coming. It will help to keep the coal fueling the energy demands of our national economy. But we must act quickly. We must ensure the safety of our coal miners.

Hear me. Listen. We must ensure the safety of our coal miners in order to ensure the security of the Nation. The security of the Nation depends on the safety of our coal miners. We have delayed too long already, and every additional day we wait puts another miner's life at risk.

O Death, where is thy sting?
O grave, where is thy victory?

Senators, listen: For whom does the bell toll? Who knows who will be next?

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, I yield 20 minutes to the Senator from California.

Mrs. BOXER. I ask my colleague to make sure Senator LAUTENBERG knows my colleagues are willing to yield him 10 minutes upon my completion; is that correct?

Mr. BAUCUS. I will then subsequently yield to the Senator from New Jersey.

Mr. BYRD. Madam President, will the distinguished Senator from California yield?

Mrs. BOXER. Yes.

Mr. BYRD. I ask so that I might thank her again for delaying her speech until I could make these few remarks. I thank her from the bottom of my heart. She is so considerate always, so courteous: ''And what is so rare as a day in June?'' The beauty of the Senator from California.

Mrs. BOXER. Oh, that is so nice.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. I thank my friend and colleague, and really, in so many ways, our leader in the Senate, and say to him before he leaves the floor how much we stand with him on these mine safety questions.

We Americans are just facing so many tragedies. My colleague reports on yet more deaths in the mines, deaths that are preventable if we do the right thing by our workers. We are mourning together today five more American soldiers killed in Iraq. We had an incident, a workplace killing in Santa Barbara where five or six people lay dead. It is tough times. But I want my good friend to know that we will stand with him on this mine safety question.

Mr. BYRD. Madam President, if I might just take 1 minute, I deeply thank—as they say in the other body—the gentlelady from California, for her noble comments and for her support. The West Virginia delegation in the House and the Senate is pleased at her expressions of support. We are glad to have that support. West Virginia is proud of the California delegation, the delegation that stands with us in this hour of sorrow.

I thank the Senator from California for yielding and for her support.

Mrs. BOXER. Madam President, I rise now to discuss an amendment on behalf of myself and Senators KERRY and LAUTENBERG, which expresses the sense of the Senate that the White House should provide the public with a thorough account of the meetings that the President, his staff, and senior executive branch officials held with Jack Abramoff. The public's confidence in the Government has been rocked, rocked by the widespread reports of public corruption involving Jack Abramoff.

On January 3, Mr. Abramoff pleaded guilty to conspiracy, fraud, tax evasion charges, charges that carry up to a 30-year sentence. He agreed to cooperate with prosecutors in their investigation of a number of public officials, and we don't know where all this will lead. I urge the Justice Department to continue its investigation into any bribery and corruption.

The damage to the public trust from the Abramoff scandal, combined with the recent prosecution of Congressman Randy Cunningham, and the indictment of Congressman TOM DELAY is massive. The investigation by the Department of Justice has really just begun. But right now, sadly, there is a very low opinion of politicians, and trust must be restored with the American people. We cannot govern effectively without the support and confidence of the people. We are supposed to be their representatives. We owe them everything, and we must start with honesty, with ethics, so we can regain their trust.

If the people have lost confidence, we have to win it back. Every Senator I know has searched his or her records for contributions from Jack Abramoff, from his associates and the tribes he represented. Each of us has responded in our own way. But to my knowledge, we have all made our actions public. We have told our constituents what the situation is and whether we plan to do something about it.

In the State of the Union Address the President said:

> Each of us has made a pledge to be worthy of public responsibility—and that is a pledge we must never forget, never dismiss, and never betray.

Those are noble sentiments, very noble sentiments, and I challenge the President to live up to them. Where there is an appearance of impropriety, it is the responsibility of public officials to be open with the public and to clear up any questions that might exist. I know in my long career in elected life, and it is now more than 30 years of elected life, I have had to return contributions from time to time. I have tried to avoid the appearance of a conflict of interest. I have even recused myself on three occasions because I believed that was the right thing to do. But no matter what each of us does there will still be those who doubt us. It is the system. It is a system that is based on private financing, so it is very difficult, with that system, to gain the trust of the people.

But it starts with openness. It starts with transparency. We should each try to be as open as we can and make sure that, whatever we decide to do, the public is informed. It doesn't help to be secretive. It doesn't help to say: I don't have to do this; it is my right not to tell the public anything. It may be your right, but it does not make it right.

According to the press secretary of the President, Scott McClellan, the President does not know and doesn't remember ever meeting Jack Abramoff, and despite repeated requests the White House has failed to provide details of meetings between Jack Abramoff and the President and his staff. The problem is, more and more details keep coming out about the relationship between Mr. Abramoff and the President.

Starting in 1997, Mr. Abramoff claimed credit for procuring a letter

from then-Governor Bush that praised the then-Northern Marianas Island Education Plan. In 2000, Jack Abramoff joined the Bush-Cheney transition team. Several colleagues of Mr. Abramoff ended up being appointed to key positions in the Department of Interior, the agency that regulates Indian gaming issues, central to Mr. Abramoff's lobbying business.

According to the Associated Press, Jack Abramoff and his lobbying team had nearly 200 contacts with the Bush administration in the first 10 months they were in office—200 contacts in less than a year, and nobody remembers anything? I mean it doesn't pass the smell test, to be crude about it.

By 2001, Mr. Abramoff appears to have been selling his clients access to the President. On May 9, 2001, the White House arranged an event on behalf of the group Americans for Tax Reform. That group is a very strong ally of President Bush. The event was attended by the President and a number of legislators. There is a trail of documents that shows that Mr. Abramoff asked some of his clients for $25,000 to go to that event, with the funds going to this Americans for Tax Reform.

I want to show you some e-mails because I think that tells the story better than anything. So here is what Mr. Abramoff asked in an e-mail to a representative of one of his tribal clients. These are Mr. Abramoff's words from an e-mail.

Americans for Tax Reform is bringing together the speakers of all Republican-led legislatures for a meeting with Bush and the congressional leadership. They have requested sponsorship ($25 K) from only four groups. Two of them will be major corporations and one will be Choctaw. Chief Martin will be coming to the event I expect. I told them that I would ask you guys to participate. The exposure would be incredible and would be very helpful. One of the things we need to do is get the leaders of the tribe (ideally the chief) in front of the President as much as possible. Please let me know as soon as you can. Thanks.

That is Mr. Abramoff to the representative of one of the tribes.

Let us see what that particular individual wrote to her tribe after she received Mr. Abramoff's e-mail. She wrote:

Attached is an e-mail from Jack Abramoff with the firm of Greenberg & Traurig. The chairman has agreed for the tribe to be one of the four sponsors of and participate in a White House event on behalf of the Americans for Tax Reform which is being held on May, 9, 2001 in D.C. Please immediately prepare a check made payable to Americans for Tax Reform in the amount of $25,000 and forward it to my office by Federal Express. Then Fed/Ex the check to Mr. Abramoff.

Just to finish this story, here we have a copy of the check Mr. Abramoff received from the Coushatta Tribe of Louisiana in the amount of $25,000—selling the President of the United States and using Federal property.

The meeting was held in the Old Executive Office Building. In all, it appears that four or more of Abramoff's clients attended the event, and at least two claimed they paid the $25,000 requested. They paid that to get close to the President on Federal property. Jack Abramoff, as I said, delivered the President of the United States in exchange for his clients' contribution to the President's supporters. How many more Abramoff clients attended is not clear, and who paid money to attend the White House event is not clear. The White House claims it has no record of Mr. Abramoff attending, but Time magazine claims there is a photo of the President standing with Abramoff and one of Abramoff's clients.

This event alone warrants the President providing full disclosure of meetings with White House officials and Jack Abramoff.

But this was not a one-time event. The following year, Mr. Abramoff solicited money from his clients for another White House event in behalf of Americans for Tax Reform.

The public has more and more questions about the relationship between Jack Abramoff, the President, and his staff, but no answers are forthcoming. The President's refusal to provide additional information about these meetings has increased the public's distrust in the administration and our Government at large.

The President said some very noble words at the State of the Union Address. He said it was important for us to bring trust back. Yet we see no movement for transparency and openness.

The public has a right to know whom Mr. Abramoff met with, what they discussed, and whether improprieties existed. According to a Washington Post/ABC News poll, 76 percent said Bush should disclose his contacts with his aides and Mr. Abramoff. Two of three Republicans favored disclosure. Let me say that again. In the poll, two of three Republicans favored disclosure.

In fact, members of the President's own party in the Senate and in the House have urged the President to provide information to the public about this administration's dealings with Mr. Abramoff. I agree with them. All Government officials who serve the public must take all steps necessary to maintain their trust and confidence.

I hope my colleagues will support this important amendment which I plan to offer on behalf of Senator KERRY and Senator LAUTENBERG. It simply calls on the White House to immediately and publicly disclose each visit and meeting between Jack Abramoff and the President, White House staff, or senior executive branch officials.

Much is made about how Senators get an opportunity to fight for funds for their State. Senator MCCAIN has derided this action. Senator MCCAIN said earmarks right on their face are wrong. If you look at the number of earmarks Members of the Senate are involved in for our States—I know my colleague and I sit on the Public Works Committee. I don't need any lobbyist to tell me that I need a road in my urban area when one is broken down. I don't need a lobbyist to tell me that I need an HOV lane or a new water system or a new sewer system or a new school or a new senior center. It is my job to know that. Senator MCCAIN thinks that is all terrible. But the bottom line is the number of earmarks pales in comparison with the amount of funds that are distributed by this administration and any subsequent or prior administration. They distribute most of the funds.

It is very important, as we all look at our campaign contributions, to sort out in any of them which are in any way tainted by Mr. Abramoff and that the White House comes to the table and is as open as we have been. I believe it is very important. This isn't a partisan issue. Republicans have been calling for the White House to come clean on this, and Democrats are doing the same.

If we are going to restore confidence in our Government, it starts with simple openness, not saying: Oh, this is privileged, this is secret. I will tell you right now, we all learned it from our moms and dads. When somebody says, this is secret, watch out. Our Government is supposed to be open, not secret.

I hope there will be strong support for this particular amendment. I believe its timing is crucial. We can't let any more time elapse.

There are calls for—and I am joining them—a special prosecutor in this particular case. But even before that debate begins, let us have everyone come clean on these meetings, contributions, and the like.

I thank my colleague from Montana, the ranking member of the Finance Committee, for his generosity of spirit in allowing me to discuss this issue. Technically, of course, it isn't a matter of the Finance Committee jurisdiction, but I believe the timing is so important that we should have a vote on this.

Thank you very much. I yield back whatever time remains.

Mr. BAUCUS. Madam President, I very much thank the Senator from California for her terrific service to her State and to the Nation.

I yield 10 minutes to the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Madam President, I thank my colleague from Montana. I also congratulate our colleague, the Senator from California, for her diligence in pursuing this issue. Senator BOXER has an interest in fairness and equity at all times, and open government. I am so pleased that we can rely on her and her staff to research this matter and to bring it to the public's attention.

Everyone knows there is a cloud over Washington these days. It is a cloud of corruption that challenges the fundamental concept of democracy in our

great country, one that says the President, under the guise of an act of patriotism, can spy on people, innocent people, invade their privacy totally, and yet withhold records that are vital to the public's confidence in government, withhold data that is required in this scandal we are now witnessing which hangs over Washington.

This deep-seated corruption was exposed as part of an investigation into the activities of the lobbyist Jack Abramoff. We now know that he committed despicable acts against his own clients and that he conspired at the same time with certain Members of Congress. His contacts with the White House and his friends are still very much a mystery. Imagine that—contacts with the President of the United States hidden from the public. It is incomprehensible. President Bush refuses to disclose his contacts with Mr. Abramoff for reasons that are unclear. If there is no wrongdoing, there should be nothing to hide.

I wish to quote President Bush from a statement he made when running for President in 2000. He said, and I quote him:

Americans are tired of investigations, scandals, and the best way to get rid of them is to elect a new President—

We are talking about 2000.

—who will bring a new administration, who will restore honor and dignity to the White House.

What an empty statement that has proven to be. President Bush pledged to run an ethical White House. Now, as we see, those words seem almost hypocritical. At the very least, in order to keep this pledge, President Bush must release information on contacts between him, his staff, and Mr. Abramoff. What is he ashamed of? Whether he is ashamed of it or not, he ought to release it to clear the air. The public wants these contacts disclosed. The President needs to help the truth come out, the whole truth, and nothing but the truth. And he should be assisting us in this investigation.

White House Press Secretary Scott McClellan says President Bush does not know Mr. Abramoff. But there is stark evidence to the contrary. According to Washingtonian magazine, Abramoff said that not only did he know the President but that the President knew the names of Abramoff's children and asked about them during their meeting.

There appears to be a long trail of contacts between Mr. Abramoff and the Bush White House. For starters, President Bush put Mr. Abramoff on his 2000 Presidential transition team—a pretty important job. Mr. Abramoff was then able to get his allies appointed to key positions at the Department of the Interior. Why the Department of the Interior? Because it regulates Indian gaming issues that were central to Mr. Abramoff's lobbying business.

He was also one of President Bush's top campaign fundraisers, a so-called Pioneer. He raised over $100,000 for President Bush's 2004 reelection campaign. That was the definition of ''Pioneer''—big-time money.

According to Time and Newsweek magazines, Mr. Abramoff also sold access to the White House through payments sent to Grover Norquist's front organization, Americans for Tax Reform. Senator BOXER displayed a check which was made out to Indian tribes which paid upwards of $25,000 to Norquist for access to President Bush and his top adviser, Karl Rove. Mr. Abramoff bragged to one his clients, Tyco, that he talked to Karl Rove about their issues. And David Safavian, a White House official now under indictment, funneled confidential information to Abramoff to help Tyco.

Mr. Abramoff's own billing records show that his office had almost 200 contacts with the Bush administration in only its first 10 months. The officials listed as contacts included the then-Attorney General John Ashcroft and Vice President CHENEY's top advisers.

As far back as 1997, there is evidence of contacts between then-Governor Bush and Mr. Abramoff. Abramoff charged his client at the time, the Northern Mariana Islands, to get Governor George W. Bush to write a letter praising the island's education plan. Governor Bush did write such a letter to the island government on July 18, 1997, with a ''cc'' to one of Mr. Abramoff's deputies.

The bottom line is that this amendment—once again, I salute my colleague from California for bringing this up, and I intend to support it vigorously—the bottom line is that this amendment urges the President to clear the air. The American people want to know whether the Bush White House was complicit with Mr. Abramoff's schemes. Maybe Mr. Abramoff was exaggerating his contacts with the White House. That is possible. But there is only one way to find out—release the records. We are seeing withholding of information by the White House. I sit on the Committee on Government Accountability. The Republican chairman, SUSAN COLLINS, has asked the White House for information related to the Federal Government's response to Hurricane Katrina. We cannot get that. There has been a public display of the requests for that information.

Does this suggest this White House is committed to keeping the information—information that belongs to the public—private, within their confines so they can do anything they want and not be challenged with their conduct related to this issue? It looks like a constant pattern.

I urge my colleagues to support honest and open government and to vote for the Boxer amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I am pleased that later today we will be offering a modification to the Senate amendment to provide a 2-year extension and enhancement to the research and development tax credit. Of course, I have filed legislation with my friend, Senator HATCH, to make a permanent commitment to research-intensive businesses in the United States.

This legislation is bipartisan and bicameral. But 2-years is certainly much better than the usual yearly extender. I am already starting to hear from business taxpayers how important a commitment to longer term research projects are, and I agree with them.

I am hopeful that we can prevail upon our House conferees to retain this 2-year incentive.

You know, just the other night, the President spoke of the importance of the R&D credit to maintaining America's competitive edge. He is right, and that is why I have been a strong supporter of legislation to make the credit permanent for the last few Congresses.

Every morning we hear news of some new product or discovery that promises to make our jobs easier or our lives better. Many of these innovations started with a business decision to hire needed researchers and finance the expensive and long process of research and experimentation.

Since 1981, when the R&D tax credit was first enacted, the Federal Government was a partner in that business endeavor because of the potential spillover benefits to society overall from additional research spending.

But the credit has been hobbled over the years because of its temporary nature. As stated in an analysis last year by the Joint Committee on Taxation, ''Perhaps the greatest criticism of the R&D credit among taxpayers regards its temporary nature.''

Joint Tax went on to say, ''A credit of longer duration may more successfully induce additional research than would a temporary credit, even if the temporary credit is periodically renewed.''

I think we should heed the advice of the experts at Joint Tax and renew this credit for as long as we can. That is why I will support a modified Senate proposal later today for a 2-year extension.

Research has shown that a tax credit is a cost-effective way to promote R&D. The General Accounting Office, the Bureau of Labor Statistics, the National Bureau of Economic Research, and others have all found significant evidence that a tax credit stimulates additional domestic R&D spending by U.S. companies.

A report by the Congressional Research Service, CRS, indicates that

economists generally agree that, without Government support, firm investment in R&D would fall short of the socially optimal amount, and thus CRS advocates Government policies to boost private sector R&D.

R&D is linked to broader economic and labor benefits. R&D lays the foundation for technological innovation, which, in turn, is an important driving force in long-term economic growth—mainly through its impact on the productivity of capital and labor. We have many times heard testimony from economists, including Federal Reserve Board Chairman Alan Greenspan, that the reason our economy grew at such breakneck speed during the 1990s stemmed from the productivity growth we realized thanks to technological innovations.

There has been a belief that companies would continue to increase their research spending and that the benefits of these investments on the economy and labor markets would continue without end. Unfortunately, that is not the case.

According to Battelle's 2005 funding forecast, industrial R&D spending will increase only 1.9 percent above last year, to an estimated $191 billion, which is less than the expected rate of inflation of 2.5 percent. For the fifth year in a row, industrial R&D spending growth has been essentially flat.

It is also important to recognize that many of our foreign competitors are offering permanent and generous incentives to firms that attract research dollars to those countries.

A 2001 study by the Organization of Economic Cooperation and Development, OECD, ranked the United States ninth behind other nations in terms of its incentives for business R&D spending. Countries that provide more generous R&D incentives include Spain, Canada, Portugal, Austria, Australia, Netherlands, France, and Korea.

The United Kingdom was added to this list in 2002 when it further expanded its existing R&D incentives program. The continued absence of a long-term U.S. Government R&D policy that encourages U.S.-based R&D will undermine the ability of American companies to remain competitive in U.S. and foreign markets. This disparity could limit U.S. competitiveness relative to its trading partners in the long run.

Also, U.S. workers who are engaged in R&D activities currently benefit from some of the most intellectually stimulating, high-paying, high-skilled jobs in the economy.

My own State of Montana is an excellent example of this economic activity. During the 1990s, about 400 establishments provided high-technology services, at an average wage of about $35,000 per year. These jobs paid nearly 80 percent more than the average private sector wage of less than $20,000 per year during the same year.

Many of these jobs would never have been created without the assistance of the R&D credit.

While there may not be an immediate rush to move all projects and jobs offshore, there has been movement at the margins on those projects that are most cost-sensitive. Once those projects and jobs are gone, it will be many years before companies will have any incentive to bring them back to the United States.

We continue to grapple with the need to stimulate economic growth and advance policies that represent solid long-term investments that will reap benefits for many years to come. I repeatedly have pointed to the R&D tax credit as a measure that gives us a good ''bang for our buck.'' I hope my colleagues will join me in supporting a 2-year extension. It is good for American businesses and workers, and we need it to maintain our global competitive edge.

Mr. President, I take a few moments to talk about the schedule for the rest of the day. The majority leader will be coming to the floor momentarily. Obviously, he will give a better idea of the schedule.

I expect sometime before 11 o'clock this morning the majority leader will come to the floor to offer the Senate substitute in a Grassley-Baucus perfecting amendment. I understand the majority then will fill the amendment tree—that is, offer amendments to fill up the tree—preventing the offering of amendments this morning. However, Senators on this side of the aisle will be able to offer their amendments. It is just a question of when they can offer amendments.

Later in the day Members can offer amendments. It is the managers' expectation Senators will have used or yielded all time back on the bill at 2:15 and we will begin a series of votes that regularly follow debate time on the reconciliation bill; that is, the so-called vote-arama. Roughly at 2:15 we begin the vote-arama. As Senators offer the amendments, at that point we will vote on the amendments. I am hopeful we will have a couple minutes' time for an explanation as to what the amendments actually are. That is the procedure.

I discussed the order of amendments to be offered with the Democrat leader, and I have discussed the order with the chairman of the Committee on Finance. Shortly, I will announce the plans for the first 10 amendments the Democrat Senators will offer.

Those first 10 amendments in this order are as follows: an amendment by Senator BINGAMAN on prescription drug implementation; next is an amendment by Senator MENENDEZ, AMT dividends and capital gains, which is germane; third, a Rockefeller amendment on mine safety; fourth, an amendment by Senator CONRAD, he will offer the substitute amendment which is fully offset; fifth, an amendment by Senator KENNEDY which essentially is the R&D extension for 3 years, and that will be germane; sixth, an amendment by Senator OBAMA with respect to Katrina child tax credit; next, seventh, an amendment by Senator CANTWELL dealing with energy taxes; and No. 8, an amendment by Senator SCHUMER which is a sense of the Senate on AMT; ninth, an amendment by Senator HARKIN with respect to so-called PEP and Pease provisions and dependent care credit; and tenth is an amendment by Senator LANDRIEU for expansion of the low-income housing tax credit. She wants to expand the tax credit.

There will be other amendments later. I am hopeful the additional Democrat amendments can be 10, 12, 14, but I am not sure. I don't want to prejudge that. These are the first 10. We will indicate what the others will be.

This is our intention of how to proceed. My expectation is the other side of the aisle will offer amendments. We will work with the chairman of the committee and go back and forth at the appropriate time.

That is the general procedure we have in mind. It is not locked in, but that is the general procedure in consultation with the chairman of the committee that we would like to work out. Senators from the other side of the aisle will want to offer their amendments. It will be the managers' intention to alternate between both sides of the aisle. We will seek to obtain copies of amendments and announce information on them as soon as possible.

Obviously, if Senators get information on the amendments to us quickly, the more likely we get the amendments up earlier rather than later.

With those caveats, those are the first 10 amendments we expect to be offered. Pending that, the majority leader is in the Senate. I am sure he wants to make a statement.

I yield the floor.

The PRESIDING OFFICER. The Senate majority leader is recognized.

Mr. FRIST. Mr. President, I have been talking to the ranking member before coming to the floor. I think he explained generally what will take place. I will comment on it after completion of procedural requests.

AMENDMENT NO. 2707

(Purpose: To provide a substitute amendment)

Mr. President, I send a substitute amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2707.

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

Mr. FRIST. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. I now ask that notwithstanding the Budget Act, it be in order

for me to send additional amendments and motions to the desk with all the statutory debate time on each amendment or motion still reserved.

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

AMENDMENT NO. 2708 TO AMENDMENT NO. 2707

(Purpose: To provide a substitute amendment)

Mr. FRIST. I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2708 to amendment No. 2707.

(The amendment is printed in Today's RECORD under ''Text of Amendments.'')

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2709 TO AMENDMENT NO. 2708

Mr. FRIST. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 2709 to amendment No. 2708.

The amendment is as follows:

At the end of the amendment add the following:

''This section shall become effective 1 day after enactment.''

MOTION TO COMMIT

Mr. FRIST. I move to commit the pending bill, and I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to commit the pending bill to the Committee on Finance, with instructions to report back forthwith, with an amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2710

(Purpose: To provide a substitute amendment)

Mr. FRIST. I send an amendment to the instructions to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. GRASSLEY and Mr. BAUCUS, proposes an amendment numbered 2710 to the instructions on the motion to commit.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2711 TO AMENDMENT NO. 2710

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. TALENT, proposes an amendment numbered 2711 to amendment No. 2710.

The amendment is as follows:

(Purpose: To repeal the sunset of the provisions in EGTRRA relating to the child tax credit)

At the end of the amendment add the following:

SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

Mr. FRIST. Mr. President, as a continuation of the explanation, it has not been my preference to file these amendments, but we have tried over the last couple of days to bring a semblance of order so we can complete the activity that is in the Senate. It was November when we first passed this bill. The House passed a bill. Under the usual circumstances, with unanimous consent, we marry the two bills and it goes to conference.

We are spending these 20 hours, and we have had good debate over the course of yesterday and this morning. But we have been unable to get unanimous consent to have a list of these amendments with language which would allow our chairman and ranking member to begin voting on those amendments. Thus, what will happen today is, as the ranking member explained, time will expire sometime around 2:15 today. I don't know the exact time. After that, there will be a series of rollcall votes. The rollcall votes begin with the Talent amendment, which is the pending amendment. After that, others will have the opportunity to offer amendments, and they would be voted on accordingly.

I do encourage all of our colleagues to work with the chairman and ranking member, the managers of the bill, so we can have an orderly process and we can stick with amendments that are pertinent and relative to the underlying bill. It means if we work aggressively but work collaboratively over the course of the day we will start voting early this afternoon. We will be voting until we finish this particular bill.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I am sorry to have been late. Are we going to finish these votes today, tonight?

Mr. FRIST. Mr. President, through the Chair, in response, I certainly hope so. I believe we are in a position to do so, but it depends on how many amendments we have. Once we start voting, we will keep the amendments very tight. Both the Democrat leader and I said we hoped it would not come to this point to have a vote-arama, but that is what it will be. I believe we can finish it tonight. The only hesitation is how much cooperation we get from our side of the aisle and your side of the aisle. If we do not finish tonight, we will continue tomorrow until we complete the legislation.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, if it is helpful to all Senators, especially the Senator from Tennessee and the Senator from Nevada, we have a total of about 20 amendments on this side. I don't know how many are on the other side, but I guess maybe we could finish by around 7 o'clock or 8 o'clock tonight. That is a rough estimate. Maybe earlier.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, I appreciate the positive tone of voice of my distinguished friend from Montana, but if we have 20 votes—and that is on our side—and there are second-degree amendments to those, and amendments offered on the other side, we are talking about a long night. The best we can do, no matter how hard we try, is three, three and a half amendments an hour. So we are talking about, if we start at 2 o'clock, a lot of hours.

I appreciate everyone being confident we will do this. And we will certainly cooperate any way we can. And, as happens, there may be Members who decide not to offer their amendments. That is always a possibility. We will do the best we can. It may be necessary to alert Senators that there may be work tomorrow. The distinguished majority leader is in the Senate, but it is very likely we may not be able to finish all these votes—well, maybe not ''very likely''—but it is certainly possible we may not be able to finish the votes tonight.

Mr. FRIST. Mr. President, I have made it clear from the outset we need to finish this legislation this week. Friday is a working day, as we all know. If we have to be here, we will do that. On the other hand, once people understand where we are and that we do not actually have to be doing this, people will step back and be reasonable in terms of the number of amendments, making sure they are amendments relative to the underlying bill.

The managers will do this later, but Members need to be clear these are 10-minute votes, as well.

I yield the floor.

Mr. BAUCUS. Mr. President, I don't see any Member wishing to speak at this moment.

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. 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 rise to make an opposite point of view and critical comments on a statement that was made yesterday by the Senator from North Dakota, Mr. DORGAN. Once again, he made a very impassioned case, and everybody who hears him knows he presents his case very well. He made an impassioned case for American workers whose jobs have been lost when plants move overseas.

We have all witnessed this heart-wrenching event. I know even in my home State of Iowa we have had plant closings for that reason. Some of those operations have been moved out of the United States. But as far as Iowans are concerned, let me remind you this has been a phenomenon of plants moving from Iowa to other places for a long time, before we ever heard the word ''outsourcing.''

I remind my colleagues I was a member of the International Association of Machinists at a sheet metal factory, the Waterloo Register in the town of Cedar Falls, IA. We made furnace registers. I started working there in 1961, when I was a young member of the Iowa Legislature, to supplement the income of a citizen legislator, and also to supplement the income of a young farmer getting started at that time because I was only farming 80 acres at that time. Even in 1961, you could not make a living farming 80 areas. You could not make a living getting $3,000 every other year being an Iowa legislator. So I became a factory worker.

At about 1971, the people who owned our company decided people in Texas would work for less money than people in Waterloo, IA, so they moved the plant to Texas. Our job was shut down. Our job was lost. The outsourcing was not to China, it was to Texas. I presume that 25 years later there were jobs that moved from Iowa to Texas that eventually moved to Mexico, and then it was not long Mexico was losing jobs from Mexico to China. Now we hear about jobs moving from China to someplace else, where somebody is going to work someplace else for a lower wage. I guess when you have a planet of 6.5 billion people, and people want to eat, they want jobs, somebody is going to seek that work and do it. So I believe I have been a victim of outsourcing not to China but to Texas. But it is still a problem today, and it is one for which we have to have sympathy.

Senator DORGAN, obviously, presents a great case for those people. But I want people to know I have lived through that and know what it is like when I am commenting because I do not want people to think I am unsympathetic to outsourcing. But I think we have to recognize the economic facts of life, whether it is my job at the Waterloo Register in Cedar Falls, IA, or whether it was 250 years ago when manufacturing jobs left Great Britain to come to the Colonies in the United States of America.

Now, I want to say, unfortunately, Senator DORGAN's amendment—if it is the same one we saw in 2004. And you can tell from the debate that we just had that we do not have the language on these amendments, and we are begging for them. Anybody who believes in transparency of Government ought to get these amendments out here. There is no reason to be secretive about the people's business because everybody is watching us right here on television. We are not trying to hide anything. So we need to see those amendments.

But the point is, if it is like the amendment in 2004, that amendment will not do one thing to bring jobs back to America. In fact, it could very well cost even more U.S. jobs. I would like to explain, then, why I come to this conclusion.

This amendment, if it is similar, repeals deferral for property imported into the United States by a foreign subsidiary of a U.S. company, without regard to whether that property was ever previously produced, manufactured, or grown in the United States.

This means the amendment by Senator DORGAN fails to focus on their primary complaint that U.S. companies are shutting their plants, moving production offshore, and selling back into the United States. The bill does not focus on this scenario. Instead, it overshoots the mark by hitting all goods sold into America by U.S. companies, even if it is impossible for those goods to be produced in America.

For example, if a produce company sets up a banana farm in Costa Rica to import bananas into the United States and around the world, the income from sales to the United States is not eligible for deferral. I may be mistaken on this point, but I am not aware of too many banana farms in Texas or Florida, so I do not see how allowing a banana farm in Costa Rica is going to cost U.S. jobs.

Similarly, if a U.S. company wanted to start a mining operation in some faraway land to extract a new and exotic mineral that is not found at home, they could see that anywhere in the world, but they cannot import that back into the United States without triggering the impact of this amendment.

Or let's look at coffee. We have a lot of coffee shops on our streets these days. If they set up their own coffee plantation in Brazil, they would be hit by the Dorgan amendment. I think we only raise coffee in one State in the United States, and maybe they do not do that in Hawaii anymore. But there is not much coffee raised in the United States. We sure do not raise it in my State of Iowa.

Our friends from New York and New Jersey ought to consider the effects of this amendment on Puerto Rican residents who work in plants owned by subsidiaries of U.S. companies. Many of the U.S. multinationals have manufacturing subsidiaries in Puerto Rico that import products into the U.S. market. Since our Tax Code treats Puerto Rican corporations like foreign corporations, this amendment would hit those companies very hard. But it would not hit their foreign-owned competitors who sell into the United States.

It seems Senator DORGAN's amendment would allow a U.S. company to sell a foreign-produced good to anyone in the world except Americans, but it would allow a foreign-based company to sell those same goods to Americans. When you stop to think about looking out for the benefit of Americans, this does not make any sense.

I have described how the bill would operate, but I do not think this is the intent of the legislation. What I believe is intended is that deferral should be denied if a company closes a U.S. plant, produces the goods offshore, and then imports the goods back into the United States.

This does not actually happen very often. We have had this debate before. The last time I spoke on this issue was when we were debating the JOBS bill back in 2004. I do not think much has changed since then.

At that time, the latest Department of Commerce data on U.S. multinationals showed that only 7 percent of foreign subsidiary sales were into the United States—only 7 percent.

Nevertheless, this amendment insists that the rule of ''deferral'' in our tax law is somehow a ''tax benefit'' that moves jobs offshore and allows you to not pay taxes on foreign income. This is not true, of course. Deferral has nothing to do with moving jobs, and it never forgives taxes that are owed on foreign profits of U.S. companies.

Many U.S. companies, however, choose to reinvest their foreign earnings in foreign markets, and so the U.S. tax on those earnings is, then, indefinitely deferred.

As Senator DORGAN noted, the JOBS bill, that we call the American Jobs Creation Act of 2004, did contain a provision that provided U.S. multinationals a temporary ability to receive dividends from their foreign subsidiaries at a reduced tax rate. Now, it is important to note that companies could only avail themselves of this reduced rate on an amount of earnings they identified in SEC filings as ''permanently reinvested.'' That is a legal term, which means they had no intention of bringing that money back to the United States.

Senator DORGAN's characterization of that provision is misleading, and I would say in two ways. First, Senator DORGAN calls the repatriation provision a tax cut of over $100 billion. To arrive at that huge number, the Senator's calculation must assume these companies would have brought close to $340 billion of their foreign earnings home in the absence of the repatriation provision of the JOBS bill.

Now, the fact is—and I get this from scoring by the nonpartisan Joint Committee on Taxation—this provision has a cost to the Treasury of not $100 billion but $1.9 billion over 5 years and $3.3 billion over 10 years; and it actually scored as a revenue raiser in the first year of $2.8 billion.

Now, I plan on looking at the actual results of this repatriation provision when all the facts are in, after the fact. You are kind of guessing before you pass a bill. But after it has operated for a couple years, then you get a chance to get a real look at it. So we are going to look at this repatriation provision. But the Joint Committee on Taxation must have scored this provision as a raiser in year 1, and a relatively small cost over 5 and 10 years, because 5.25 percent of a large amount that was repatriated is a lot more than 35 percent of a much smaller amount that would have been repatriated otherwise.

In other words, it is not as much money coming back into this country, and if it does not come back here, it is not taxed.

I am not here to defend the repatriation provision or those companies that laid off workers or took advantage of the repatriation provision. I am just as troubled by those announcements as Senator DORGAN. I am simply pointing out that Senator DORGAN's characterization of that provision as a $100 billion tax cut is extremely misleading.

Second, Senator DORGAN talks as if the repatriation provision was the cornerstone of the American Jobs Creation Act, and it was kind of an appendage. In fact, the repatriation provision was a very small part of the bill. One of the key pieces of the JOBS bill was the manufacturing deduction which does actually give a tax break for companies that manufacture, leaving jobs here or creating jobs here. The Joint Committee on Taxation scored this provision as a cost to the Treasury of $76 billion over a 10-year period. That is, in fact, a tax cut, and it is a tax cut that will maintain jobs in America and will create jobs because one of the problems for American corporations compared to international competition is the high tax rate that we have on corporations compared to a lot of other countries. Those other countries are waking up. Just look at Ireland, look at Europe, what we are talking about doing now—sometimes through the European Union, sometimes through individual countries. They are seeing great advantage by reducing the corporate tax rate in their respective countries.

Two years ago, we thought we had moved ahead of them. Now they are following suit. We may have to go back and look at our corporate tax to find out if we are going to continue to be noncompetitive.

I would like to go back to the deferral issue. The rule of deferral exists to keep U.S. companies competitive in the global marketplace. Deferral is not something new. It has been in our tax laws since 1918. We have debated the rule of deferral on several occasions, and we will no doubt continue to do so when we debate tax reform proposals.

Opponents of deferral too often make wild accusations about how this rule, which has been in place since 1918, spells doom for the American worker. Of course, none of this is true. In fact, just the opposite is true because we must always be vigilant about enhancing international competitiveness for our U.S. companies. Hence, deferral ensures an ever-growing base of opportunity for U.S. companies and, more importantly, their employees at home and abroad.

U.S. multinationals are a critical component of our economy. These companies operate in virtually every industry and, the last time I checked, have investments of more than $13 trillion in facilities located within the United States. As employers, they provided 23.5 million jobs for Americans in the year 2001. That was nearly 18 percent of the payroll jobs in the United States. They had a payroll of $1.1 trillion. When you go back to this debate we had in the year 2004, I noted at that time that the U.S. multinationals created more than 53 percent of the manufacturing jobs in America and employed more than two U.S. employees for every foreign worker. Those were the latest years for which I had figures, but I have no reason to believe it is different today.

During the 10 years from 1991 to 2001, U.S. multinationals increased domestic employment at a faster rate than the overall economy. A recent study confirms that U.S. multinationals are significant job creators, and those jobs are not created through ''exporting'' jobs to foreign nations with low-labor and low-tax costs, as Senator DORGAN contends. The Department of Commerce data shows that the bulk of the U.S. investment abroad occurs in high-income, high-wage countries.

Again, referring to the year 2001, 79 percent of foreign assets and 67 percent of foreign employment of U.S. multinationals were located in high-income, developed nations such as Australia, Canada, Hong Kong, Japan, New Zealand, Singapore, South Africa, and the countries of the European Union. We have to remember a very simple maxim for why companies go into foreign markets: 4 percent of the people in the world live in the United States. If you want to create jobs in America and you just want to sell to that 4 percent, you are going to have a very limited market. Whether you are in agriculture, like I and my son and grandson are, selling corn and soybeans overseas, or whether you are manufacturing John Deere tractors, whatever you are manufacturing, if you want prosperity, you go where the market is. That is the 96 percent of the people who don't live in the United States.

Again, referring to that debate on the JOBS bill in 2004, fully 95 percent of the world's population and 80 percent of its purchasing power—so the only new thing I am giving is not that 96 percent of the people live outside of the United States, but 80 percent of its purchasing power—is located outside the United States. Foreign sales growth has outstripped domestic sales growth. So our companies are taking advantage of selling to the rest of the world. This increased growth requires increased employment wherever you can find it. The good news is that foreign growth also results in U.S. job growth.

A recent study confirmed that during the 10 years from 1991 through 2001, for every one job that U.S. multinationals created abroad, they created nearly two U.S. jobs in their parent corporations. That is why it is critical to our economy that U.S. companies remain competitive in the international marketplace.

I would like to review a more rational explanation of deferral and how it works to keep our U.S. companies competitive. The United States taxes all of the worldwide income of its citizens and corporations. The U.S. income tax applies to all domestic and foreign earnings of U.S. companies. The United States fully taxes income earned overseas by foreign subsidiaries of U.S. companies. However, many foreign countries tax their companies on a territorial basis, meaning that they only tax income earned within their country's borders and don't impose tax on the earnings of foreign subsidiaries. Major countries using this territorial system of corporate taxation are Australia, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Luxembourg, Netherlands, Sweden, and Switzerland. A company from one of these countries that uses the territorial tax system has great advantage over U.S. companies.

For example, a U.S. company with a Singapore subsidiary will pay U.S. tax and Singapore tax on the subsidiary's income. A French company with a Singapore subsidiary will pay Singapore tax but no French tax. This means that a U.S. company in Singapore has a higher tax burden than a French company in Singapore. Two basic tax rules answer this problem and seek to put U.S. companies on a level playing field with foreign competitors from territorial countries. The first rule says that when foreign income is brought home, the U.S. allows a reduction against U.S. tax for any foreign taxes paid on that income. The foreign tax credit prevents the U.S. from double-taxing foreign earnings which would make our companies noncompetitive in the international marketplace. And like deferral, this has been in the tax law since 1918.

The foreign tax credit, however, is limited. It may only offset the U.S. tax on that income which is currently imposed at a 35-percent rate. If the foreign tax rate is higher, the credit stops at 35 percent. If the credit is lower, say 10 percent, then additional U.S. taxes

will be owed up to the full 35 percent. In this example, an additional 25 percent of the taxes would be owed to the United States, which is the difference between the 10 percent and 35 percent of the U.S. rate.

The second basic tax rule is that U.S. companies are allowed to defer U.S. tax on income from the active business operation of a foreign subsidiary until that income is brought back into this country, usually in the form of dividends paid to the U.S. parent. This is referred to as the rule of deferral, meaning that the U.S. tax is deferred until the earnings are brought back. This is the rule the Dorgan amendment attacks.

It is important to note that deferral is not the forgiveness of tax. It simply means that we impose the full U.S. tax when foreign earnings are repatriated to the United States instead of doing it the very day of earning. The reason that we defer tax on active business operations is so that U.S. companies can remain competitive with foreign companies that have a different system of taxation than what we have. I am referring to what I called the territorial tax. We don't defer tax on passive activities like setting up an offshore bank account or other passive investments. We tax passive activities yearly. But active operations are subject to competitive disadvantage.

For example, if we impose U.S. tax today on the profits of a Singapore subsidiary, then the U.S. company will pay a 35-percent tax in the United States, net of any Singapore taxes, but that French competitor located right next door in Singapore will pay only the Singapore tax. If the Singapore tax rate is less than 35 percent, which is the U.S. tax rate, then the French competitor will have a tax advantage. Who wants to give any advantage to a French competitor? This is because the United States allows a foreign tax credit to offset the U.S. income tax imposed on those foreign earnings but only up to the 35 percent U.S. corporate rate.

If the foreign rate is less than the U.S. 35 percent rate, then residual U.S. taxes are owed on the difference between the U.S. tax rate and the foreign rate. For example, if a Singapore tax is 15 percent and the U.S. tax is 35 percent, then the United States will impose an additional 20 percent on those Singapore earnings. The French company, however, would only pay the 15 percent Singapore tax. If we did not allow deferral on that additional 20 percent of tax, then the U.S. company today would have a 20-percent tax disadvantage compared to the French company.

The question on repealing deferral is whether we want to hand over the world market to companies from France and Germany and other countries that have a different system of taxation than we have, called the territorial system. Repealing deferral means that we export our high U.S. tax rates to U.S. corporations around the globe. The United States has one of the highest corporate tax rates in the world. There are few countries with rates higher than the United States. This means that without deferral, U.S. companies will be at a continual worldwide disadvantage compared to their foreign competitors.

That is why we defer U.S. tax on active business operations, so that U.S. companies can be competitive in the global marketplace.

Some Senators have proposed repealing deferral or cutting back on it, as Senator DORGAN's amendment would do. These proposals would export the high U.S. tax rate to U.S. operations around the world. That would be fine if all companies around the world were paying the high U.S. tax rate, but, as I have said so many times, they are not. We have one of the highest corporate tax rates in the world. Companies of foreign countries are not subject to our tax laws and are usually taxed at lower rates. This all brings us back to the implications of Senator DORGAN's proposal. It would enhance the competitive advantage of foreign-owned multinationals over U.S. multinationals.

Our focus in considering this amendment must be on the ability of American companies to compete within the United States as well as in foreign markets if we want to maintain and create jobs in America. The issue is not whether we tax foreign earnings currently but whether we cede the U.S. market to foreign competition.

The Dorgan amendment will increase taxes on U.S. companies, but their foreign competitors in the U.S. will not face a similar tax increase. This can lead to a loss of domestic market share, or even if market share is maintained, losses may be incurred on domestic sales because of pricing pressures and uncompetitive margins created by the additional tax burden.

No one is happy when companies move abroad to a tax haven to avoid U.S. tax. But let me tell you another side effect of the proposal to eliminate and cut back on deferrals. In the American Jobs Creation Act of 2004—that bill I always referred to as the JOBS bill—we enacted a provision that prevents corporate inversion, where a company would pretend to move its corporate headquarters to Bermuda, to a simple post office box there, and do it not because they are going to do anything productive there but for the sole purpose of avoiding U.S. taxes. Many U.S. multinationals complained that inversions were necessitated by an inability to compete with foreign-owned multinationals that aren't subject to the higher U.S. tax rate.

We should be proud, then, that we shut down those inversions, those shell corporations, those postal box corporations which do nothing over there except go there to avoid tax and then make the situation even worse for honest corporate taxpayers in America that are paying the tax into the Federal Treasury. But in the process of doing that, we didn't do it at the expense of repealing deferral. Now that we have shut down inversions, if we repeal deferrals, or significantly cut back on them, the only other alternative that would be available to U.S. multinationals would be to sell themselves to foreign companies or to be taken over by a foreign company in a possible hostile takeover. If we prevent U.S. companies from deferring their foreign profits, we will see more and more U.S. multinationals being bought out by foreign-owned multinationals. Tax changes have consequences.

Increasing taxes on U.S. multinationals will not bring jobs back to America. You only pay taxes if the company is profitable, and you only stay profitable as long as you remain competitive. But in the United States, taxes are 35 percent cost-to-profit, and that is where a competitiveness disadvantage can occur when a U.S. company is competing against foreign companies that will not incur this tax increase.

Senator BAUCUS and I held hearings a couple years ago regarding the effects of the international competition within the United States, so we as leaders of the Finance Committee are very familiar with the effects of these kinds of rate differentials.

I think a quote by Joseph Guttentag, international tax counsel of the Clinton administration, during testimony before the Finance Committee in July of 1995 is a very good place to end this debate. So I end with this quote:

> Current U.S. tax policy generally strikes a reasonable balance between deferral and current taxation in order to ensure that our tax laws do not interfere with the ability of our companies to be competitive with their foreign-based counterparts.

Now, if that position just expressed by Joseph Guttentag, international tax counsel in the Clinton administration, the last Democratic administration, testifying before a Republican Congress, isn't good enough evidence that the route Senator DORGAN wants to go is the wrong route and a route contrary to previous leaders of his own party, then I don't know what will be evidence that this position is going to make American companies uncompetitive, not go to the marketplace of the other 96 percent of the consumers around the world outside the United States, and consequently creating jobs in the United States, and I don't know what it takes to convince him that position is a wrong position for the United States and is so different than what we have traditionally had for the Tax Code since 1918. When I say 1918, that goes back almost to the beginning of the income tax in the United States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, it is sort of with mixed emotions that I am

here on the floor to talk about this tax bill. In one sense, I am very happy we are moving forward with the Tax Increase Protection Act. At the same time, I am at somewhat of a loss as to why we are spending 2, 3, and maybe more days of the Senate's time for something that is traditionally done when there is comity and cooperativeness in the Senate by unanimous consent, putting in a substitute Senate-passed bill for the House bill and go to conference. That is something we do routinely here, almost daily. We have disagreements with the House, and we simply go through the procedure of moving to conference and having those differences worked out.

Unfortunately, we are at a time here where even routine things become weeklong labors to accomplish them. That does not reflect well on the Senate. I don't believe it accomplishes anything other than to delay other matters that are to come before the Senate.

We have a very important bill dealing with an issue that is of vital importance to my State—many manufacturing jobs in my State—and that is the asbestos debacle going on throughout the courts in this country where over half of the money paid out by corporations in asbestos claims has gone to lawyers. There are many people in the Commonwealth of Pennsylvania who are literally getting pennies—people who are sick and some are dying and some have died, and they have received literally pennies for their exposure to asbestos and their subsequent disease because of the horrific environment of litigation on asbestos, where lawyers are profiting and patients—those who are sick or are survivors of those who have gotten ill and died—get virtually nothing. This is something we have to address.

Instead of addressing that, which is what we should be doing right now, we are holding up the Senate on a procedural matter. It is truly sad that we can no longer just cooperate on the normal business. Everything is obstruction and slowdown and political potshots and making points. I think that is unfortunate for this body. It sets a very dangerous precedent that we are going to conduct business like this in the future. Whether it is in the next election or elections in the future, at some point in time, the tables will turn. I believe what we are establishing today is not something that will be beneficial for the long term in our ability to get things done in the Senate.

While the chairman is still on the Senate floor, I thank him again. I am repeating this because we are doing the same bill. I thank him for all the hard work he has put into this bill. The fact that he was able to get a bipartisan bill through the Senate is a testament to him, and I know it is very difficult and trying, negotiating within our own conference as well as negotiating with Members on the other side of the aisle. He was able to, as he has done on many occasions, cut through all of the difficulty and partisanship and the angst some Members have about various provisions and find a good middle ground, and well over 60 Members of the Senate supported the Senate bill that passed in November. I thank him for his good work and for the work he has done with me, in particular, on the issue of helping the nonprofit sector in our society meet the needs of those.

We were at the prayer breakfast this morning, and Senator GRASSLEY was there. We heard Bono and the President talk about taking care of the least of our brothers and sisters. The President says it so well. I have been advocating so long that nobody really does it better than our faith-based communities and our community nonprofits. They are the ones on the front line. We talked about it at the prayer breakfast—whether it is responding to a natural disaster or, more often and less prominently, responding to a person in need in our communities across America, rich as well as poor, people in need who are suffering.

It is important that we recognize that portion of this bill has to be a net plus for our charitable community. There are provisions in there that I have expressed concerns about which would do damage to those nonprofits' ability to be able to provide the needed services and to do the good works in our communities that make America stronger.

We have some good charitable-giving incentives, which are a big plus, but we also have charitable reforms on which I worked with the chairman. I think that maybe we are 90 percent of the way there, making sure we weed out some bad practices and making sure there isn't abuse within the charitable field, but at the same time not saddling our charities with a Sarbanes-Oxley type of oversight and regulations that would drive a lot of our small volunteer-oriented nonprofits out of existence and leave a big hole in our communities across America.

I am hopeful that when we get to the House and into conference, Chairman THOMAS will work with us and we will be able to get a bill that will be not only a net plus but a big plus for the armies of compassion, the foot soldiers across America who are helping men and women in need and children in need in our society.

A big part of this bill, obviously, is the tax relief. It is not exactly what I had hoped for. It is one of those compromises we had to make along the way. I thought the House bill actually had some better provisions when it comes to some of the tax provisions. It continues on a policy that has resulted in a lot of positive economic news over the past several years since 2003. We have seen that by these changes in the Tax Code and reducing marginal rates and capital gains taxes and dividends, it has incentivized the entrepreneurial spirit and incentivized business investment; it has created an explosion of growth in this country, which has also resulted in millions of people getting jobs—net new jobs across America.

I have a chart that shows, since the Jobs and Growth Act of May of 2003, and looking at the real GDP growth in America, there is a dramatic tilting upward since these provisions were passed. That has resulted in a dramatic increase, as we have seen on some other charts, in Federal revenues.

There is a constant complaint, a drumbeat on the other side of the aisle, and from a few on this side of the aisle, that somehow we cannot afford these tax reductions.

It is interesting; if you think of tax reductions, that leaves the question, What is a tax reduction? What is a tax reduction? Is a tax reduction a reduction in the taxes paid; or is it a reduction in the rate of the tax paid? What is a tax reduction?

Depending on how you view a tax reduction—and the answer is different based on what we did—if you look at, Did we reduce taxes, the answer is, with respect to rates, yes, we reduced taxes; we reduced the capital gains dividend rates, the marginal tax rates. We reduced the rates on the taxation of married couples and in several other areas. So, yes, we reduced the rate of tax.

The question is, Did we reduce the collection of taxes? What should Congress be more concerned about? Should we be more concerned about the rates of taxes or should we be more concerned about the collection of tax revenues?

I would think most people, when we have cut taxes, would say we reduced the collection of taxes in America. That is not what happened. When we reduced the rate of taxes, when we cut taxes, we actually didn't cut taxes. We actually increased the flow of revenue to the Federal Government.

So if we are looking at it from the standpoint of the budgeteers, the folks who are responsible for managing the receipts and distributions of Government, then the actions taken by the Congress in 2001 and 2003 resulted in increased taxes paid to the Federal Government through a policy that believes in the innovation and the energy of the people, that if you unshackle them from higher tax rates, they will produce more, they will create more jobs—and job growth has been terrific, over 2 million jobs, and the unemployment rate has been under 5 percent—and we end up with a better quality of life, more revenue to the Federal Government, and higher growth rates overall in our economy.

That is a pretty good picture. So why the complaints? Why are people so upset that we actually put a program in place that has resulted in more revenues coming to the Federal Government? Why the complaints? Why the gnashing of teeth that somehow this is a policy that is harmful to the budget deficit? Revenues were up 14 percent last year. How is that harmful to the budget deficit?

They say: That would have happened; in fact, we would have gotten more money had we not reduced taxes. Is that true? Let's look at the capital gains issue.

The Congressional Budget Office estimated in 2003 that we would collect roughly $125 billion in the year 2004 and 2005 in capital gains taxes. We went ahead and reduced the capital gains tax rate. Many of us stood on the floor and said, by reducing that rate, we will actually get more revenues. The Congressional Budget Office said ''no,'' everybody on the other side said ''no,'' and, in fact, everybody on the other side still said ''no'' and still says we shouldn't keep those rates low, we have to increase those rates because we need the money.

How did it work out? What happened when we reduced those rates? Did we get, as the Congressional Budget Office suggested, $26 billion less money? And that is what they projected. They projected in 2004 and 2005 that the amount of money coming into the Treasury in capital gains taxes paid would go down by $26 billion. What happened? Now we know. The amount of revenue collected in capital gains taxes went up $27 billion.

I was talking to a reporter the other day. I said: Lo and behold, I voted for a tax increase and didn't even know it. I voted for a provision that actually increased taxes to the Federal Government, and the folks who paid those taxes were very happy to pay them, by the way, because they were investing in America and America's values were increasing. Stock in America, real estate in America, the things that made wealth in America were increasing because of a growing economy because of what we did on the floor of the Senate, and they were very happy to have paid those taxes. And we got more Federal revenues.

What does the other side want to do? They want to have that rate go back up. One might suggest that if the rate goes back up, revenues could do down. What could be their motivation? What is the motivation of trying to increase a tax to get less revenue? Think about it. What could be the possible motivation of coming to the floor of the Senate and saying we need to increase taxes, even though by doing so we are going to get less money. Why would you do that? From a public policy perspective, why would you want to do that?

I can tell you that the argument is given that we need it to balance the budget. Wait a minute. We are going to get less money, so why would you do it? Could it be something of the whole politics of envy, the politics of pointing the finger at those who are successful, get a paycheck, and invest in America and say we need to tax them more; that is the fairness issue? We hear that a lot on the floor of the Senate: It is about fairness. That is what it is about? Stick it to those who succeeded, invested, purchased real estate, purchased stocks and bonds; we are going to take a bigger chunk of their money because that is fair. We may get less revenue, we may get slower economic growth, fewer jobs will be created, but we will feel better.

That is not sound public policy. That is not in the best interest of the American people. We did not get in the Senate bill a reduction of capital gains tax rate extension for 2 more years, but I will tell you that we will work very hard in the conference to make sure that happens. It is important for the economic growth of our country, for the job creation in our country, and for Federal revenues that we get that extension in law.

There are a lot of games being played on the floor of the Senate when it comes to tax policy and the politics of envy. What we should be focused on is how does this Senate, how does this Government create the best environment for growth opportunity and job creation and how do we do it in a way that is fiscally responsible. Those are the two things on which we should be focusing.

I would make the argument that the bill before us, which prevents an increase in taxes—these are tax policies that are in place right now; there is no new policy or, I should say, very minor, little new policy changes, such as the charitable giving incentives, but very small policy changes, a very small percentage of the money. The overall bill deals with provisions such as the alternative minimum tax, which is vitally important and the small saver's credit, which is important. About a quarter of a million people in my State strongly support that provision, in fact, would strongly support increased incentives for low-income individuals to save and, in fact, put forth a bill with former Senator Corzine to do that. So I am looking for another new cosponsor if anybody wants to join. It is called a kid's account to give every child in America a nest egg to begin to save at their birth.

I am big on giving people the opportunity to save, invest, build wealth, and feel connected to the economy of this country. We need to do more of that. But we have a little piece of that here, which is important to the people in my State. Mr. President, 150,000 families and students in my State will lose their deduction for college tuition if we don't extend that provision. With regard to the teacher tax credit provision Senator COLLINS championed, 142,000 teachers in Pennsylvania will not be able to deduct that. We can go on and on.

These are preventions of tax increases, a tax reduction that caused the kind of economic growth we have seen. It is important for us to have these provisions stay in law.

Finally, I want to talk about an issue that has been brought up—and it is an important issue—and that is the issue of mine safety. I know Senator ROCKEFELLER has put forth an idea that I think deserves some consideration because it has merit. It provides mining companies with incentives to make available newer technology that will enhance safety.

We have seen over the last month in West Virginia and we saw, I guess, 3 years ago in Pennsylvania, mine disasters occur where human life was lost, in the cases of West Virginia, and certainly a major disaster was diverted in Quecreek in Pennsylvania.

This is a serious issue, one I care deeply about. My grandfather was a coal miner in a deep mine for 30 years, so this is very close to home for me. This is one issue we need to do something about, to improve the safety for those who literally risk their lives every day to provide for their families, to build strong communities, and to provide energy for all of us so these lights will work in the Chamber. We need to do all we can to improve enforcement as well as to create incentives for the mining community to improve safety at the workplace.

There is another provision in the Rockefeller bill that has to do with training for rescue teams. Because of the way it is written, I have some concerns about it. I heard from a lot of our small mining operations, family-run operations, that this provision would not benefit them at all.

As we know, a large percentage—at least in my State—a large percentage of the mine operations in my State are not big corporate mining operations. They are small, in some cases small corporations, family-run operations. So while I certainly strongly support the first provision and support the concept behind the second provision, I have serious concerns about the way that provision will tilt to the benefit of the larger mining operations.

While I support it and will support this amendment, I hope it is included and that we can work on something in conference to include improvement of mine safety, I am putting my marker down here that we will do so not to discriminate against small mines versus larger mining operations. If anything—if anything—we should be concerned about, as we do on a lot of issues in the Senate, helping the little guy, as opposed to helping the big guy because the big guys already have the resources to spend to provide for a safer workplace.

What we should be doing is focusing on how we can make smaller mining operations safer. That is not what this amendment that Senator ROCKEFELLER puts forward does. As a result of that, while I support it and will support the provision to be included in the conference, I put the marker down that we are going to work diligently to make sure it uniformly impacts across the industry and, if anything, it benefits the smaller mine operator as opposed to the bigger one. That is not the way it is currently drafted.

I completely understand. I don't think Senator ROCKEFELLER—at least I

hope he didn't go in there with the idea that we are going to favor one segment of the mining industry over the other. I hope that is not his intention. Whether it is his intention, I will certainly work with him to make sure it is a much more balanced provision when it comes out of conference.

With that, Mr. President, I thank the chairman for yielding the time to speak on this important bill. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. My friend from Iowa came to the floor to speak a bit this morning on a couple of subjects I spoke about yesterday. Let me again say I have very high regard for Senator GRASSLEY. We worked together on a good number of issues. I enjoy working with him. But there are times when you have disagreements on policy, and we certainly have that on an issue I am going to talk about. It is an issue he talked about this morning as well. Actually, there are a couple of tax issues.

Before I do, however, I want to just make a slight correction to the remarks that were made by the Senator from Pennsylvania a few minutes ago. I heard him say the Democrats were holding up this bill on, I guess—I think he said a technicality. I think he said it was a technicality. I think that was the impression he intended to leave, obstruct or holding this up on a technicality.

I guess the technicality is our interest in offering amendments. I know to some that is not a pleasant thing around here, to have people offer amendments and actually debate them and vote on them, but that is the way the system works. The reason there are not amendments offered—and I would try to offer one right now, but I would be unable to offer one—is because the majority party has done something that is called filling the tree. It is a parliamentary procedure to make sure every branch of this legislative tree is filled so that no one is allowed to offer an amendment.

For example, while this bill is on the floor, under the rules of the Senate, I should be able to offer an amendment. The majority party decided to fill the tree, as it is called, so no one on this side may offer an amendment. So when my colleague from Pennsylvania said the Democratic side of the aisle is using a technicality—whatever, I forget his term exactly—to hold this up, I am sorry that is not what is happening at all.

He made a point that I share. I think it would be great to work together. I think there ought to be less rancid partisanship and we ought to find ways to work together to do the Nation's business. We, after all, represent the same interests. We represent the interests of this country. I hope we represent the interests of the American people. I would like to find areas where we can work together.

In this case, however, let me just say there is no obstruction going on here. The only obstruction is we are obstructed from being able to offer an amendment which in ordinary circumstances the rules of the Senate would permit. I regret that. I wish the majority party would have allowed me. I would have offered the amendment yesterday, in fact, and I would offer it right now. I have an amendment to offer. I guess we will vote on it later because you will have to have a circumstance where we can offer the amendment. I suppose the purpose is to allow amendments to be offered when all time is expired so there is no debate that is allowed. I guess that is probably the purpose. But I did want to disabuse anyone of the notion left by my colleague from Pennsylvania that somehow it is this side that is hanging all of this up.

It may be inconvenient to have people offer amendments in the Senate, but there are a couple of hundred years of tradition of this inconvenience. The inconvenience is to be able to offer ideas, debate the ideas in the form of an amendment, and then have a vote, and the vote determines whether the idea that is offered represents public policy that the full Senate will accept.

Let me just respond to a couple of things my distinguished colleague from Iowa has said. Yesterday, I gave a presentation talking about something called deferral. I know most of these things sound like foreign language around here. Deferral of income tax obligations is what it is. If a company does business overseas, an American company does business overseas and earns income overseas, at some point when it brings those profits, that income back to our country, they will be required to pay an income tax to our country for the income they have earned. They will get a credit, actually, against taxes they paid to a foreign country so they will not be double-taxed. But when they repatriate that income, as it is called, they have to pay a tax.

My colleagues in the Congress, a sufficient number of colleagues who represent the majority, decided that they wanted to have a kind of little sweetheart deal for companies that would repatriate their earnings because many companies park their earnings for a long while overseas and don't bring them back. When they bring them back they have to pay the full tax rate. My colleagues said: Let's create new jobs in America by allowing these companies to bring their income back, and we will give them a special superdeal.

You have heard of blue light specials; this is the blue light special of all specials. It says you bring that money back from overseas, you get to pay not 35 percent, not 30 percent, not 25 percent, not 15 percent or 10 percent—which is the lowest income tax rate that is paid by the lowest income earner who has to pay income taxes—you get to pay a 5.25-income-tax rate. Who is the ''you''? The biggest companies in our country: Ford Motor, for one thing. I mention that because when they announced they are going to lay off 30,000, they also said: By the way, we picked up a quarter of a billion dollars of tax refunds under the Jobs Creation Act. Isn't that interesting? Ford Motor said in the same press release: We are going to lay off 30,000 workers in this country and, by the way, we were able to get a quarter of a billion dollars, a $250 million benefit from the jobs creation tax rate special benefit of 5.25 percent.

The whole purpose was to create jobs in our country and, at least in the most recent job announcement of 30,000 jobs lost, the very company that announces 30,000 jobs gone points out they got a quarter of billion dollars under this provision.

My colleagues seem to suggest the provision really does work, it is helpful. No, it doesn't work. It didn't work. By my calculation, the income that was parked overseas and at some point would have had to have been repatriated to this country, that income would have borne a tax that is about $104 billion more than what was paid under the 5.25 percent.

Is anybody going to have to answer to that? I don't know. Maybe not. Maybe nobody cares—$104 billion. You could reduce the Federal debt, reduce the annual budget deficit. You could probably provide some health care to people who do not have it, perhaps help some kids who are hungry, perhaps provide health care for kids who are sick, improve some classrooms in schools that need improvement—maybe there is a lot of things you could do. But $104 billion, that is a tax break given to the biggest corporations in this country who brought income back to our country and would have had to pay normal income tax rates but were told by this Congress that we are going to give you a superspecial deal that no other American taxpayer has: 5.25 income tax rate.

Wouldn't every American love to pay a 5.25 income tax rate? But they can't. That deal is just reserved by the Congress for some bigger interests.

I didn't vote for that. I didn't support it. I strongly opposed it. My colleague who sat in this chair right here, Senator Fritz Hollings, who is now retired, offered the amendment to strip that out, but we were not successful. So this blue light special, 5.25 percent special income tax rate for big interests who were bringing money back from overseas—it got done and $104 billion, as I calculate it, was saved by those who otherwise would have had to pay regular income tax rates.

I wanted to respond to that because I still think that was one of the goofiest ideas in the world for this Congress to embrace, saying let's provide a 5.25 tax rate because we think it will create jobs. The evidence is all around us. It didn't create jobs. In fact, I have charts saying the largest companies that got some of the biggest benefits—one company got a $14.5 million benefit and laid off 14,500 people—almost complete

and perfect symmetry, wasn't it? Except they were supposed to have hired people if they got this kind of special tax rate. They just forgot and laid them off, I guess.

Let me go to the other point which is what persuaded my colleague to come to the floor and engage on this issue, and that was the point I made yesterday. We have a provision in our Tax Code that says to someone in Iowa or North Dakota or Colorado or Pennsylvania, if you have a manufacturing plant and you are across the street from your competitor and your competitor has a manufacturing plant and you produce exactly the same products but you do something different, you move your jobs to China and manufacture your widgets in China, your competitor across the street stays home and manufactures them here in this country—one thing has happened as a result of that move. We have embedded in this Tax Code a perverse incentive that says: By the way, we will give you a break. You move those jobs to China, close your plant door, get rid of your workers, produce in China, and we will give you a tax break. You are not going to pay as much in income taxes as your competitor across the street who stayed in this country.

I think that is wrong. Going all the way back to 1961 with John F. Kennedy, proposals have existed to change it. Going back to 1987, the House actually passed legislation to change it. But we can't change it any longer because now, of course, the big economic interests that benefit a lot from that—and we have a lot of companies getting rid of American workers, padlocking their doors and shipping the jobs to China. I have spoken about many of them on the floor of the Senate. We have a lot of companies that like this tax break. Why? They like to hire people for 33 cents an hour, produce the product in China, sell it in Cincinnati or Toledo or Pittsburgh, and then run their income through the Grand Cayman Islands, through the Ugland House on Church Street on the island of Grand Cayman, that houses 12,748. It is just an address, of course, but the purpose is to reduce the tax burden.

My point is on four occasions when I offered amendments on the floor of the Senate so we ought to at least decide as a country that we will not provide financial incentives in the Tax Code for those who decide to move their jobs overseas—that ought to be the least we ought to do. That ought to be the baby step in the right direction—but four times we have voted and on four occasions those big interests that really like this and have benefits from it have been able to persuade a majority of the Senate to oppose closing that loophole.

I indicated yesterday I would once again offer that legislation. I would offer it right this moment except I am prevented because the majority has done what is called filled the tree and prevented anybody from offering any amendments. My colleague from Iowa came down this morning and offered what I believe is called the Banana defense. That is what he called it the last time he offered it. It had to do something with bananas.

I don't know, maybe we could debate apricots or tailpipes or bananas. It doesn't matter to me what the product is. We could have a long debate about it. I will just call this the banana debate then. But whatever the product or circumstances, the question remains: Do you believe that our Tax Code ought to provide financial benefits and rewards to companies that have decided to move their jobs overseas? Should Huffy bicycle have gotten a reward for firing all their workers and producing Huffy bicycles in China? Should Radio Flyer little red wagon have gotten a benefit from moving all their jobs overseas? Fruit of the Loom, should they have gotten the benefit?

I could go on at some length. Fig Newton cookies, when they went to Monterrey, Mexico, should they get a benefit? If you think yes, then good for you, and I suppose the benefit will continue to exist in our Tax Code, but we are going to continue to vote on it. I am not deterred. As far as I am concerned we can vote 10 times on it. At some point there will be enough people filling the seats in this Chamber to understand that at a time that we have a crisis, and it is a crisis with substantial numbers of jobs moving outside of this country in search of lower labor costs to produce products to ship back into this country, at a time when we have that kind of crisis and the American people are facing downward pressure on wages, they are facing the stripping away of their pensions, the loss of their health care—at a time when we have that kind of crisis, the question is: Will there be enough people filling the seats in this Chamber to stand up and say let's take the first baby step in addressing it?

The first baby step is to say: Let's not provide incentives in the Tax Code for companies to move those jobs overseas. If we can't do that, we can't solve this problem. But we will have plenty of chances. We will have one more chance now. We had four chances previously.

I respect everybody's ability and interest to vote however they choose in this Chamber. I don't demean their reputation nor diminish their capability. I only say that I feel very strongly that if they support this provision, they are wrong. They are wrong for this country. The right public policy position is at least to have some basic neutrality on the question of whether we want to export jobs and whether we want to have the financial incentives for exporting jobs in our Tax Code.

I regret that we don't have a back and forth. I would love to have a real debate about this because I know there are those who benefit handsomely from this who want to continue it and want it to remain in the Tax Code. But I feel strongly that this provision that is known as deferral—and, incidentally, my repeal of deferral does not go to the John F. Kennedy proposal on repealing deferral. My repeal on deferral is rather narrow. It is those companies that leave this country and ship back into this country.

I think it is a perfectly appropriate thing, especially now given the crisis we face with jobs and opportunities in this country, for us to do that.

I have a right, under the procedures of the Senate, to offer this amendment. I should have the right to offer it at the moment but I am not because there is—I guess the word ''obstruction'' is to be used—obstruction at the moment is the tree is filled so that no one can offer an amendment. So we are going into some process that is a vote-arama, and I will offer the amendment, and we will have a vote.

Let me finally say it again.

There is not one Member of the Senate that puts on a dark suit every morning and comes to work here that has ever been threatened to have their job outsourced—not one. There is not a person here that is ever going to have their job outsourced. Maybe they do not think much about it. I don't know. We have all of these people in blue suits who come here every day and we talk and we talk, and mostly we talk. We are good at talking.

But the question for most Americans who worry about their jobs and who see their neighbors' jobs moved overseas is, Will their jobs be moved? The question for them is, Will Congress do something about it?

I mentioned a few moments ago the Ugland House in the Grand Cayman Islands, which is a slightly different approach than the Tax Code I have been describing.

I wanted to mention that there is a man from Bloomberg News named David Evans who has done some reporting on this Ugland House. The Ugland House is a house on Church Street in the Cayman Islands. It was, according to news reports, dug out by David Evans, who has done the research. This is a five-story white building that houses 12,748 companies. It doesn't really house 12,748 companies—it is an address. This is a five-story white house address on Church Street in the Cayman Islands. Why would 12,000 companies congregate to have an address in this five-story building? There is only one reason. And, by the way, every one of them are represented by the same law firm. Why? So they don't have to pay taxes, that is why.

They want to access cheap labor in Asia, sell in America, and run it through the Cayman Islands so they don't pay taxes.

That is what this is all about.

Because we have a tax bill on the floor of the Senate, I have another amendment that I will not be offering now for those companies that want to congregate at an address in a tax-haven country, the Cayman Islands. But if you are creating an address to

have a tax haven and avoid taxes, you shall be treated for tax purposes as if you have never left our country. You don't get to claim that you now have an address in the Ugland House, and, therefore, you are running your income through that house. My legislation would say you are going to be treated as if you never left for business purposes.

We can shut that down like that, if Members of Congress have the interest and the will.

Does anybody believe this is anything other than a huge scam, by having a little five-story house with 12,000 businesses congregate there under the umbrella of a law firm that runs their mail through that place in order to avoid paying U.S. taxes?

Thanks to David Evans for the work he has done. But in many ways, I think this is the tip of the iceberg. There is substantial tax avoidance going on. Some of it is legal. The first description I made today was the description of the avoidance of what I think is about $104 billion in taxes under the 5.25-percent special tax deal.

The other one I mentioned, deferral for those who move their jobs overseas, that is in law. I am not criticizing companies for following the law. I am criticizing the Congress for not changing the law and doing what we should do—stand up for American jobs.

I was thinking I had actually done plenty yesterday to either aid or injure my cause, however one views these issues. But when I heard my colleague from Iowa come to the floor today, I at least wanted to respond to that. As I was coming over, I heard my colleague from Pennsylvania say someone else was obstructing, I guess, the work of the Congress over what I think is a technicality, and the technicality was we wanted to offer amendments.

I say to my colleague, there is never a technicality when someone wants to offer an amendment. If the rules allow us to offer amendments, just have the amendments, have a little debate, vote regular order, and let it go. When it is done and the dust is settled, we decide what we decide, and everybody is responsible for the vote they cast.

My colleague from Pennsylvania said he wished we would be a little less partisan. So do I. I think we need to find ways to make this a little less partisan. A good step in that direction would be, for example, for somebody to right now come out and say: We have a bill on the floor, let us have regular order. If amendments are, by the way, allowed, let us go ahead and offer them. Will you give us a time agreement? Sure. Vote, act the way legislators should act, and at the end of the day, we will all feel better about that.

That is what the Senate ought to be about when we call this the greatest deliberative body in the world. It has slipped a bit. We can regain that status if we only decide amendments are good and not bad things. Debate is good—not bad. The noise of democracy coming from the Senate is welcome noise for the American people, if we are engaged in constructive debate about issues that matter.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I rise today, in recognition of the beginning of Black History Month, in support of a bill to posthumously award a congressional gold medal to Constance Baker Motley, an American hero who, sadly, passed away on September 28, 2005, after having lived an extraordinary and exemplary life. I am pleased to introduce this bill along with my colleague from New York, Senator CLINTON.

Constance Baker Motley was the first African-American woman, and only the fifth woman, to serve on the Federal judiciary. Before becoming a judge, she was a renowned civil rights lawyer, public servant, and trailblazer. Her remarkable career reads like a civil rights history book.

After earning her bachelor of arts degree in Economics from New York University and her law degree from Columbia University, Judge Motley joined Thurgood Marshall at the NAACP Legal Defense and Educational Fund. For two decades, Judge Motley worked closely with Marshall and other leading civil rights lawyers to dismantle desegregation throughout the country.

As a Black woman practicing law in the South, Judge Motley endured gawking and physical threats. But she was not deterred.

She won cases that ended segregation in Memphis restaurants and at Whites-only lunch counters in Birmingham, AL. She fought for Dr. Martin Luther King, Jr.'s right to march in Albany, GA, and visited him in jail whenever he was arrested.

Judge Motley was the only woman on the legal team that won the landmark desegregation case, Brown v. Board of Education. She went on to argue 10 major civil rights cases before the Supreme Court, winning all but one of them, including James Meredith's fight to gain admission to the University of Mississippi.

Before she died, Judge Motley would grin when she told people that she actually won 20 years later the only Supreme Court case that she lost, when the Court eventually agreed with her position and adopted her reasoning in holding that it was a violation of equal protection for prosecutors to use their peremptory challenges to strike Blacks from a jury because of their race.

In 1964, Judge Motley became the first African-American woman elected to the New York State Senate, and in 1965, she became the first African-American woman, and first woman, to serve as a city borough president. During this time, Judge Motley worked tirelessly to revitalize the inner city and improve urban housing and public schools.

In 1966, President Lyndon B. Johnson appointed Judge Motley to the Southern District of New York. She was confirmed 9 months later, over the strong opposition of Southern Senators. As a judge, Motley continued her commitment to social justice.

She rose to the position of Chief Judge in 1982, and assumed senior status 4 years later. Judge Motley served with distinction for nearly four decades, until she passed away last fall, at the age of 84. At that time, I was pleased to introduce a Senate resolution, which passed by unanimous consent with 27 Democrat and Republican cosponsors, to honor her life and achievements.

Since then, our country has lost two other great civil rights heroes, Rosa Parks and Coretta Scott King. Both of these remarkable women were awarded congressional gold medals for their leadership and contributions to American society while they were alive. I deeply regret that Judge Motley was not. But it is not too late for us to show our national appreciation to her friends and family. Congressional gold medals are reserved expressly for that purpose, and Judge Motley's lifelong commitment to the advancement of civil rights and social justice, and her lengthy career in public service, is worthy of just that.

The Senate Banking Committee requires 67 cosponsors before it will consider legislation to award a congressional gold medal. I am pleased to introduce this bill with 16 other original cosponsors from both sides of the aisle. I now call on all of my Senate colleagues to join us this Black History Month to give thanks on behalf of the country to one of our greatest civil rights leaders and public servants, Judge Constance Baker Motley.

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. 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 yield myself such time as I might consume.

I will make some additional points on the Dorgan tax haven included in the Conrad substitute. I share Senator CONRAD's concerns about the ability of large corporations to manipulate the Tax Code, to shift large amounts of profit offshore, but this provision is not the right way to address those concerns. It is very overbroad and inadequate. It is overbroad because it harms the competitiveness of United States multinationals, repealing deferral for holding company structures

that allow them to efficiently allocate active foreign generated resources among their foreign operations without incurring U.S. tax on entirely foreign transactions.

It is inadequate because it applies only to the subsidiaries in black-listed countries. Companies that use tax savings for abusive purposes could easily avoid this rule by locating in a low-tax country that is not on the list.

Ireland would be a perfect example of that, where we read press reports that companies such as Microsoft are shifting huge profits. Treasury would have authority to add countries to the list, but does anyone think Ireland, with whom we already have a tax treaty, would be added to that black list? The way to deal with those cases is through effective transfer pricing policy and enforcement, not by curtailing deferrals.

Another issue that is going to be soon before us is the Democratic substitute of revenue raisers that are in our bill. I am flattered by the tax relief side of Senator CONRAD's substitute amendment since it includes extension of the same widely applicable tax relief provisions in the underlying bill.

I should also be flattered, and I am, by some of the pay-fors in that amendment—in particular, the provisions regarding the so-called SILO transactions. It is a fact that we shut down the abusive tax shelters that involve U.S. corporations claiming tax benefits on foreign subways and sewer systems in 2004. So these deals can no longer be done. The underlying bill would repeal a generous grandfather provision for certain domestic deals and would deny benefits for foreign deals entered into before the effective date of the JOBS Creation Act of 2004.

We have introduced a fully offset tax relief bill in the past. Most recently, that act of 2004 produced $82 billion of tax relief that was completely offset. The underlying bill, in fact, contains almost $20 billion of offsets while providing $90 billion in broad-based tax relief. We do not need any more offsets to pay for the lost AMT revenue that we never intended to collect and for other provisions, such as the R&D credit, for example, that are broadly supported as good for the economy.

We all know tax receipts are on the rise. In 2005, we had $274 billion more coming in over the taxes that came in in 2004 under the same tax policy, and we exceeded the CBO baseline by—can you believe it—$97 billion. It is a very vibrant economy which produces that kind of revenue. That amount, whether it is the $274 billion in 2005 over 2004 or the $97 billion above the CBO baseline, that amount exceeds the $70 billion of reconciled tax relief over 5 years provided in the budget resolution.

So I hope we will be able to take these points I have just made about the inadequacies of the amendments we are going to be dealing with when we vote on these amendments.

I would now, Mr. President, speak on the issue of an amendment I am going to place before the Senate this afternoon. In fact, I will submit this amendment at this point.

I wish to take just a few minutes, in offering this amendment, to speak about amendments that are also offered by Senator BINGAMAN and Senator NELSON regarding the Medicare prescription drug program. I thank the Senators for their amendments. I know their intentions are good and their hearts are in the right place. But having said that, I am forced to oppose the amendments, and my reasons follow.

Opponents of the benefit are trying to make it look as if Republicans are indifferent to the problems of the implementing part of the Medicare program. Such is not the case because everyone has to be concerned about the issues faced by some beneficiaries in getting their prescription drugs, even if that might be a very small percentage of the people who are involved. Whoever needs these prescriptions, we have to do everything we can to get them to them.

Like everybody else, I am concerned about the drug benefit implementation issues. It is not acceptable that some of the most vulnerable and frail seniors are experiencing problems. But my opposition to the amendments is rooted in the goal of not just taking some action, but that we need to take the right action when we act. There is no question that Congress meddling could just make things worse.

With that in mind, I want to share with you the following quote as to another new program that was getting underway:

> As the program gets under way the danger is that the strains on it will generate pressures for unsound change. They will come from those who will be disappointed because they have been led to expect too much as well as from those who see failure in every shortcoming. Changes will come in time, but they should be made on the basis of the program's own experience. This program must be given ample time to get over its growing pains.

Now, that is not about the prescription drug bill that is just now going into effect. That is a quote from the July 1, 1966, edition of the New York Times, and it is about the implementation of the original underlying Medicare Program passed by Congress a year before this July 1 edition of the New York Times.

Now, when I read that quote of 1966 just now, it said ''the program'' instead of ''Medicare'' because I did not want to give it away. The point of this editorial is that those words are extremely relevant today.

I am not trying to make excuses or minimize the difficulties some are having. Those problems need to be fixed, and fixed fast. By all accounts, everyone is working hard to get them resolved. But in my opinion—echoed by the New York Times nearly 40 years ago—rushing to ''fix'' things through legislation could do more harm than good.

Just last week, the Finance Committee, in a bipartisan setting—with almost every member of the Finance Committee there—had a meeting with Secretary Leavitt and CMS Administrator Mark McClellan. We had a candid discussion about the unfortunate glitches, and we heard about steps taken by the agency to address them. We had a very constructive dialog. That dialog covered a range of issues the Agency had identified and the administration's actions already taken to address them.

It is clear to me legislation is not needed at this time. Secretary Leavitt has the authority. Current law allows him to have a smooth transition. And administrative actions will work faster than if we pass this legislation. That is because changes in law have to be followed by more administrative actions. This is very much going to slow things down. That is not what we want. We want, need, and will get quick action.

The issues that have surfaced do not lend themselves to legislative fixes. For example, we talked about problems in the data files. The data files have not always identified the plan where a dual eligible is enrolled. Obviously, that is a problem. But can Congress write a law to dictate exactly how to fix computer system data files? That is not something I would want to do. There is an opportunity for getting something wrong, if I ever saw an opportunity for Congress to do something wrong.

But more importantly, these amendments are unnecessary. Senator BINGAMAN's amendment gets at issues that have already been addressed administratively. CMS has the authority to address these that way. And it will get fixed faster than if we pass additional legislation.

So I am going to offer a sense-of-the-Senate resolution. That resolution expresses our concerns about these problems, and it expresses the Senate's support for the Agency's efforts to fix them.

For example, prescription drug plans must have a first-fill policy. The first-fill policy already requires at least 30 days of coverage for the first prescriptions filled, even if the drugs are not on the plan's formulary. And just yesterday, Secretary Leavitt announced that the first-fill policy is being extended further. It is now going to be in place for 60 or 90 days as a first-fill policy. The Bingaman amendment requires only a 30-day policy. So it is already out of date. The administrative actions are much faster. Changes in law are not needed to address the issue.

Now, here is another one. The Bingaman amendment says that dual-eligible beneficiaries, whom we call dual eligibles, should be presumptively eligible. But the dual eligibles are already automatically eligible under the law, and they are automatically assigned to a plan. So again, no change in law is required.

Another example. The Bingaman amendment says it would require plans to reimburse enrollees for cost-sharing

problems. Here again, plans are already responsible for the costs to cover drugs. They are responsible for reimbursing beneficiaries for any cost-sharing charged in error. No change in law is required.

Let me give you another one. Some States have stepped up to fill claims during the transition. The Bingaman amendment requires States to be reimbursed for their costs. This is already happening. Last week, Secretary Leavitt announced that the Federal Government will reimburse States for costs they have incurred during the transition period. We were told that that day we met with Secretary Leavitt. I do not know exactly when Senator BINGAMAN was there, but he was there for that meeting. Not every Senator stayed for every minute of the meeting, but Secretary Leavitt made this very clear. So again, legislation is not needed because administrative action is being taken, with the legal authority of the Secretary to do it. So no additional legislation is needed.

Senator NELSON's amendment would extend the enrollment period through the end of the year and permit beneficiaries to change once before the end of the year. We have discussed this amendment before. The Senate has already voted twice, and we voted it down twice. And changing the enrollment period does nothing to address any of the issues experienced by beneficiaries just this last month.

We are well into the enrollment period. Enrollment is exceeding expectations. Twenty-four million beneficiaries out of 44 million, potentially, have prescription drug coverage. Every day, nearly 90,000 beneficiaries are enrolling in the program, and about 1 million prescriptions are being filled daily. So again, legislation is not needed.

There are a number of resources for beneficiaries to help them choose a plan. There is the Medicare call center. It is available 24 hours a day, and the Medicare Web site. Every State has counselors available to assist beneficiaries through the State Health Insurance Information Program. That is the whole point of that program—the SHIIP program, it is called for short—to help beneficiaries understand their Medicare benefits. The prescription drug plans based their proposals to serve Medicare beneficiaries on the enrollment period specified in the law.

In addition, there are already rules in place under which a beneficiary can change their enrollment outside of the open enrollment period. A beneficiary can seek what is called a special election period if that is needed for that individual—for example, if a plan fails to provide a beneficiary with information about the plan's benefits on a timely basis, or if it fails to provide benefits in line with quality standards, or if the plan, its agent, or plan provider materially misrepresents the plan in marketing that plan. So in all of these instances, there can be a special enrollment period or an opportunity to change.

So again, we do not need legislation. These are issues already covered in the law today.

I want to make another point about what is going on with these amendments. There was a time when opponents of this benefit were concerned that there wouldn't be enough choice. Now their concern is that there is too much choice. When we were in conference with the House on this 2 years ago, we were fearful there might not be a choice for people. So we provided if there wasn't a choice, the Secretary set up a subsidized choice so that every individual could at least choose from two. We wanted people to have choice. We followed the Federal Employees Health Benefit Plan where people have the choice of many plans to choose from, and they get to change once a year. We wanted to make sure we didn't cram anything down any senior citizen's throat. If they didn't want to participate, if they were satisfied with Medicare the way it was, they didn't have to. But if they wanted to participate, they elected.

You don't write one plan for 44 million seniors because everybody has different benefits. And one-third of the people already had some prescription drug coverage. We didn't want to screw up their plans. So we subsidized those plans so that those people who had something they wanted would be able to keep it. I don't know when you satisfy people. I didn't think there would be enough choice. Now we are hearing complaints about too many choices. There are 44 million Americans; there are 44 million different personal needs of those people. We, sitting on the floor of the Senate, are not going to figure out what those 44 million needs are and pass a one-size-fits-all plan that is going to satisfy the needs of everybody.

The point is, the opponents of this new benefit will complain and fight it no matter what happens. I hope everyone remembers that. I also find it ironic that folks think that legislation is the answer. These are the same people who are concerned about confusion. Now they are proposing legislative changes in a bill that has only been in operation for 1 month, on top of administrative actions that the agency has already taken. They want to screw that up with legislation on the floor of the Senate with changes that will have no impact on any of the problems encountered this last month, legislation that would have to be followed by yet more administrative action, a snowball rolling down the hill, just getting more complicated as it rolls on.

I ask whether this is going to help these perceived problems. Well, not just perceived problems; I admitted there are problems out there. I admitted when you put something like this into place, there are growing pains, just like I quoted that New York Times article from 1966 about the growing pains that we were going to have with Medicare when it was first put in place. Do you think these things are going to smooth the transition? I don't think so. Talk about opportunity for confusion among beneficiaries, pharmacists, and plans. This is not going to reduce the confusion.

Passing legislation now runs the very real risk of undermining and complicating things. It can undermine the progress already made. It will interrupt actions taken by the administration. It will create more problems, not fewer problems. I, for one, have a steadfast commitment to gaining a full understanding of the problems and pursuing the most appropriate and timely course of action.

When the Secretary came before my committee and everybody turned out to make their complaints known, and the Secretary announced at that time seven problems and he announced at that time seven solutions to those problems and took full responsibility for them, I had a feeling people left that meeting fairly satisfied that nobody was going to blame somebody else and they had a grasp of the problems and solving problems, with some accountability that some changes had already taken place for the better.

So then when you come out of an environment of a committee meeting like that, you wonder what planet they have been on when these amendments are being offered—amendments that, if they were passed, would not get to the President for another 30 days—to solve problems that were evident 30 days ago that the Secretary has already identified and taken action to overcome.

Senator BAUCUS and I are working together to get to the bottom of this issue. That is how we do it in our committee. We do it in a bipartisan way so that we are going to also be able to work together if it turns out that legislation is needed. But I asked the Secretary at that very committee meeting: Do you need any legislative changes to take care of these problems that we have all identified, particularly the seven that he identified? He said: No, he had ample legislative authority to do it.

An important part of Senator BAUCUS's and my work in this regard is going to be brought up at next week's Finance Committee hearing, an open hearing. We will hear from Dr. McClellan. We will hear from representatives of the plans. We will hear from pharmacies. We are, most importantly, going to hear from the people involved in educating and enrolling beneficiaries into the plan. More than once I have heard Members take issue with attempts to bypass the committee process. The amendments before us are just that.

Senator BINGAMAN's amendment has not gone through the Finance Committee. It is clear that this amendment falls within the jurisdiction of the Finance Committee, and the Senator from New Mexico is a member of that committee. I ask him to work within

the committee. If the Senate proceeds on legislation that the full committee has not considered, then nothing would prevent the Senate from legislating on other Finance Committee issues without the benefit of hearings or committee action.

Next week's hearing is very important. We need to gather more information about what is happening. This is needed to inform all of us of any necessary response. In the absence of such information gathering, it is dangerously premature to consider any amendments related to the prescription drug program. We all know that this whole issue of Medicare prescription drug coverage has long been a political issue. With the amendments offered today, I can't help but think that is very unfortunate. It is also unfortunate that is probably not going to change during the 109th Congress.

On the other hand, I hope that is not the case. But here we are, just 1 month into the prescription drug program, already we see a lineup of amendments to perhaps the most inappropriate vehicle there could ever possibly be to deal with Medicare. In other words, these amendments are on a tax bill. But more importantly than just the process, these amendments are unnecessary because of administrative actions taken to date or to be taken tomorrow, if a new problem comes up.

When these amendments that I have discussed—the Bingaman and Nelson amendments—come up for a vote, I hope my colleagues will trust what we learned in the committee: that the Secretary of HHS doesn't need any new legislative authority, consequently bringing any more uncertainty into this process by voting for these amendments. Vote them down.

I said that I had an amendment I wanted to have considered when we vote this afternoon. I send the amendment to the desk and ask for it to be printed.

I yield the floor. And since nobody else is desiring to speak, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I came to the floor this afternoon to spend a few minutes speaking in support of the Bingaman-Rockefeller-Murray Medicare drug REPAIR amendment that we will be seeing this afternoon. I came to the floor to urge my colleagues to support this amendment so we can address the immediate crisis facing our most vulnerable citizens.

I wish we were here debating a real fix to the Medicare Modernization Act, but unfortunately the Senate leadership has placed a lot higher priority on tax cuts than on providing reliable access to prescription drugs for low-income seniors and the disabled, so we are here today debating that. I know the chairman of the Finance Committee was on the floor earlier talking about the relevance of this amendment, the Bingaman-Rockefeller-Murray Medicare drug REPAIR amendment, but this is the first piece of legislation that we have had on the floor since the rollout of the Medicare prescription drug bill. Offering this amendment on this tax bill is our only option.

What this amendment does is ensure that our low-income seniors and our disabled—who are often technically referred to as duals—are at least ensured of a 30-day supply of lifesaving drugs, regardless of any communication or data exchange problem. It simply ensures that States and pharmacies and beneficiaries who have had to provide coverage to those who have fallen through the cracks in this rolling out of the Medicare prescription drug bill receive just and fair reimbursement.

Finally, it will end the confusion facing any of our duals. And for any of my colleagues who have not been out in their States since January 1, I will tell you there is tremendous confusion and conflict and people are falling through the cracks and we need to end that confusion so they know whether, in fact, they qualify for assistance.

Because of the tremendous data and outreach problems, many of these so-called duals have been told they have to meet a $250 deductible before their plan is going to cover their prescription drugs. If they are eligible today for Medicare and Medicaid, they are assumed eligible at the drugstore.

I have listened to Secretary Leavitt and CMS Administrator McClellan reassure all of us that they are acting to fix these problems. I am here today to applaud their attention and their commitment and their recognition of the tremendous challenges out there, particularly for our duals, as this prescription drug rollout bill is occurring. I only wish they had listened last November when I offered an amendment to provide a 6-month transition and predicted the dire straits that we are now in before this was rolled out.

I will say they have been responsive since January 1. But all of the steps that have been implemented are worthless if there is no education of our pharmacists and our seniors, or if there is no aggressive oversight and enforcement. Saying that they are just going to work to ensure the plans honor their commitment is not the same as saying plans will be required by law to honor that commitment. It doesn't do a senior any good to be told we are going to hold plans accountable, and they still do not have any access.

There are a number of problems with this flawed structure, but I think it is critical that we address the immediate crisis for those people who have very few options. If anyone on this floor today thinks this is fixed, or these problems are going to go away, I want them to know they are sadly mistaken. I have traveled around my home State of Washington since August. I am not hearing that things are getting any better. I have people come to forums that I am holding where I try to give them information, and every forum I have had, time after time, there are new problems, new challenges: pharmacists are falling through the cracks, doctors who don't know how to deal with their patients, long-term care facilities that are at their wits' end, and certainly the mental health advocates who are telling us we have people who could be in serious crisis very soon if we don't address these problems.

There is a lot of frustration. There is a tremendous amount of panic for these dual eligibles that they are being denied access to lifesaving drugs, and to low-income seniors, especially those in group homes, who can't afford the added burden of copayments. It is wrong for us to sit here and say this is going to get worked out. I think it is our responsibility to stand up today, at our very first opportunity, and make sure we fix this Medicare prescription drug plan.

This week, my Governor, as many Governors who have been facing this at home on the ground, joined with me in urging the Federal Government to fix this mess. I want to quote her. She said:

> All we are asking is don't make these people worse off than they were.

Our Governor's office, as many Governors' offices, has been flooded with calls about this prescription drug plan. She says some of these people are telling her they would rather take their own life than deal with the situation.

I have sat in forums in my State where people have said that to me, to my face, as well. These are people with mental health problems, they are elderly, they are having trouble working through the system. It is too much for them. They cannot deal with the copayments for the first time—and that is not what our country should be about. It does not sound to me like things are getting better and the kinks are getting worked out.

Congress promised in 2005, they promised to people in this country access to affordable prescription drug coverage. It is clear they are not getting that today. We know these problems cannot be fixed through some kind of administrative action alone. We here in Congress have an obligation to act and not follow CMS.

I urge my colleagues to support this amendment and send a message to those who are living, literally, in fear today that Congress is not going to wait and we are going to do the right thing.

I do not agree that this is not the bill to deal with this issue. I wish we had another bill in front of us. I wish we had an actual fix in front of us. But we cannot wait to work through the next several weeks and then the budget

process and everything else coming down the pike to deal with this issue. We are talking about real individuals in real communities who are not getting access to their prescription drugs because of the challenges that CMS is facing as this plan is rolled out, and we have an obligation to act.

I urge my colleagues to support the Bingaman-Rockefeller-Murray drug REPAIR amendment and get a fix in place so people's lives are not in crisis. We have an obligation to do this, and I urge my colleagues to vote for this amendment.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. TALENT. 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. TALENT. Mr. President, I rise for a moment to speak in favor of amendment No. 2711, which is at the desk. It is my amendment regarding the child tax credit offered by the majority leader. I will discuss briefly that amendment.

I originally hoped I could offer an amendment making the child tax credit permanent, which would help millions of workers and families around the country. I wanted to offer a straight-out extension. The Senate rules preclude that from being offered today. Instead, I will put the Senate on record that this Senator supports a permanent extension of the child tax credit.

In 2001, the Congress set in motion legislation which extended that credit to $1,000 per child, but in 2011, unless Congress acts beforehand, the clock will turn back and taxes will go up effectively 50 percent on the workers and families who qualified for the child tax credit. This additional money has made a big difference to families around the country and in Missouri. People like Beth Davis, who is a hairdresser in Kansas City, a single mother of three children, use this money to help pay for necessities for their children.

The most recent Treasury Department data shows that 543,000 married couples and single parents in Missouri benefit from the child tax credit enacted in 2001. I believe this child tax credit is supported very strongly in the Senate. I expect the sense-of-the-Senate will be approved. I certainly hope it will so that, at the minimum, we can go on record to support making this projob, progrowth, prochild tax credit permanent.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, we had a meeting and thought the votes would start immediately, and Members were advised that.

It is my understanding, Senator BAUCUS, the voting will not start for at least a half hour. Everyone should understand the votes will not start now but within the next half hour, 45 minutes probably.

Mr. BAUCUS. It is my understanding we could start early if Senators have amendments. We do not have to wait a full half hour.

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. REID. 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. REID. Mr. President, we have half an hour remaining. If there are Senators who wish to speak on their amendments, they should get over here immediately. If they do not come within a reasonable period of time, I am confident Senator BAUCUS will yield back the time on this side, as he should. If there is no one here who desires to speak, we can move to the votes more quickly. That is left up to Senator BAUCUS. If Members want to talk, now is the time.

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. BIDEN. 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. BIDEN. Mr. President, I will speak up to 5 minutes on an amendment that is not in the first package of amendments we will vote on, but since we will have no opportunity in the second and third package of amendments, I will speak to it now.

I have an amendment that is fashioned to deal with the 9/11 Commission Report that came out less than 2 months ago, on December 5, 2005. It was the so-called report card where this prestigious bipartisan Commission, led by former Republican Governor Tom Kean and former Democratic Congressman Lee Hamilton, took a look at what we have done based on what they recommended in the 9/11 Report. It tells how little we have learned and how little we have done to actually make the homeland safer.

Most Americans, at least in my State, believe at least the most obvious steps have been taken to close the gaps in our homeland defense. They believe, at the very least, we have a plan, that we have set priorities, and we know what the next step will be.

Let me quote from the Commission's report, which is only 6 or 7 weeks old, on what we have done to assess the risks and vulnerabilities of our critical infrastructure—transportation, communications, industrial assets. Here is what they say:

> No risk and vulnerability assessments actually made; no national priorities established; no recommendations have been made on allocation of scarce resources. All key decisions [on homeland security] are at least a year away.

We all remember September 11 when we discovered that local police, fire, and rescue units could not communicate with each other, could not communicate with Federal agencies. There was no way to coordinate the action, no way to share information. Things are no better today.

It gets worse. Airline passenger screening, the one place most Americans think we have done pretty well, the 9/11 Commission gives that effort a grade of ''F.''

Regarding airline baggage screening, to check for explosives, from the report on December 5, 2005:

> Improvements have not been made a priority by Congress or the Administration.

This is unacceptable. This administration tries to fill in the most obvious gaps in our homeland defense, but they have not done it. We have not done it. We simply have not done it.

This amendment is designed to fill in the most obvious gaps. It begins with those areas where the Commission graded us and the President as ''F'' and ''D'' in the Commission Report. It addresses other issues such as the utter lack of a systematic program for rail security, passenger freight, stations, tunnels, rail yards, bridges.

Every dime in this amendment is fully paid for by closing corporate tax loopholes. Frankly, this is a modest list. There is much more to be done. We will need more resources to make us safer. Wiretapping, even if it is legal, is not the sole homeland defense. This amendment focuses on the most glaring and dangerous shortcomings in our homeland defense. By closing these loopholes, this amendment actually returns $23 billion to the Treasury to improve our fiscal security and reduce our dependence on borrowing from other countries.

I have been joined in this amendment—and I did not have time to notify her because I did not know until 2 minutes ago—by Senator STABENOW of the State of Michigan, who has worked tirelessly on dealing with this issue.

It is pretty basic. We have done nothing much to deal with the problems most Americans know relate to homeland security. We are safer but not nearly safe enough.

The bipartisan commission that got great grades from everybody in the Nation felt compelled on their own dime, with their own money, their own resources, not funded by the Government, to continue to issue reports and to hold hearings. And they issued a report on December 5 that is, quite frankly, embarrassing and dangerous.

So our amendment is designed to fill some of the loopholes, not all of them, that, in fact, have been left by the President's failure to secure our national interest, our homeland defense, as well as by our failure as a Congress to step to the ball.

We can and we have to marshal all our country's resources in this struggle. I will bet you $100, if you asked anybody in the public, from corporate CEOs to the average American out there, Would you rather us spend this money on securing our ports, our nuclear plants, our railroads, our cities, or would you rather us give it back in a tax break, I think it is just like the COPS bill years ago, given the choice, the American people said let's make our streets safer. I am confident they think we should make the country safer.

This amendment will be voted on not in this first tranche of amendments but the second, but I am not going to get a chance to speak to it at the later date. There was a little opening in time, and I thank the staff for letting me know this time was available.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise, as we are waiting for the votes as well, to join with Senator BIDEN and to thank him for his continued leadership. We have come to this floor on numerous occasions to speak about this issue over and over again, ever since 9/11, and we still do not have this fixed.

So I am pleased to be joining with Senator BIDEN to offer this amendment. It is time we act. It is past time. As Senator BIDEN said, it should be an embarrassment to all of us, the failing grades we received from the 9/11 Commission, a bipartisan commission, whose sole focus is on giving us information about whether we are safe today and what it will take to keep us safe, what it will take in the future to make sure Americans are safe.

We received, collectively—the administration, the Congress—failing grades in area after area. One of my main focuses has been on whether the radios work; it is stunning to me we are still talking about this. It is very unfortunate that after 9/11—because we did not connect all of the radios to be able to work to communicate with each other—that we saw the same kinds of failings that had firefighters and police officers running into buildings in New York instead of running out, as they should have been, because they did not know what was happening—that the same kinds of things, then, happened in the gulf, in New Orleans.

I will never forget, going down right after the hurricanes with the bipartisan leadership, sitting outside of the New Orleans Convention Center with someone from Michigan who was with the Army National Guard, someone from the Michigan Coast Guard, talking with these folks who had not slept for several days, who were down doing their part, trying to save lives, getting people off of rooftops, doing what was necessary.

I asked the gentleman from the Army National Guard: ''Do you have radios?'' ''Yeah.'' I asked the individual from the Coast Guard: ''Do you have radios?'' ''Yeah, of course.'' Then I asked: ''Can you talk to each other?'' ''No.'' I asked: ''Well, how are you talking to each other?'' ''Well, when we're out in the boats, we use hand signals.'' This was, at the time, 2005 in the United States of America, and they are using hand signals to tell whether they have found somebody, whether they are OK, and so on, because the radios did not work.

When are we going to get this right? People expect us to get this right. They do not understand why this has not already happened. This amendment basically puts our priorities in place by saying it does not matter what your income level is, if there is another attack, you are going to want the radios to work. It does not matter where you live in America. It does not matter if you are a CEO or if you are a person going in and punching a timeclock every day or if your kids are playing in a school yard. You expect that your Government is doing everything humanly possible to keep you safe.

We have heard from the 9/11 Commission. They have overwhelmingly told us that is currently not true. So I hope and pray we take action, that we would create the priorities that Americans are asking us to create, which is by starting with security, starting with security, making sure we are putting that at the top of the list, that we are providing police officers and firefighters with what they need in dealing with ports and nuclear plants and chemical plants and all of the other issues, such as with Amtrak, making sure people are safe as they travel, as well as airlines.

We can do that by setting the right priorities. And that is what this amendment does. I urge my colleagues to join us in adopting this amendment.

Thank you, Mr. President.

Mr. BAUCUS. Mr. President, I support the pending substitute amendment. I encourage my colleagues to support it as well.

I almost need a flow chart to explain how we got here. But because of several events, there is now more room for tax cuts. Yes, you heard right: more tax cuts.

We should tread carefully, though, rather than dive in. We have an opportunity to show responsibility. And I think that this substitute does just that.

Let me first explain how we got here. As my colleagues will recall, the tax reconciliation bill that we passed last November included much-needed relief for the Gulf States affected by Hurricane Katrina. Congress passed and enacted those incentives separately in December.

Further, our tax bill allocation was limited by the fact that the spending reconciliation bill had not been enacted. The House is expected to pass that bill today, clearing it for the President.

The bottom line is that this bill can accommodate $18 billion more in tax cuts.

We have an opportunity here to show some responsibility. And the responsible thing to do is to pass another year of extenders. Otherwise, we will be right back here in a few months to pass those extenders. Or since it is an election year, we will be back during a lame duck session considering the same set of expiring provisions.

These are very popular, bipartisan tax cuts we extend year after year. But we never have the resources in any given year to make them permanent.

This list of annual extenders includes several proven tax incentives. Businesses are encouraged to do more U.S.-based research and create high-paying jobs. Long-term welfare recipients and others who are hard to employ are given job opportunities through an employer credit. And teachers who reach into their pockets to pay for classroom supplies can get a small deduction for their expenses.

These tax incentives were all part of the original Senate reconciliation bill. But in that bill, they were limited to one year. Now, Chairman GRASSLEY and I are pleased to offer this amended version today to extend these provisions through the end of next year. We will thus provide certainty to businesses, workers, and teachers.

We know we will all vote to extend these provisions, if pressed at the end of the year to do so. We should take this opportunity now to provide these tax incentives through the end of 2007. It is the responsible thing to do. Individual and business taxpayers will be thankful.

Mr. President, before us now are a series of amendments. I have a list of 21 Democratic amendments. I have a list of eight Republican amendments, with promises of more amendments on that side of the aisle, depending upon the course we take today.

Pending a few moments ago, first was an amendment by the majority leader to permanently extend the child tax credit. That is a very popular amendment. I support—I think most of my colleagues do—extending the child tax credit. I daresay that most Senators on both sides of the aisle would probably strongly support extension of the child tax credit. Senator TALENT, the author, however, has expressed his will to convert his amendment to a sense of the Senate. The majority promises to offer the full version later.

Because of the Nation's record on budget deficits, I would prefer that we paid for the pending amendment. But because of the procedural posture in which we find ourselves, we will not have that choice. So we will be faced with an unattractive choice of voting for an appealing tax cut without paying for it or voting against an appealing tax cut.

After this amendment from the other side, we have been promised similar votes on measures to extend marriage penalty relief, estate tax relief, Social Security tax relief, 10 percent tax bracket relief, and so on. At the end of

the day, this could become a fiscally very irresponsible exercise.

I wish to propose a different path. I propose that we address a limited number of amendments—just six—and then go to third reading. I propose that these six amendments be Senator TALENT's sense of the Senate on the child tax credit, Senator BINGAMAN's prescription drug benefit, a Republican alternative to the prescription drug amendment, a modified Schumer-Menendez-Grassley sense of the Senate on AMT relief, a modified Rockefeller-Santorum mine safety amendment, and a paid-for substitute by Senator CONRAD, and then go to third reading.

The Republican manager has conveyed to me that he would find this procedure acceptable. This procedure would require, obviously, many Senators to forgo their opportunity to offer amendments. That is clear. It would have that consequence. But this procedure would also do the most to maintain fiscal responsibility. This procedure would also allow Senators to get back to their States and their constituents in much shorter order.

I implore my colleagues, let us choose the path of reason. Let us choose the path of moderation. Let us end this bill this afternoon.

I have given deep thought to this issue. I know there are many on both sides of the aisle who have conflicting emotions and views on this basic prospect we find ourselves facing. It is my considered judgment that the path I am outlining is probably the best course for the Senate and, more importantly, the best course for the Nation. After all, we are here representing our constituents. We should go the extra mile to do whatever we possibly can to represent the people back in our home States as well as we possibly can.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from North Dakota.

Mr. CONRAD. Mr. President, we are here at a moment that people have to think very soberly about what the possible consequences of our actions might be. The Senator from Montana has outlined one possible scenario. Far be it for me to judge which amendments would be in order and which would not. Let me just say what consequences could flow from a failure to reach agreement.

I have just had a consultation with the Parliamentarian. He informs me that if we were to waive on any one of the amendments that have been talked about on the other side, if we were to waive all budget points of order through conference committee, that would open up to the conference committee the opportunity to come back with legislation that would cost far in excess of the $70 billion limit we currently face as a result of the budget resolution.

I know this is complicated, but I urge my colleagues to think very carefully about the potential consequences. Let me give four.

If all points of order were waived through conference committee on the child credit, that could open up the conference committee to $185 billion of additional tax cuts, not offset. If the estate and gift tax changes that have been proposed by some were adopted and all points of order waived through the conference committee, that could add $358 billion that the conference committee could come back with with no points of order prevailing or possible.

On the expanded 10 percent bracket, that would open up an additional $262 billion for the conference committee to come back to this Chamber with no points of order pending. An income tax raise of 25, 28, 33, and 35 percent, if all points of order were waived through the conference committee, we could come back here and open up this Chamber to an additional $385 billion of tax reduction with no point of order pending.

I do not pretend to know what the package is that could be agreed on to resolve this. I do know that the Senator from Montana has made an impassioned plea to our colleagues to think twice before we get into this destruction derby. Believe me, the potential is, at the end of the day, we would find ourselves in the circumstance very easily in which you could have a trillion dollars of additional tax cuts pending on the floor of the Senate, with no point of order available.

I notice the leader is in the Chamber. I yield the floor.

Mr. REID. Mr. President, I think what we have here is a case being made for how bad this reconciliation plan is that we have. We have a number of amendments that Senators in good faith have tried to offer. There will be votes on these amendments. Ours doesn't break the bank, as indicated by the Senator from North Dakota. All the amendments he is talking about that are going to cost all this money come from the other side. With rare exception, our amendments are offset. We don't expect to ask to waive points of order through conference on our amendments. That is why Members should not vote to waive through conference.

Also, I hope the country is watching what is going on here today. First of all, as I said earlier today, we are working on something that has been named by the majority the ''Deficit Reduction Act of 2005.'' Using the numbers given us by the majority, it increases the deficit by $50 billion. Today, as I was walking to lunch, a reporter says: Are you aware that we are going to get a supplemental next week for $90 billion? The budget gimmicks of this administration are unbelievable. Everyone knows the cost of the war is ongoing. We are in our fourth year of war. The President doesn't include it in his budget because it would show the American people how deeply in the red we are. Rather than do that, he comes back later with all these supplementals. But I understand, having managed a few bills in my day, how the distinguished Senator from Montana and I will feel about it.

We want to get the bill out of here and move on to other things with as little damage as possible. But, Mr. President, damage has been done by having this reconciliation bill in the manner that we got it in the first place. Having been given this bill, we are $50 billion in the hole to begin with, using the numbers of the majority.

Now, people in good faith on our side offered amendments, or soon will offer them. Some have been debated. Our amendments take, for example, the amendment of the Senator from New York. She wants to have this Senate on record as to whether the Senate will stand for an independent bipartisan commission to study what went wrong with Katrina. We have been stymied every step of the way to do that. Rather than have a 9/11-type commission to find out what went wrong in the most significant natural disaster in the history of this country, we are being stonewalled. That is an amendment the majority doesn't want to vote on.

I wish there were an easy way out of this, but there is not. I say to my friends who are offering this amendment on the child tax credit, if it is offered, a lot of Senators over here on this side are going to vote for it. Someday maybe this administration will recognize what they have done to this country economically. We are going to be asked in a few days to increase the debt ceiling from $8.2 trillion to whatever the majority wants—$8.2 trillion is not enough. So my suggestion is, let's just start voting.

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

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

Mr. FRIST. I ask unanimous consent that the motion to commit be withdrawn. I further ask consent that amendment No. 2709 be withdrawn and further that the yeas and nays be vitiated on amendment No. 2708; further, that the amendment be agreed to; provided further that the only remaining amendments in order be the following, and further, when a motion to waive occurs, it be in order for each leader to offer up to two amendments to each motion to waive.

The amendments are:

Talent, child tax credit; Nelson, prescription drugs; Republican alternative to Nelson, relevant; Byrd-Rockefeller-Santorum, mine safety; Conrad, substitute; Dodd, veterans health; Republican alternative to Dodd, relevant; Reed, America's military; Republican

alternative to Reed, relevant; Clinton, Katrina commission; Republican alternative to Clinton, relevant; Menendez, AMT; Grassley, AMT; Reid, relevant to any amendment on the list; Frist, relevant to any amendment on the list.

I further ask consent that at the conclusion of this unanimous consent, all time be yielded back and the Senate proceed to votes in relation to the following amendments; that all votes in the sequence be limited to 10 minutes each; that following the reporting of each amendment, the amendment be considered as read and there be 2 minutes equally divided prior to the vote in relation to the amendment; finally, that following disposition of amendments, the substitute be agreed to, the bill be read the third time, and the Senate proceed to a vote on passage of the bill, with no intervening action or debate. The amendments will be considered in the order sent to the desk.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2727

Mr. FRIST. Mr. President, on behalf of Senator TALENT, I would like to call up his amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. TALENT, proposes an amendment numbered 2727.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the permanent extension of the amendments to the child tax credit made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003)

At the appropriate place insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE PERMANENT EXTENSION OF EGTRRA AND JGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

It is the sense of the Senate that the conferees for the Tax Relief Act of 2006 should strive to permanently extend the amendments to the child tax credit under section 24 of the Internal Revenue Code of 1986 made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2727) was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2728 TO AMENDMENT NO. 2707

Mr. BAUCUS. On behalf of Senators BYRD, ROCKEFELLER, and SANTORUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BYRD, for himself, Mr. ROCKEFELLER, and Mr. SANTORUM, proposes an amendment numbered 2728 to amendment No. 2707.

The amendment is as follows:

(Purpose: To provide tax incentives for the purchase of advanced mine safety equipment and the training of mine rescue teams, and for other purposes)

At the appropriate place insert the following:

SEC. ___. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—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).

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after the date which is 3 years after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 179E(e)(2).''.

(4) Section 1245(a)(2)(C) is amended by inserting ''179E,'' after ''179D,''.

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

SEC. ___. MINE RESCUE TEAM TRAINING 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 new section:

''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to any eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following new paragraph:

''(27) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) 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. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Mr. BAUCUS. Mr. President, I believe we have 1 minute each. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I simply want to thank the chairman of the Finance Committee, and I thank the ranking member for working this out and having everybody in it together. I welcome working with Senator SANTORUM. It is a good thing to do. It is dark days in Appalachia now, and this will help a lot. Thank you.

Mr. FRIST. Mr. Presient, on behalf of Senator SANTORUM, we yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2728) was agreed to.

Mr. BAUCUS. Mr. President, the next amendment on the list is to be offered by the Senator from North Dakota, Mr. CONRAD. He should be here at any moment now. Until he is here, 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. CONRAD. 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. CONRAD. Mr. President, is this an appropriate time to offer my amendment?

The PRESIDING OFFICER. Yes.

Mr. BAUCUS. It is.

AMENDMENT NO. 2729 TO AMENDMENT NO. 2707

Mr. CONRAD. Mr. President, I send my amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. BINGAMAN, proposes an amendment numbered 2729 to amendment 2707.

Mr. CONRAD. Mr. President, I ask unanimous consent that further 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.'')

Mr. CONRAD. Mr. President, the chairman and ranking member have done an excellent job in putting together this package that is in the interest of the American people. I have all of the same tax relief provisions that are in their package. The only difference is that I have paid for it over the 10 years. I have done it by adopting the same offsets as in the managers' package: closing the tax gap by shutting down abusive tax shelters and other reforms, raising some $34 billion, including revoking tax benefits for leasing foreign subway and sewer systems; second, ending a loophole for big oil that lets them avoid taxes on foreign operations, raising $9 billion; requiring tax withholding on Government payments to contractors such as Halliburton, raising $7 billion; renewing the Superfund tax so that polluting companies pay for cleaning up toxic waste sites, raising $17 billion; and closing additional loopholes, raising $22 billion.

This is the package that has all of the tax relief in the managers' package. It just has additional pay-fors, so we cover the costs. We have exploding deficits, exploding debt. Let's pay for these tax cuts we are offering.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I disagree with the proposal in two important parts.

First, the proposal does not extend to 2009 several provisions that are very important to both sides, bipartisan—specifically, the section 179 expensing, which encourages the growth of small business in our country, and the college tuition deduction, which will give parents more certainty in the planning of their children's education, and the low-income savers' credit, which assists families who make less than $50,000 in saving for their retirement.

The second point I have——

Mr. CONRAD. Mr. President, would the Senator yield on this point?

Mr. GRASSLEY. I only have 1 minute.

Mr. CONRAD. Can I grant you some additional time?

Mr. GRASSLEY. We don't have that time.

Mr. CONRAD. Mr. President, I ask unanimous consent for 30 seconds on this point, if I could.

Mr. GRASSLEY. Then I will take 30 seconds, too.

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

Mr. CONRAD. That is more than fair.

I say to my colleague that the statement he made is just not true. I have precisely the same tax relief in my package as in yours. Every one of the items the chairman just mentioned is in my package for exactly the same period of time as is in yours.

Mr. GRASSLEY. All I can say in my 30 seconds on my point is that the Senator may be entirely correct, but that is one of the things that happens when we have 2 days of debate and these amendments are not put before the Senate to study until the last minute.

The second concern I have about the proposal is the inclusion of offsets which we have not had an opportunity to fully consider or with respect to which we have some policy concerns. An example of that is the revival of the environmental excise tax offered, referred to as the ''Superfund tax.'' As you might expect, I believe the bill passed by a bipartisan majority with 64 votes in the Senate in November, which we are not going through again, represents a more balanced bill, one that provides longer-term benefits, including increased certainty and reduced complexity for planning.

In addition, I raise a point of order that the budget does not meet reconciliation instructions to the Senate. It is an issue of germaneness, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of the act for the purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER (Mr. ALLEN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 52, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—44

Akaka	Dayton	Kerry
Baucus	Dodd	Kohl
Bayh	Dorgan	Landrieu
Biden	Durbin	Lautenberg
Boxer	Feingold	Leahy
Byrd	Feinstein	Levin
Cantwell	Harkin	Lieberman
Carper	Inouye	Lincoln
Chafee	Jeffords	Menendez
Clinton	Johnson	Mikulski
Conrad	Kennedy	Murray

Nelson (FL)	Reid	Schumer
Obama	Rockefeller	Stabenow
Pryor	Salazar	Wyden
Reed	Sarbanes	

NAYS—52

Alexander	DeWine	Murkowski
Allard	Dole	Nelson (NE)
Allen	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Burr	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Isakson	Talent
Coleman	Kyl	Thune
Collins	Lott	Vitter
Cornyn	Lugar	Voinovich
Craig	Martinez	Warner
Crapo	McCain	
DeMint	McConnell	

NOT VOTING—4

Bingaman	Inhofe
Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are making a lot of progress. I think if we just keep operating in the sense of comity we can do quite well. In that spirit, I ask unanimous consent the Grassley AMT amendment and the Mendendez AMT amendment be moved down the amendment list in the time of offering.

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

Mr. BAUCUS. That means the next amendment is the amendment of Senator GRASSLEY on the Medicare prescription drug program.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, tonight it has taken a long time to get where we are. We are going to have 10-minute rollcall votes, so everybody needs to stay in the Chamber. We are going to cut everybody off. We have agreed to 10 minutes. It has been a long day already. We know what we are going to be doing the rest of the night. We have the amendments laid out, but it means everybody has to stay here. It will be 10-minute votes. Everybody stay here.

Second, we have a request from the other side of the aisle that after this series of amendments there be a rollcall vote on the extension of the PATRIOT Act. We will run through the series of amendments as outlined and then, in discussion with the other side of the aisle, they are requesting a rollcall vote on the extension of the PATRIOT Act following these stacked votes on the amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The next amendment is the Grassley amendment.

The Senator from Iowa is recognized.

AMENDMENT NO. 2731 TO AMENDMENT NO. 2707

Mr. GRASSLEY. Mr. President, the amendment expresses the sense of the Senate about the concerns regarding the problems encountered in implementing the new drug benefit. It expresses the Senate's support for the administration's efforts to fix them. These efforts have proven to be much speedier in getting the problems fixed, and fixed fast, than any legislation can do. To that point, one amendment offered yesterday has provisions that are completely unnecessary because administrative actions have already taken care of it. I see no point in legislating for the sake of legislating.

Moreover, legislative action on top of administration action will undermine and complicate progress to date.

I urge my colleagues to support this sense-of-the-Senate amendment.

The PRESIDING OFFICER. The Senator from Iowa will please send the amendment to the desk.

AMENDMENT NO. 2731 TO AMENDMENT NO. 2707

Mr. GRASSLEY. I call up amendment No. 2731.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2731 to amendment No. 2707.

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 express the sense of the Senate regarding the Medicare part D prescription drug program)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare & Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the

Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted at this time, and, by contrast, such an action could exacerbate implementation issues under the program.

Mr. BAUCUS. Mr. President, I yield 1 minute allocated to my side to the Senator from Florida.

Mr. NELSON of Florida. Mr. President, Senators had better look at this sense-of-the-Senate amendment because it indicates that ''extending the 6-month enrollment period is not warranted.''

That is a direct quote. You know what you have been hearing from your senior citizens and how confused they are. This sense of the Senate says it shouldn't be extended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. NELSON of Florida. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—42

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Enzi	McConnell
Bennett	Frist	Murkowski
Bond	Graham	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Coburn	Hatch	Smith
Cochran	Inhofe	Stevens
Collins	Isakson	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thune
Crapo	Lugar	Vitter

NAYS—54

Akaka	Clinton	Feinstein
Baucus	Coleman	Harkin
Bayh	Conrad	Hutchison
Biden	Dayton	Inouye
Boxer	DeWine	Jeffords
Byrd	Dodd	Johnson
Cantwell	Dorgan	Kennedy
Carper	Durbin	Kerry
Chafee	Ensign	Kohl
Chambliss	Feingold	Landrieu
Lautenberg	Nelson (FL)	Sarbanes
Leahy	Nelson (NE)	Schumer
Levin	Obama	Snowe
Lieberman	Pryor	Specter
Lincoln	Reed	Stabenow
Menendez	Reid	Voinovich
Mikulski	Rockefeller	Warner
Murray	Salazar	Wyden

NOT VOTING—4

Bingaman	Domenici
Burr	Thomas

The amendment (No. 2731) was rejected.

AMENDMENT NO. 2730 TO AMENDMENT NO. 2707

(Purpose: To provide for necessary beneficiary protections in order to ensure access to coverage under the Medicare Part D prescription drug program)

Mr. NELSON of Florida. Mr. President, I call up amendment No. 2730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. BINGAMAN, proposes an amendment numbered 2730.

Mr. NELSON of Florida. 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.'')

Mr. NELSON of Florida. On the vote Members just rejected, the thought was that extending the 6-month enrollment period was not warranted because, in fact, you have been hearing from your senior citizens. So we will give you an opportunity now.

This amendment expands the 6-month enrollment period for the entire year of 2006 and allows beneficiaries, one time, to change plans in that year when they make a mistake. We are also going to make all those folks, those seniors who are out of pocket, the pharmacies that are out of pocket, the States that are out of pocket because of the Federal bungling, we will reimburse them in the implementation where individual senior citizens have had to eat the cost when they find their drugs that are essential to their health, that they cannot get them because they are not eligible under the new plan under Medicare.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I object to this amendment. Remember, all but two of our members of the Committee on Finance, Republican and Democrat, joined with Secretary Leavitt to go over the problems 2 weeks ago that this program is having. Secretary Leavitt took responsibility for those problems. He laid out seven problems. He laid out seven solutions to those problems that he has already inputted.

I asked him if he needed additional legislative authority to solve these problems. He did not need any additional legislative authority. He had plenty. We are going to pass legislation now that not only will take a while to get passed, but we will also have a period of time afterwards of having regulations to administer that legislation.

The problem goes on and on. The problem is being solved by the Secretary right now. Let's not screw up what the Secretary is trying to do, something that is working very well. There are problems, yes, but those problems are identified, and they can work.

I raise a point of germaneness on this amendment. I raise a point of order under section 310 of the Budget Act, and I ask for the yeas and nays.

Mr. NELSON of Florida. Pursuant to 904 of the Congressional Budget Act, I move to waive the applicable sections of that act for consideration of this amendment. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is opn agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 45, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—52

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Hutchison	Obama
Boxer	Inouye	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Coleman	Landrieu	Schumer
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Dayton	Levin	Stabenow
DeWine	Lieberman	Warner
Dodd	Lincoln	Wyden
Dorgan	Menendez	
Durbin	Mikulski	

NAYS—45

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Frist	Roberts
Brownback	Graham	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Smith
Chambliss	Hatch	Stevens
Coburn	Inhofe	Sununu
Cochran	Isakson	Talent
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 2716 TO AMENDMENT NO. 2707

(Purpose: To establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future)

Mrs. CLINTON. Mr. President, I call up amendment No. 2716 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will please report.

The legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS, proposes an amendment numbered 2716.

Mrs. CLINTON. 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 printed in today's RECORD under ''Text of Amendments.'')

Mrs. CLINTON. Mr. President, this amendment would establish a Katrina commission modeled after the 9/11 Commission, made up of experts on a bipartisan basis.

We are seeing the administration withholding documents, testimony, and information from the ongoing investigations by the House and Senate.

I commend our colleagues, Senator COLLINS and Senator LIEBERMAN, for their efforts to obtain the information that is needed. But we must establish this commission to get at what the truth is about what actually happened in order to take steps that will fix the problems so they do not happen anywhere else in our country.

A vote against this commission is a vote for continued stonewalling, sweeping problems under the rug, and ignoring the problems that we know exist today. That is a dangerous precedent for the people of this Nation.

I urge my colleagues to vote for the Katrina commission.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Maine.

Ms. COLLINS. Mr. President, the Homeland Security Committee of the Senate has been conducting a thoroughly comprehensive, bipartisan, and thorough investigation into the preparation for and response to Hurricane Katrina. We have held 15 hearings, the latest of which was today. We have interviewed 270 witnesses. We have reviewed 800,000—800,000—pages of documents. We have a completely bipartisan staff of investigators, attorneys, and other experts.

We are working together. We are making great progress. We will finish in March. We will produce a report and legislation. And, most important, we will finish our work before the next hurricane season is here.

I urge opposition to the amendment, and I raise a point of order that the pending amendment is not germane to the measure now before the Senate. I raise a point of order under section 305(b) of the Budget Act.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I move to waive the applicable sections of the Budget Act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to waive.

The clerk will please call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—44

Akaka	Feinstein	Mikulski
Baucus	Harkin	Murray
Bayh	Inouye	Nelson (FL)
Biden	Jeffords	Nelson (NE)
Boxer	Johnson	Obama
Byrd	Kennedy	Pryor
Cantwell	Kerry	Reed
Carper	Kohl	Reid
Clinton	Landrieu	Rockefeller
Conrad	Lautenberg	Salazar
Dayton	Leahy	Sarbanes
Dodd	Levin	Schumer
Dorgan	Lieberman	Stabenow
Durbin	Lincoln	Wyden
Feingold	Menendez	

NAYS—53

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2732

Mr. GRASSLEY. Mr. President, I call up amendment No. 2732.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2732.

The amendment is as follows:

(Purpose: To support the health needs of our veterans and military personnel)

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

Mr. GRASSLEY. Mr. President, the problem with the Dodd amendment is that it doesn't even do what the author says it does. He says it is paid for by using capital gains, but capital gains offsets don't even come into play until the year 2009. The author is leading us to believe that the military assistance is coming now. But it is not, if it is tied to an offset that won't come due until 2009. Our alternative now before the Senate will do the same thing as the Dodd amendment, but we don't tie it up with an offset that is way down the road 3 years. That is not truth in budgeting. I urge support for my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield the 1 minute allocated to our side to the Senator from Connecticut.

Mr. DODD. Mr. President, with all due respect to my good friend from Iowa, for the Dodd amendment, the offsets begin next year, 2007, on the capital gains and dividends tax breaks. The Grassley amendment I will support. I hope the Senator from Iowa will support my amendment. The distinction between the two amendments is whether you pay for it. I am grateful that the Senator from Iowa has taken my language on veterans resources going to veterans hospitals, things such as the Intrepid Fallen Heroes Fund facility at Fort Sam Houston in Texas, and others, so that we can provide for the 103,000 veterans who come out of Iraq and Afghanistan, where there is a shortfall today. If you take my amendment, we actually pay for it by asking one-fifth of 1 percent of those people who in the year 2007 and 2008 would be beneficiaries as a result of capital gains and dividends tax reductions; 99.8 percent of all the beneficiaries under the capital gains and dividends tax reductions would not be touched by the Dodd amendment.

This is a simple distinction here. If you think we ought to do something on behalf of our veterans, then we ought to have the courage to pay for it. You have to make choices. A modest reduction in the capital gains and dividends tax reduction for 2 years, coming from less than one-fifth of 1 percent of the population making over $1 million a year is very little to ask for.

I ask for the adoption of the Grassley amendment. I also urge you to adopt our amendment. I don't want to see this amendment drop before it gets to the Ohio clock, and I know that is what is going to happen if we don't pay for the amendment.

Mr. GRASSLEY. Mr. President, I raise a budget point of order on my amendment, and I also move to waive all provisions of the Budget Act and budget resolution necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of amendments between the House and conference report on the bill.

Mr. DODD. Mr. President, in a bizarre situation, pursuant to section 904 the Congressional Budget Act——

Mr. GRASSLEY. I ask unanimous consent that the motion be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, I ask for a quorum call.

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

The PRESIDING OFFICER. The Senator from Iowa has not relinquished the floor. Does the Senator from Iowa consent or dissent to a quorum call?

Mr. GRASSLEY. I have asked for unanimous consent.

Mr. CONRAD. I object.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The Democratic leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill, and for the inclusion of the language of the pending amendment in the consideration of an amendment between Houses.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this just makes clear that we would not be doing something tonight the Senate has never done before: allow direct spending on a bill such as this without the chance of it being considered in conference and coming back here without any points of order prevailing.

I apologize to colleagues for taking this time, but we cannot be engaging in a process never before done in the Senate to spend tens of billions of dollars without the ability to review it when it comes back from conference. I will not object.

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

The question is on agreeing to amendment No. 2732.

The amendment (No. 2732) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2735 TO AMENDMENT NO. 2707

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, and Mr. REED, proposes an amendment numbered 2735.

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

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

The amendment is as follows:

(Purpose: To support the health needs of our veterans and military personnel and reduce the deficit by making tax rates fairer for all Americans)

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

(d) OFFSET THROUGH MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—

(1) IN GENERAL.—Section 1(h) is amended by adding at the end the following new paragraph:

''(12) MODIFIED RATES FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—If a taxpayer has taxable income of $1,000,000 or more for any taxable year—

''(A) paragraph (11) (relating to dividends taxed as capital gain) shall not apply to any qualified dividend income of the taxpayer for the taxable year, and

''(B) paragraph (1)(C) shall be applied by substituting '20 percent' for '15 percent' with respect to the adjusted net capital gain of the taxpayer for the taxable year, determined by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2006.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''In the case of a taxpayer with alternative minimum taxable income of $1,000,000 or more for any taxable year, the rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2006.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall apply to dividends received after December 31, 2006.

(4) APPLICATION OF JGTRRA SUNSET.—The amendments made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. DODD. Mr. President, I offer this amendment on behalf of a number of colleagues: Senators KENNEDY, KERRY, LAUTENBERG, BOXER, MIKULSKI, AKAKA, and REED.

First, I thank the American Legion. I ask unanimous consent that a letter from the American Legion endorsing the Dodd amendment be printed in the RECORD.

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

THE AMERICAN LEGION,
Washington, DC, February 2, 2006.

Hon. CHRISTOPHER J. DODD,
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR GENTLEMEN: On behalf of the 2.8 million members of The American Legion, I would like to offer our support of the proposed amendment to the Tax Relief Extension Reconciliation Act of 2005 that would provide for the unbudgeted costs of health care for veterans returning from Iraq and Afghanistan.

The amounts offered by this amendment would be in addition to any other amounts provided for medical care under other statutory provisions and would help to avoid funding shortfalls, such as what took place last year, or other problems that arise due to the discretionary funding model currently in place for VA health care. This amendment would also establish a ''Veterans Hospital Improvement Fund'' to provide for improvements in health care facilities treating veterans, including military medical treatment facilities, VA facilities and other facilities (state, local and private) that provide medical care and services to veterans.

Again, we appreciate your efforts on behalf of our nation's veterans. Your amendment acknowledges the need for adequate funding to ensure our nation's veterans receive the healthcare and other benefits to which they are entitled.

Sincerely,

STEVEN ROBERTSON,
Director, National Legislative Commission.

Mr. DODD. Mr. President, the distinction between this amendment and what we just voted on is, of course, paying for this. This amendment would provide at least around $18 billion, $19 billion in needed funds to serve returning veterans from theater of conflict.

We know last year that over 100,000 Iraqi veterans returned home. Yet the administration's fiscal year 2006 budget for the VA was only prepared to handle 23,000 veterans. There are shortfalls in every State across the country. There are shortfalls in private facilities as well as public ones. This amendment is for us finally to say let's do something for these people.

Last year, we were promised it would be accommodated in the appropriations process. It had to be done as almost an afterthought. I don't like offering this amendment on this bill. I understand the problems associated with it. But if we don't finally do something, these veterans will lose the support they deserve. That is why the American Legion is so strongly supporting this amendment.

I urge my colleagues to join me in seeing to it we have the resources to pay for this. If we don't pay for it, this amendment will not make it past the Ohio Clock. It will be dropped, and, once again, veterans will suffer. I urge adoption of the amendment.

Mr. AKAKA. Mr. President, I rise today with my friends, Senators KENNEDY and DODD, to offer an amendment to address the costs of providing health care and improved benefits to troops serving in Iraq and Afghanistan.

This amendment we offer today allows VA to provide care for returning troops—without displacing those veterans currently using the system. Let us never forget the budget disaster last year. Early in the year, we knew VA was not making ends meet. The administration, however, took months to come to that realization. And just last week, the President signed a declaration of emergency funding for $1.2 billion for fiscal year 2006.

We cannot repeat last year's budget scenario. This amendment provides more cushion for this fiscal year and future years.

Early warnings are that this will not be enough to cover expected shortfalls for this fiscal year. And VA will surely not have enough funding to open the system up to all veterans. In 2003, this administration closed the doors to all middle-income veterans who had not enrolled prior to that time. To date, more than 250,000 veterans who have tried to enroll for VA health care have been rejected. In Hawaii alone, 710 veterans were turned away at the door. We have no idea how many middle-income veterans never even try to enroll.

This amendment also sends a message that the Senate wishes to ensure that our veterans are appropriately compensated. For many of our severely injured veterans, disability compensation is their only income—the only way for them to provide for their families. This amendment ensures that our wounded warriors receive the compensation they have earned.

This amendment establishes a fund for infrastructure improvements. VA's infrastructure has suffered greatly over the past 5 years. Major construction projects were held up for some time while we waited for VA's own construction study. And while that process still awaits conclusion, VA has been trying to catch up with the projects that have been stuck in the queue for years. At the same time, the Department has faced consistent funding shortfalls that have paralyzed its ability to carry out these projects. Its no secret that when the health care account is strained, funds are then diverted from ''non-essential'' areas—such as maintenance and construction—to be spent on direct health care costs.

Meanwhile, smaller scale projects are put in jeopardy. In my home State of Hawaii, we have a need for $6.9 million to build a new VA mental health facility in Honolulu.

The costs of the war we are fighting today will continue to add up long after the final shot is fired, mainly in the form of veterans health care and benefits.

I urge my colleagues to join us in this effort to see that they are provided the care they are currently earning.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, since we adopted the previous amendment, we obviously don't need this amendment. But even if we consider this amendment, I raise a budget point of order on the amendment.

Mr. DODD. Mr. President, I move to waive all provisions of the Budget Act and budget resolutions necessary for consideration of the pending amendment to this bill, and for inclusion of the language of the pending amendment in the consideration of an amendment between the Houses.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—44

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—53

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Talent
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Iowa.

Mr. GRASSLEY. Just not to confuse anybody, we are kind of going through the same thing we did on the previous two amendments, so be alerted.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will please come to order.

AMENDMENT NO. 2736

Mr. GRASSLEY. I call up amendment No. 2736.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], proposes an amendment numbered 2736.

The amendment is as follows:

(Purpose: To strengthen America's military and for other purposes)

TITLE IV—STRENGTHENING AMERICA'S MILITARY

SEC. 401. SHORT TITLE.

This title may be cited as the ''Strengthening America's Military Act''.

Subtitle A—Military Funding

SEC. 402. FUNDING FOR MILITARY OPERATIONS.

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

Mr. GRASSLEY. The same arguments that I made on the previous amendments apply here as well. My amendment will do the same as the Reed amendment but doesn't raise taxes to pay for it, so it will provide more equipment for our troops without increasing taxes. I urge support of my amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 1 minute to the Senator from Rhode Island.

Mr. REED. Mr. President, the amendment proposed by the Senator from Iowa is my amendment. It would meet the supreme need of the military to reset, recapitalize, and rehabilitate $43 billion or more of equipment. The one big difference is that my amendment will pay for it. It will take the responsible step of actually paying to help our military. What I will use is dividend offsets. I will offer that later. But we have the responsibility to be responsible, not only give the troops what they need but pay for it so we do not increase the deficit. I hope we respond by supporting my amendment which takes care of the troops but does so in a responsible way by providing the resources to pay for this necessary equipment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, again I raise a budget point of order. I ask unanimous consent it be exactly the same as the previous one on the last two bills. I ask unanimous consent to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of one amendment between the Houses—an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2736) was agreed to.

AMENDMENT NO. 2737

(Purpose: To strengthen America's military, to repeal the extension of tax rates for capital gains and dividends, to reduce the deficit, and for other purposes)

The PRESIDING OFFICER. The Senator from Rhode Island and the Providence Plantation.

Mr. REED. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. KERRY, proposes an amendment numbered 2737.

(The amendment is printed in today's RECORD under ''Text of amendments.'')

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, our Army and Marines face a critical problem: $47 billion worth of equipment which they have used in Iraq and Afghanistan needs to be repaired and reconditioned. They call it reset recapitalization. We have to do this. This equipment is not new equipment, it is not transformational, it is the equipment they need. I commanded a paratrooper company in the 82nd Airborne Division. I can tell you the worst thing for morale is to have soldiers with poor and inadequate equipment. We owe it to them.

My amendment would be the responsible way to do it, pay for it, by taking capital gains cuts that are proposed, dividend cuts and others that are proposed, and other loopholes. It is essentially very simple. Are we going to give a dividend to the wealthiest citizens or are we going to give a dividend to our troops, our soldiers, and marines? And that dividend is equipment that will work, not only today but in the future.

This is particularly important for the National Guard. Every one of your National Guard units has equipment they have left overseas or has been run into the ground. If we do not act responsibly—not just act but act responsibly, then we will not be able to assure our soldiers and marines that the equipment they have is the best equipment, that it works, and it will be reconditioned and refit and work in the future.

I urge passage of this amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Again, I raise a budget point of order on this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I move to waive all provisions of the Budget Act and budget resolutions necessary for the consideration of the pending amendment to this bill and for the inclusion of the language of the pending amendment in the consideration of an amendment between the Houses.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to speak to this issue for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving my right to object, if the Senator has 2 minutes, can I have an additional 2 minutes?

Mr. GREGG. I just want to explain the parliamentary situation for the record.

Mr. President, these last two amendments are totally outside the traditional process of reconciliation. But the practical effects of the motion to waive, which the Senator from Iowa has made on his amendments, is that neither amendment can survive conference. I think it is important to understand that reconciliation cannot include spending under this bill, and that we would be doing fundamental damage to the process were either of these amendments to survive conference. And, therefore, I support the motion on this point of order and hope we proceed the same way we have with the other points of order.

Mr. REED. I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Rhode Island and the Providence Plantation is accorded the floor.

Mr. REED. I have great respect for the procedures and rules of the Senate, but we have come too many times to issues—I can recall back when we were talking about armored humvees when the objection was made this is not the right legislative vehicle to do this. I think we have an obligation to our soldiers and marines to help them now and pay for it now. This might be the only occasion we can do both.

I urge passage.

The PRESIDING OFFICER. Is there objection to the request to waive the Budget Act?

Mr. REED. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—44

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Boxer	Jeffords	Obama
Byrd	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Dayton	Leahy	Schumer
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—53

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Talent
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—3

Bingaman	Domenici	Thomas

The PRESIDING OFFICER (Mr. THUNE). On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. Mr. President, I hope we just have one more rollcall vote—on final passage. It is my understanding that the Menendez amendment has been changed to a sense of the Senate, so that means the amendment I was going to offer on AMT will not be offered. Consequently, I am hoping we can get this amendment agreed to on a voice vote.

Mr. REID. Mr. President, Senator MENENDEZ told Members he wants a rollcall vote.

AMENDMENT NO. 2705

Mr. MENENDEZ. Mr. President, I call up amendment numbered 2705.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. LAUTENBERG, and Ms. STABENOW, proposes an amendment numbered 2705.

The amendment is as follows:

(Purpose: To express the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING PROTECTING MIDDLE-CLASS FAMILIES FROM THE ALTERNATIVE MINIMUM TAX.

(a) FINDINGS.—The Senate finds that—

(1) the alternative minimum tax was originally enacted in 1969 as a supplemental tax on wealthy tax evaders, but has evolved into a tax on millions of middle-class working families, particularly families in which both parents work, and families with 2 or more children;

(2) by the end of the decade, the alternative minimum tax will ensnare more than 30,000,000 taxpayers, the majority of which will have adjusted gross incomes below $100,000, and the National Taxpayer Advocate has thus identified it as the most serious problem facing individual taxpayers;

(3) the alternative minimum tax is often portrayed as a tax that is most problematic for residents of States such as New York, California, Massachusetts, and New Jersey, but the truth is that many other States have a significant percentage of taxpayers affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania, so the problem is of national importance;

(4) a family with 2 children will become subject to the alternative minimum tax at about $67,500 of income in 2006, and a family with 5 children will start owing the alternative minimum tax at about $54,000 of income, if Congress fails to act;

(5) the year 2006 is the ''tipping point'' for the alternative minimum tax, as the number of taxpayers affected nationally will explode from 3,600,000 to 19,000,000 if Congress fails to act;

(6) in 2004, only 6.2 percent of families earning $100,000 to $200,000 a year were subject to the alternative minimum tax, and that number will explode to nearly 50 percent if Congress fails to act;

(7) if alternative minimum tax relief is extended through 2006, about two-thirds of the benefits will be realized by families earning under $200,000, with more than half of the total benefits going to families with incomes between $100,000 and $200,000;

(8) starting in 2008, the average married couple with 2 children earning $75,000 or more will find that more than half of the tax cuts they have been expecting from the various laws passed since 2001 will be ''taken back'' via the alternative minimum tax; and

(9) the temporary relief from the alternative minimum tax (provided in 2001 and extended twice in 2003 and 2004) expired at the end of 2005, but the tax reductions on dividends and capital gains do not expire until the end of 2008, making immediate action on those provisions a less urgent matter.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, this amendment, which is a sense of the Senate, which I am offering with Senators SCHUMER, KERRY, FEINSTEIN, CLINTON, LAUTENBERG, and STABENOW, is simply a sense of the Senate to try

to ensure that 17 million middle-class families do not see a tax increase next year through the alternative minimum tax. This tax was never intended to raise the taxes of average Americans but, in fact, it has—millions of Americans.

Some think this is more problematic for residents of States such as New York, California, or my home State of New Jersey. But the truth is a whole host of other States have a significant percentage of tax failures affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania. It is a problem of national importance. This is a question of whether the Senate values work and the work of honest and hard-working families who are going to be subjected to a tax not because they made more income but simply because of the way the tax is structured.

Ultimately, I urge my colleagues to support the sense of the Senate.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I dispute the presumption we have to choose between AMT hold harmless and not extending capital gains and dividends. We can do both. The presumption in this bill is that we can and we are going to be able to do that in the conference committee.

Since the amendment reflects the position of what we in the Senate previously had anticipated doing anyway, Members ought to vote for the amendment. I will vote for it.

Yesterday afternoon, I took time to respond to Senator HARKIN's statement that we have an AMT problem to a significant degree because of what the Finance Committee did in the 2001 tax bill. Importantly, he fails to recognize that we have addressed the problem for 2001 to 2005. And, now, we are trying to do the same thing for 2006—to make sure that the AMT problem is not worsened.

To the extent that Senator HARKIN suggests, like others who have looked at this issue, that the Bush tax cuts are responsible for the AMT problem, I respond in this way. Most who have reached that conclusion have done so by misusing data provided by the Joint Committee on Taxation, JCT, to distort the record on this issue. Additional analysis will demonstrate that conclusion to be erroneous. To the contrary, the analysis suggests an alternative explanation for the AMT problem—Congress's failure to index the AMT for inflation over the past 35 years.

Senator HARKIN suggests that the Bush tax cuts are responsible for the AMT problem. The conclusion is reached in error because it is based on faulty logic. Those who have done similar analyses have based their conclusions on the mistaken assumption that a reduction in Federal receipts should be interpreted as percentage causation of the AMT problem. JCT was asked to project Federal AMT revenue if the Bush tax cuts were extended, but the current-law hold-harmless provision was not extended—$1.139 trillion—and Federal AMT revenue if neither the Bush tax cuts nor the hold-harmless provision is extended—$400 billion. From that data, some erroneously concluded and publicly represented that the Bush tax cuts are responsible for 65 percent of the AMT problem—$1.139 trillion minus $400 billion divided by $1.139 trillion—and conversely, that the Bush tax cuts tripled the size of the AMT problem—$1.139 trillion divided by $400 billion.

The logic used to reach that conclusion is flawed. That is because the many variables affecting the AMT have overlapping results, and the order in which one analyzes those overlapping variables will directly impact the outcome of the analysis.

In that way, we can use the same JCT data in the analysis above to suggest that failure to index is actually the dominant cause of the AMT problem. If one were to first index the current tax system for inflation by permanently extending an indexed version of the current hold-harmless provision, Federal AMT revenue would be reduced from $1.139 trillion to $472 billion over the 10-year period. Thus, extending and indexing the current hold-harmless provision for future inflation would reduce AMT revenues by 59 percent over the same period, referred to in a JCT letter dated October 3, 2005, as ''percentage of AMT effect attributable to failure to extend and index hold-harmless provision''. A copy of the entire letter is attached. If we then assume that the Bush tax cuts are repealed, AMT revenue falls by an additional $302.3 billion, from $472 billion to $169.7 billion. That second drop, attributable to the repeal of the Bush tax cuts, reduces Federal revenues by only 27 percent. Thus, one could argue that failure to index is the greater cause of the AMT problem—59 percent vs. 27 percent. Using logic similar to that undertaken above would also cause us to conclude that failure to index is responsible for 59 percent of the AMT problem—$1.139 trillion minus $472 billion divided by $1.139 trillion—or alternatively, that failure to index also nearly tripled the size of the AMT problem, $1.139 trillion divided by $472 billion.

But simple logic suggests that the Bush tax cuts cannot be responsible for 65 percent of the AMT problem and failure to index responsible for 59 percent of the problem. The anomaly arises because there is overlap between the variables being analyzed. Although the analysis fairly demonstrates the amount of AMT revenue saved by making a particular change to the Federal tax system, it is inappropriate to represent that such analysis accurately isolates causation of the AMT. Because there is overlap in the variables being analyzed—in these examples, indexing and the Bush tax cuts—the order of analysis of those variables is crucial to the outcome. JCT acknowledges this point to us in a letter dated October 3, stating: ''There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.''

To this point in time, I have not seen anything that accurately suggests that the 2001 tax cuts have worsened the AMT problem to date. It is my intention to ensure that we continue to honor that commitment and that is an important part of this tax reconciliation legislation.

I ask unanimous consent that a memorandum be printed in the RECORD.

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

To: Mark Prater and Christy Mistr
From: George Yin
Subject: AMT Effects

This memorandum responds to your request of September 29, 2005, for an analysis of the portion of the AMT effect (AMT liability plus credits lost due to the AMT) which can be attributed to the failure to adjust the AMT exemption amount to inflation, assuming alternatively that the EGTRRA and JGTRRA tax cuts (''tax cuts'') are either permanently extended or repealed. We also explain how this information compares to information previously provided to you on August 31, 2005 and September 16, 2005.

For the purpose of this analysis, we have first assumed that the tax cuts are repealed. The first set of figures in Table 1 compares the AMT effect under this assumption if, alternatively, (1) the AMT exemption amount hold-harmless provision is not extended beyond 2005; (2) such provision is extended permanently; and (3) such provision is extended permanently and indexed after 2005, The second set of figures presents the same comparison under the assumption that the tax cuts are permanently extended. All of the information provided in this table was previously provided to you in our September 16, 2005 memo, except in a different format.

To: Mark Prater and Christy Mistr
Subject: AMT Effects

TABLE 1.

Item	AMT effect (billions of dollars)
Tax Cuts Repealed:	
(1) Hold-harmless provision not extended	399.9
(2) Hold-harmless provision extended permanently	212.0
(3) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((1)–(2))/(1))	47%
(4) Hold-harmless provision extended permanently and indexed	169.7
(5) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((1)–(4))/(1))	58%
Tax Cuts Extended Permanently:	
(6) Hold-harmless provision not extended	1,139.1
(7) Hold-harmless provision extended permanently	628.5
(8) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((6)–(7))/(6))	45%
(9) Hold-harmless provision extended permanently and indexed	472.0

TABLE 1.—Continued

Item	AMT effect (billions of dollars)
(10) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((6)–(9))/(6))	59%

To: Mark Prater and Christy Mistr
Subject: AMT Effects

In the information provided to you on August 31, 2005 and September 16, 2005, we analyzed the portion of the AMT effect attributable to the tax cuts. In the analysis described above, we identify the portion of the AMT effect attributable to failure to adjust the AMT exemption amount to inflation. There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

This phenomenon is illustrated by Tables 2 and 3 below. The first two columns of Table 2 show the portion of the AMT effect attributable to the tax cuts, consistent with the information provided on August 31, 2005 and September 16, 2005. The second two columns of Table 2 show the portion of the AMT effect attributable to the failure to extend and index the hold-harmless provision, consistent with the information provided in Table 1 above. Note that if these two contributing factors were completely independent of one another, the information in Table 2 would suggest that the two factors together contribute to more than 100 percent of the AMT effect. In fact, as shown in Table 3, the two factors together contribute to only 85 percent of the AMT effect. Thus, there is substantial overlap between these two factors.

TABLE 2.

Item	AMT Effect (billions of dollars)	Item	AMT Effect (billions of dollars)
Baseline	1,139.1	Baseline	1,139.1
Repeal tax cuts	399.9	Extend and index AMT hold-harmless provision	472.0
Difference	739.2	Difference	667.1
Percentage of baseline	65%	Percentage of baseline	59%

To: Mark Prater and Christy Mistr
Subject: AMT Effects

TABLE 3.

Item	AMT Effect (billions of dollars)
Baseline	1,139.1
Repeal tax cuts and extend and index AMT hold-harmless provision	169.7
Difference	969.4
Percentage of baseline	85%

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—73

Akaka	Feinstein	Murkowski
Allard	Graham	Murray
Baucus	Grassley	Nelson (FL)
Bayh	Hagel	Nelson (NE)
Bennett	Harkin	Obama
Biden	Hatch	Pryor
Bond	Hutchison	Reed
Boxer	Inouye	Reid
Bunning	Jeffords	Rockefeller
Burns	Johnson	Salazar
Byrd	Kennedy	Santorum
Cantwell	Kerry	Sarbanes
Carper	Kohl	Schumer
Chafee	Landrieu	Shelby
Clinton	Lautenberg	Smith
Cochran	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Stevens
Dayton	Lott	Talent
DeWine	Lugar	Voinovich
Dodd	Martinez	Warner
Dorgan	McConnell	Wyden
Durbin	Menendez	
Feingold	Mikulski	

NAYS—24

Alexander	Crapo	Isakson
Allen	DeMint	Kyl
Brownback	Dole	McCain
Burr	Ensign	Roberts
Chambliss	Enzi	Sessions
Coburn	Frist	Sununu
Cornyn	Gregg	Thune
Craig	Inhofe	Vitter

NOT VOTING—3

Bingaman	Domenici	Thomas

The amendment (No. 2705) was agreed to.

Mr. FRIST. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 4659

Mr. FRIST. Mr. President, I will have a few announcements to make, but, first, I ask unanimous consent that following the vote on passage of H.R. 4297, the Senate proceed to the immediate consideration of H.R. 4659, the PATRIOT Act extension. I further ask consent that there then be 10 minutes of debate, equally divided, and that following the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I apologize, were you referring to 10 minutes for debate on the PATRIOT Act?

Mr. FRIST. That is correct.

Mr. LEAHY. I will not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, for the information of colleagues, we do have two remaining votes this evening. The next vote will be on passage of the Tax Relief Act. And following that vote, we will have 10 minutes of debate and a vote on passage of the PATRIOT Act extension. That will be the last vote. So, Mr. President, two more votes.

We will be in session tomorrow, but there will be no votes tomorrow. The next piece of legislation we will be considering is the asbestos legislation, and it will be necessary to file cloture on the motion to proceed to that bill.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, what we would be willing to do, if we are not in session tomorrow, we would be willing to allow the——

Mr. FRIST. If there are no votes tomorrow.

Mr. REID. Either no votes or not in session.

Mr. FRIST. All right.

Mr. REID. We would be willing to agree procedurally on a motion to proceed to the asbestos bill. You could file whatever papers necessary tonight to do that so we could have a Tuesday cloture vote.

Mr. FRIST. All right. Mr. President, we will work out on filing the motion to proceed here, and I will have an announcement. We will have no votes tomorrow. By the end of tonight, we will have Tuesday worked out. We will be debating the asbestos bill on Monday. The next vote will be on that cloture motion, and we will talk about when that would occur Tuesday. In all likelihood, if we have a vote Tuesday, it would be around 6 o'clock at night. There are a number of Members who will want to attend the funeral of Coretta Scott King, and, as I understand it, that will be at noon on Tuesday. Therefore, the next vote that we will have will be at approximately 6 o'clock on Tuesday night.

CONFLICT OF INTEREST

Mr. SPECTER. Mr. President, I would like to call the chairman's attention to a serious situation facing a Federal district judge in my State of Pennsylvania, who recently contacted me on this matter. He has an immediate problem that could be solved with an amendment to this bill. This judge was assigned as the transferee judge responsible for handling all pretrial matters in very large multidistrict litigation involving antitrust claims in the

corrugated paper industry from all around the United States. He has been working on the case since 1999.

Late in this last year, a company in which the judge inherited stock over 30 years ago merged into another company which happens to be one of the plaintiffs in the case. Because of the judge's stock holdings in this company, the judge may now have to recuse himself from the case. Most of the parties would like the judge to remain on the case because of his years of experience and expertise on this case. In order to remain as the transferee judge, this judge would have to sell his holdings, which would give him a capital gain this year well into six figures.

Last March and again this past November, Ralph Mecham, as Secretary of the Judicial Conference of the United States, transmitted on behalf of the Conference a legislative proposal to you and to Senator BAUCUS that would resolve this judge's problem and similar problems for countless other Federal judges throughout the United States. It would permit a judge who must sell financial holdings in order to avoid a conflict of interest to reinvest that money in another holding and defer paying the capital gains tax until the substitute financial interest is liquidated. The taxes are not forgiven, but deferred and payable at the later date, as I just said.

This same solution to conflicts of interest is already available to executive branch officials. The proposal by the Judicial conference would simply extend it to Federal judges, as well, bringing parity to these two branches of the Federal Government.

I understand that it is too late at this time to offer the Judicial Conference proposal as an amendment. However, I would like to know if the chairman would consider taking this matter up during the conference with the House on this bill.

Mr. GRASSLEY. Mr. President, I appreciate the Senator bringing this matter to my attention and regret that it is too late to amend the bill today on the floor. I will agree with the Senator, however, to review this proposal further with the intent of taking it up in conference.

Mr. KENNEDY. Mr. President, budget reconciliation is a process adopted by Congress nearly three decades ago to facilitate the passage of legislation to reduce the deficit and to help bring the Federal budget into balance. But in recent years, under the Republican majority, that process has been repeatedly abused to enact more and more tax cuts for the wealthy that make the budget deficit even larger.

Now, they are trying to do it again, in spite of the urgent problems facing the Nation, from the ongoing war in Iraq to the devastating hurricane damage along the gulf coast. The Republicans have brought before the Senate two reconciliation bills, one now passed, that would produce a net increase in the budget deficit by billions of dollars over the next 5 years.

It sounds like deficit reduction, until you look at the tax reconciliation bill, which will cut taxes by far more than the savings in spending—$70 billion. The net result will be a substantial increase in the budget deficit—exactly the opposite of what the reconciliation process is supposed to accomplish. Billions of dollars will go from programs that assist low income families and senior citizens into the pockets of the already wealthy. It takes from the least and gives to the most. It is a breathtaking Republican scam on the Nation that can only further discredit this Congress in the eyes of the people.

From day one, the Republican plan has been to use this reconciliation process to push through a cut in the tax rate on capital gains and dividend income. These are tax cuts that overwhelmingly benefit the richest Americans. Over half the tax benefits will go to millionaires. These tax breaks were in the original mark proposed by Chairman GRASSLEY, and they are in the bill already passed by the Republican majority in the House of Representatives. While they are not in the current Senate bill, we all know these capital gains and dividend tax cuts will reappear in the conference report. Leading Republicans have made that clear. The GOP is intent on delivering those tax breaks to their wealthy supporters. They will be included in the final bill.

What is the real cost of these capital gains and dividend tax cuts? The Republicans claim the cost of these provisions is $20 billion, the real cost of extending the lower rates for another 2 years is $50 billion. This tax break is particularly unfair, because over 75 percent of the tax benefits will go to taxpayers with incomes over $200,000 a year. Over half the benefits—53 percent—will go to taxpayers with incomes over $1 million a year. The average millionaire will save over $35,000 a year from these tax breaks for capital gains and dividends.

As a result of this shameful Republican let-them-eat-cake proposal, millions of working families would pay a substantially higher tax rate on their wages than wealthy taxpayers pay on their investment income. What could be more unfair? Republicans are penalizing hard work, not rewarding it. They are giving a preference to unearned income over earned income.

The Republicans cynically claim that capital gains and dividend income deserve special treatment because they will stimulate investment. The facts do not substantiate that claim. The stock market grew much more rapidly in the early and mid-1990s when investors' income was taxed at the same rate as employers' wages than since the rates on capital gains and dividend income were cut. The overall health of the economy has much more to do with financial stability than special tax breaks for the rich. More tax cuts that America cannot afford will hurt the economy, not help it.

There are some provisions in the Senate bill that we do need to address. The alternative minimum tax was never intended to apply to middle-class families, and they deserve tax relief. In a truly outrageous move, the House Republicans took AMT relief for the middle class out of their reconciliation bill so they could fit in more tax breaks for the rich. The research and development tax credit is important to our international competitiveness and should be retained. However, those worthwhile tax cuts should be paid for by rolling back some of the extravagant tax breaks that this Republican Congress has already given to the Nation's wealthiest taxpayers. We simply cannot afford more tax cuts at a time when we are facing record deficits.

The financial mismanagement of the Bush administration has weakened our economy and placed our children's financial well-being in peril. The national debt has risen to an all time high of $8 trillion. Under President Bush, our country has borrowed more from foreign governments and foreign financial institutions than in the prior 200 years combined. We are losing control of our Nation's future, and all the Republicans offer is more of the same. More and more tax breaks further enriching the already wealthy, while working families are left to struggle on their own in an increasingly harsh economy.

If we are honest about reducing the deficit and strengthening the economy, we need to stop lavishing tax breaks on the rich and start investing in the health and well-being of all families. These families are being squeezed unmercifully between stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance is up 59 percent in the last 5 years. Gasoline is up 74 percent. College tuition is up 45 percent. Housing is up 44 percent. The list goes on and on, up and up—and paychecks are buying less each year. The dollars that go to pay for more tax breaks for the rich are dollars that could be used to help these families. Instead, this Republican budget plan turns a blind eye to their problems.

The economic trends are very disturbing for any who are willing to look at them objectively. The gap between rich and poor has been widening in recent years. Thirty-seven million Americans now live in poverty, up 19 percent during the Bush administration. One in five American children lives in poverty. Fourteen million children go to bed hungry each night. Wages remain stagnant while inflation drags more and more families below the poverty line. Two-point-eight million manufacturing jobs have been lost. Long-term unemployment is at historic highs.

In his second inaugural address, President Lincoln reminded us of the solemn obligation that we have to those who fight our Nation's wars. He said ''let us strive on to finish the work we are in, to bind up the Nation's

wounds, to care for him who shall have borne the battle [and for his widow and his orphan.]''

Over 550,000 brave men and women have served in Iraq and Afghanistan. A majority of them have served multiple tours fighting under dangerous conditions, and battling an unseen foe. We owe it to them to care for their injuries incurred in service of our Nation.

As of today, over 16,000 of our troops have been injured in battle. Of those, over 7,500 were so seriously injured that they could not return to duty. We have seen the ravages of war in the wards of Walter Reed and Bethesda. While body armor saves lives, many soldiers and Marines have lost their limbs.

Others will survive with major injuries to their spine or brain damage. This summer, the Surgeon General of the Army reported that 30 percent of U.S. troops have developed mental health problems within a few months of their return from Iraq. Twenty percent of the troops injured in Iraq have suffered head and brain injuries that require a lifetime of continual care that could cost as much as $5 million.

A recent study by the New England Journal of Medicine found that 15 to 17 percent of Iraqi vets showed signs of ''major depression, generalized anxiety, or [Post Traumatic Stress Disorder].'' But of those, only 23 to 40 percent are seeking help. Many of them will wind up homeless with no other options for their health care than the VA. After their service to our country, we should not leave them out on the street.

The increased use of the Guard and Reserve in this conflict has created an entirely new category of people who may now make use of the VA. The Guard and Reserve make up approximately 40 percent of the troops on the ground, and approximately 90,000 have sought care at VA hospitals.

Unfortunately, our current budgets do not reflect this reality. A recent study by Nobel Prize-winning economist Joseph Stiglitz and Harvard professor Linda Bilmes found that the costs of paying for the injured from these wars has not yet been budgeted. To our dismay, we learned that the Veterans' Administration needed an additional $2.7 billion for this fiscal year to care for the veterans returning from the war.

Stiglitz and Bilmes found that, ''the military values the cost of those injured by what their medical treatment cost and disability pay; and current accounting only reflects current payments in disability'' not future payments.

Based on their calculations, it could cost as much as $24.1 billion to pay for these costs over the next 5 years. Of this amount, $9.4 billion for medical care and $14.7 billion for increased disability payments.

This amendment Senator DODD and I have introduced would rectify that shortfall and keep faith with our men and women in uniform. It would be paid for by elimination of the capital gains and dividends tax breaks for taxpayers with over $1 million in annual income.

We owe it to soldiers like Sergeant Peter Damon, a son of Massachusetts who lost his arms in Iraq.

I also express my support for the amendment offered by Senator ROCKEFELLER that would provide strong tax incentives for mining companies to adopt safer practices and up-to-date safety equipment.

The recent tragedies at Sago Mine and Alma Mine in West Virginia remind us that the safety of the Nation's workers is paramount. This year, 21 miners have already been killed on the job. In early January, 12 miners died when they were trapped after an explosion at the Sago Mine. Just 2½ weeks later, two more miners died in a mine fire at the Alma mine. And tragically, yesterday, there were three more mine accidents in West Virginia, killing two more men. One miner died in an underground mine in Boone County when a wall support came loose. A second miner died when a bulldozer struck a gas line, causing a deadly fire. Miners have also died this year in Kentucky and Utah.

Our entire Nation joins the families and the communities in mourning these fallen miners. We have a continuing obligation to do everything we can to protect the safety of America's workers. It is obvious that we are not meeting that obligation.

Two weeks ago, I traveled with Senator ROCKEFELLER, Health, Education, Labor and Pensions Committee Chairman ENZI, and Subcommittee Chairman ISAKSON to meet with the family members of the miners who were killed at Sago Mine, and with coalminers, company representatives, and health and safety experts. Each of us committed to improving the Nation's mine safety laws.

A critical part of that commitment is to ensure that all of our Nation's miners have the best safety equipment available. This amendment will encourage companies to adopt up-to-date mine safety equipment by providing accelerated deductions for companies that invest in these technologies.

It encourages mines to adopt emergency communications technology and tracking devices to locate miners underground. It will also encourage coal mines to ensure that workers have access to additional stores of emergency oxygen, which will give them extra time to exit a mine or to wait for rescue. Finally, the amendment acknowledges the vital need for experienced mine rescuers who are familiar with the underground geography of a mine. By providing a tax credit to encourage the formation of mine rescue teams, we hope to ensure that mines have well-trained rescuers onsite, saving precious minutes in any rescue attempt.

These are all safety measures that could have made a difference in the terrible tragedies that occurred this year at Sago and Alma Mines. By passing this amendment, we take the first step toward preventing future such tragedies from occurring.

I have joined separately in sponsoring legislation introduced by Senator BYRD and Senator ROCKEFELLER to require the Mine Safety and Health Administration to quickly adopt needed safety standards. Both of these measures are critical to improving safety conditions in America's mines. Our Nation's miners deserve no less, and I urge my colleagues to support this amendment and the Federal Mine Safety and Health Act of 2006.

Instead of helping hard-pressed families, the budget reconciliation process is being misused to cut the programs and eliminate the services that these families need most, while granting the wealthy even more tax breaks. It is yet another opportunity squandered—another chance that this Republican Congress had to make things better. But once again, this Congress has chosen to make them worse instead. The American people deserve better.

Mr. HATCH. Mr. President, I rise to express my support for the tax reconciliation bill being debated today. I have listened to the comments of my colleagues on both sides of the aisle with much interest. Because we have heard a great deal about the wisdom or folly of extending the lower tax rate on dividends and capital gains, I would like to take this opportunity to offer a few words in defense of the extension.

It is interesting to me that so many of my colleagues have juxtaposed the capital gains and dividends provision against the provision to relieve temporarily the individual alternative minimum tax. Listening to some of my colleagues, it seems they believe that we either must include the alternative minimum tax fix or extend the capital gains and dividends provision, but not both. My strong belief is that we can—and must—do both.

The reduced rate of tax on dividends and capital gains has been attacked repeatedly as being a costly sop to the rich and not much else, with little recognition given to its beneficial impact on the economy. The simple fact is that the data and basic economics tell us the cost of the lower tax rates on dividends and capital gains has been minor, and the benefits immense.

There is ample evidence that clearly shows the lower tax rates on capital income have stimulated saving. Alicia Munnell, an economist at Boston College and a former official in the Clinton Treasury Department, finds that working age households saved significantly more in 2003, the year the tax reductions on capital gains and dividends passed the Congress, than they did in 2002. Incidentally, Munnell's work also shows that the recently announced savings rate of zero is misleading—she reports that working families, and by that I mean families with breadwinners who have yet to reach retirement age, are indeed putting

money aside. However, looking at our broad, economy-wide measure of net saving, the dissaving done by retired households obscures this fact.

There are other benefits from a lower tax rate on investment income besides increased saving. With lower tax rates, capital becomes more fluid, making it easier for it to flow to projects with higher rates of return. Families lock in much less capital for fear of the taxman. The Government gets a lower percentage of each sale of stock, but it gets more opportunities to tax the money.

And, Uncle Sam is getting more cracks at it. The amount of capital gains realized in 2005 was twice that in 2002. The stock market's value has not doubled since then, and we are not twice as wealthy as we were then—people are just responding to incentives and they are holding their assets for a bit less time. There is nothing necessarily wrong with that. If capital is used more wisely, this ultimately benefits not just the investors but also the workers, who see their productivity increase. When productivity goes up, wages must follow.

The amount of revenue collected from taxes on capital gains and dividends has increased significantly since the reduction in tax rates passed. In 2005, capital gains tax revenues amounted to $80 billion, 60 percent higher than in 2002.

Now, I am not about to claim that this or any other tax cut ''pays for itself,'' but the revenue lost from the lower rates on capital gains and dividends is relatively minor precisely because of the increased economic activity the lower taxes generate. The jump in revenues collected from the two taxes is manifest proof of this.

The beneficiaries of lower taxes on investment income are not just those who own stocks and bonds either, and I would like to point out that it is not just the rich who have investments. I hear from retired Utahns who are living modestly on a Social Security check, a small pension, and their savings. They might not have a lot of money invested, and their dividends are not going to buy them a new car or luxury condominium, but every little bit helps, they tell me.

In reality, everyone benefits from lower taxes on dividends and capital gains—even those with little or no savings. The primary reason for lower tax rates on investment income is that it stimulates the economy. This is not a radical idea by any means—Nobel Prize-winning economists Robert Lucas and Ed Prescott have argued vehemently in favor of this. The logic is simple: Low taxes on the income we receive from our savings means we will save more. That ends up making more capital available for firms to invest in new plant and equipment, increasing productivity as well as wages.

The strong economic conditions of the 1990s are owed to a number of factors, but the most important factor was undoubtedly the resumption of high productivity growth in the middle of the decade. It was in the latter years of the expansion, when unemployment dropped below 5 percent, that we finally saw the elusive gains in income of low-skilled workers. I believe that the low tax rate on capital gains and dividends is an essential ingredient in creating more new jobs and maintaining healthy economic growth.

Some of my colleagues may say they agree that the benefits of lower rates are real and ought to be continued, but they do not see the need to renew a provision that does not expire until 2008. The simple answer is that we need to create some degree of certainty and stability for investors. Investors in 2006 care about what the tax rate on a long-term investment is going to be in 3 years. If they believe that Congress will allow tax rates on dividends and capital gains to increase to their previously higher rates, they will be less inclined to make those investments. That money will go instead to less productive, shorter term investments or will simply not be saved at all. The end result is that we'll have less capital available and lower economic growth.

We must acknowledge that the budget deficit is a problem—it is obvious we need to get our economic house in order soon. The baby boom generation is starting to retire and making our budget mess a lot worse. However, increasing the taxes on dividends and capital gains is not the answer to our budget morass, either in the short or the long run. We need every single bit of economic growth we can get for the next decade to help fund our obligations, and allowing the tax rates on dividends and capital gains to go back up would be a tax increase that would reduce growth.

When we seek to raise revenue by taxing the accumulation of wealth, we are essentially punishing a virtuous activity, namely saving. We should be doing all we can to encourage families to set aside money, to invest, to patiently prepare for the future. Allowing the low tax rate on dividends and capital gains to expire would do more than reduce productivity and economic growth; it would send a signal that we do not value savings in this country. At this point in time, we can afford neither.

Some of my colleagues believe that low tax rates on dividends and capital gains benefit solely the rich and no one else and feel that they cannot countenance a continuation of the low rates at the expense of programs more targeted to low-income households. I do not fault my colleagues for their concern, but I believe that the lower rates helps everyone in our country. It costs us relatively little in terms of lost tax revenue, since the lower rates have resulted in higher dividends, higher stock prices, and more sales of stock, with more revenue created by each activity. At the same time, every single working family in this country benefits from the higher savings engendered by the lower tax rates via the improved productivity, wages, economic growth, and the number of jobs available. High growth and economic prosperity are not the cure to every problem that ails the country, but it can make any solution much more attainable. Supporting low tax rates on dividends and capital gains is the right thing to do.

The PRESIDING OFFICER. Are there further amendments to the first-degree amendment?

If not, without objection, the first-degree amendment, as amended, is agreed to.

The amendment (No. 2707), as amended, was agreed to.

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

The bill was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—66

Alexander	Dole	Menendez
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bennett	Frist	Pryor
Bond	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Salazar
Burns	Hagel	Santorum
Cantwell	Hatch	Schumer
Carper	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Isakson	Smith
Cochran	Johnson	Snowe
Coleman	Kyl	Specter
Collins	Landrieu	Stabenow
Cornyn	Lincoln	Stevens
Craig	Lott	Sununu
Crapo	Lugar	Talent
Dayton	Martinez	Thune
DeMint	McCain	Vitter
DeWine	McConnell	Warner

NAYS—31

Akaka	Durbin	Lieberman
Bayh	Feingold	Mikulski
Biden	Harkin	Murray
Boxer	Inouye	Obama
Burr	Jeffords	Reed
Byrd	Kennedy	Reid
Chafee	Kerry	Sarbanes
Coburn	Kohl	Voinovich
Conrad	Lautenberg	Wyden
Dodd	Leahy	
Dorgan	Levin	

NOT VOTING—3

Bingaman Domenici Thomas

The bill (H.R. 4297), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

USA PATRIOT ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 4659.

The legislative clerk read as follows:

A bill (H.R. 4659) to amend the USA PATRIOT Act to extend the sunset of certain provisions of such Act.

The PRESIDING OFFICER. There are now 10 minutes equally divided for debate. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, the Republican leadership of the House and the Senate has proposed a second extension of the PATRIOT Act to last another 5 weeks until March 10. I support that. I support it because it is basically what Senator SUNUNU and I proposed in December in the bipartisan S. 2082, cosponsored by 47 Senators from both sides of the aisle. I hope this will allow us to make the final improvements necessary so that the final PATRIOT Act can be passed.

I support H.R. 4659, a bill by Chairman SENSENBRENNER. I hope all Senators from both sides of the aisle will. I say this because—notwithstanding the fact that the Senate doesn't even have a modicum of order, I would note, I am prepared to yield back the rest of my time if the place would just hush a tiny bit—it is a vital debate. The terrorist threat to American security is very real. It is vital that we have the tools to protect American security. That is why I coauthored the PATRIOT Act 5 years ago. That is why it passed with broad bipartisan support. I didn't believe it was a perfect piece of legislation, but I thought it was a good piece of legislation.

And then the Republican leader in the House, Dick Armey, and I put certain sunset provisions in it so that we would actually look at this again. I think we have done that. We are close to having a final product. After all, our Nation is a democracy. It is based on the principles of a balanced government, which requires something that we have not seen enough of lately—checks and balances. We can do that in this act.

I noted earlier this week that I was concerned that the Republican congressional leadership had not even proposed to the Senate Democratic leadership or to that of the Judiciary Committee that action be taken to ensure that certain sunsetting provisions of the USA PATRIOT Act not be allowed simply to expire at the end of this week. Thereafter, action was finally considered. Yesterday the House passed a bill to extend the sunsetting provisions until March 10, 2006. I support H.R. 4659, Chairman SENSENBRENNER's bill.

Those of us working constructively and in a bipartisan way to extend the USA PATRIOT Act with improvements have repeatedly offered to meet to work out the remaining differences. Regrettably, the Senate leadership has not made the effort to work through the remaining concerns or to bring us together. I was concerned because as recently as last week leading Republicans were indicating that they opposed another short-term extension that could be used to work out improvements that can lead to longer term Senate reauthorization.

I was concerned that the demagoguery we had witnessed from the White House and House Republicans would be repeated, but that this time it would have real consequences. Last December, even though a majority of Senators—Republicans and Democrats, those who voted against cloture on the conference report that failed to pass the Senate and those who voted for it urged the Republican leader to act on a short-term, 3-month extension before the end of the last session. At that time the President had said that he would not approve a short-term extension, and House Republicans had said that they would not allow a short-term extension. Those who threatened to let it expire were playing a dangerous political game. Fortunately, common sense prevailed, and in the waning days of the last session, just before adjournment for Christmas, the House approved a short-term extension until February 3, and the President reversed his earlier position and signed it into law.

Now the Republican leadership of the House and Senate is proposing a second extension that will last for another 5 weeks, until March 10. That is in line with the initial bipartisan proposal that Senator SUNUNU and I made in S. 2082, back on December 12, that came to be cosponsored by 47 Senators. It is my hope that this will allow us the opportunity to work out improvements to the reauthorization legislation to better protect the liberties and rights of ordinary Americans. We should do our best to get it right for all Americans.

I have continued meeting and talking with interested Republican and Democratic Senators. Senate staff has finally gotten together this week in a bipartisan meeting. I have joined in a bipartisan request to the majority leader that he bring together key interested Senators to work out a bipartisan compromise that improves the failed conference report.

Contrary to the false claims and misrepresentations by some, there was no effort on either side of the aisle to do away with the PATRIOT Act. That is simply and profoundly not true. Along with others in the Senate, I am seeking to mend and extend the PATRIOT Act, not to end it. There is no reason why the American people cannot have a PATRIOT Act that is both effective and that adequately protects their rights and their privacy. The only people who ever threatened an expiration of the PATRIOT Act were the President and House Republicans. As I noted on December 21, the administration and the Republican congressional leadership were those who were objecting to extending the act and threatening its expiration. That was wrong. That made no sense. They came to their senses in the days that followed.

In his State of the Union speech this week the President said only that reauthorizing the PATRIOT Act was needed to provide the same tools we provide to law enforcement authorities to fight drug trafficking and organized crime. I have worked with others to provide additional tools in the fight against terrorism. With others on both sides of the aisle, I also want to protect the liberties of ordinary and law-abiding Americans from overreaching and unchecked Government intrusion. Permanent gag orders and conclusive presumptions in favor of the Government, when intrusive demands for library records or personal medical records are being made by agents without court approval, smack of a police state, not the United States.

Republican and Democratic Senators joined together last month to say we can do better to protect Americans' liberties while ensuring that our national security is as strong as it can be. In the days after 9/11, the Senate Democratic majority joined with Republicans and the administration in bipartisan action. Unfortunately, the President's political adviser Karl Rove and other Republican partisans have sought to make the PATRIOT Act a partisan issue. I urge them, instead, to join with our bipartisan coalition and work with us to provide a better balance to protect the rights of ordinary Americans.

Every single Senator—Republican and Democratic—voted last July to mend and extend the PATRIOT Act. That bipartisan solution was cast aside by the Bush administration and Republican congressional leaders when they hijacked the conference report, rewrote the bill in ways that fell short in protecting basic civil liberties, and then tried to ram it through Congress as an all-or-nothing proposition. I have joined with Senators of both parties in an effort to work to improve the bill. Some of us are working hard to protect the security and liberty of Americans. What is wrong is for the White House to seek to manipulate this into a partisan fight for its partisan political advantage. Instead of playing partisan politics, the Bush administration and Republican congressional leadership should join in trying to improve the law. Especially when security and liberty are at issue, why not make the extra effort to produce a consensus bill that can deserve the confidence of the American people?

This is a vital debate. The terrorist threat to America's security is very real, and it is vital that we be armed

with the tools needed to protect Americans' security. At the same time, the threat to civil liberties is also very real in America today. The question is not whether the Government should have the tools it needs to protect the American people. Of course it should. That is why I coauthored the PATRIOT Act 5 years ago, and that is why that act passed with broad bipartisan support. When I voted for the PATRIOT Act, I did not think it was an ideal piece of legislation, and I knew that it would need careful oversight and, in due course, reform. This is about how to reconcile two fundamental goals—ensuring the safety of the American people and protecting their liberty by means of a system of checks and balances that keeps the Government—their Government—accountable. Those goals should not be the goals of any particular party or ideology, they are shared American goals.

Our Nation is a democracy, founded on the principles of balanced government. We need to restore checks and balances in this country to protect us all and all that we hold dear. Our Congress and our courts provide checks on the abuse of executive authority and should protect our liberties. We need to write the law so that Congress has provided its check in the law and so that courts can play their role, as well. All Americans need to take notice and demand that their liberties and security be properly and effectively maintained.

I see the senior Senator, my good friend from Pennsylvania, on the floor. I will yield back the rest of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. LEAHY. Mr. President, first, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, we need the PATRIOT Act. I am prepared to work on it further to improve it. I support the bill, and I yield back 4 minutes 45 seconds of my 5 minutes.

The PRESIDING OFFICER. The question is on third reading and passage of the bill.

The bill (H.R. 4659) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. THOMAS), and the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—95

Akaka	Dole	McConnell
Alexander	Dorgan	Menendez
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feinstein	Nelson (FL)
Bennett	Frist	Nelson (NE)
Biden	Graham	Obama
Bond	Grassley	Pryor
Boxer	Gregg	Reed
Brownback	Hagel	Reid
Bunning	Harkin	Roberts
Burns	Hatch	Rockefeller
Burr	Hutchison	Salazar
Byrd	Inhofe	Santorum
Cantwell	Inouye	Sarbanes
Carper	Isakson	Schumer
Chafee	Jeffords	Sessions
Chambliss	Johnson	Shelby
Clinton	Kennedy	Smith
Coburn	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Kyl	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Sununu
Cornyn	Leahy	Talent
Craig	Levin	Thune
Crapo	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lugar	Warner
DeWine	Martinez	Wyden
Dodd	McCain	

NAYS—1

Feingold

NOT VOTING—4

Bingaman	Lott
Domenici	Thomas

The bill (H.R. 4659) was passed.

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

The motion to lay on the table was agreed to.

FREE TRADE AGREEMENT—REPUBLIC OF KOREA

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached letter from the United States Trade Representative be entered into the RECORD. It serves as notification to Congress that the President intends to initiate negotiations for a free trade agreement, FTA, with the Republic of Korea.

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

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE, WASHINGTON, DC, FEBRUARY 2, 2006.

Hon. TED STEVENS,
President pro tempore, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: In accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), and pursuant to authority delegated to me by the President, I am pleased to notify the Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with the Republic of Korea. We expect these negotiations to commence in May 2006. We will be consulting closely with the Congress regarding these negotiations, as required by the Trade Act.

The Administration is committed to concluding trade agreements that benefit our farmers, workers, businesses, and families by opening markets around the world. With the continued help of Congress, we will continue to advance America's trade interests.

An FTA with Korea will help foster economic growth and create higher paying jobs in the United States by reducing and eliminating barriers to trade and investment between Korea and the United States. An FTA will enable American companies to increase their exports of goods and services to Korea. The FTA will require Korea to eliminate its tariffs on U.S. industrial and agricultural goods, remove any unjustified sanitary and phytosanitary (SPS) measures, improve the transparency of its regulatory and licensing procedures, and lower its barriers to U.S. service providers.

The United States has much to gain through an FTA with Korea. Korea already is our seventh largest trading partner with $72.6 billion in total bilateral trade during 2004. An FTA promises to increase trade still further across a wide range of goods and services and thereby promote economic growth and the creation of better paying jobs in both countries. An FTA will also level the playing field for U.S. exports in Korea by providing U.S. products treatment comparable to that which Korea has offered its other FTA partners, such as Chile, Singapore, and the European Free Trade Association countries (Iceland, Norway, Switzerland, and Liechtenstein).

An FTA with Korea will provide benefits for U.S. agricultural producers. In 2005, based on eleven month annualized data, Korea was the sixth largest export market for U.S. farm and ranch products. Under an FTA, Korea will eliminate duties on U.S. agricultural goods and reduce other barriers in Korea's agricultural sector, thus creating new opportunities for U.S. farmers in this major market. U.S. negotiators will work hard to ensure that the FTA facilitates further market access for U.S. food and other agricultural exports to Korea and addresses the full range of trade barriers that U.S. agriculture exports currently face in Korea, including unjustified SPS measures. We will consult closely with Congress and the U.S. agriculture community in developing our positions on agricultural issues during the negotiations.

The FTA will also promote exports of U.S. industrial goods by eliminating Korea's tariffs on U.S. products and reducing its nontariff barriers. U.S. industry groups have consistently cited Korea as a potential FTA partner because of the significant opportunities an FTA will provide for new U.S. industrial goods exports. FTA negotiations will also provide an opportunity to reduce or eliminate restrictions that make it difficult for U.S. service providers to operate in the Korean market.

In recent years, U.S. industry has repeatedly pointed out deficiencies in Korea's efforts to protect intellectual property. The Administration has held extensive, detailed discussions on this subject with Korea since 2001, and Korea has made progress on important issues, including improved protection for sound recordings transmitted over the Internet and better enforcement against software and textbook piracy. FTA negotiations will provide a unique opportunity to improve further the protection that Korea affords to intellectual property, including strengthened measures in Korea against the illegal online distribution and transmission of copyrighted works.

We also recognize the concerns raised by U.S. industry about the close interaction between the Korean government and business in some sectors of the economy and the insufficient transparency in Korea's regulatory processes. In order to address these concerns, we will seek to ensure that the FTA provides

for regulatory transparency in trade and investment matters, including a public comment period, the publication of general administrative actions, and other appropriate provisions.

An FTA with Korea will also promote bilateral investment. U.S. companies are already the largest source of foreign investment in Korea, while Korea is a growing source of investment in the United States. Additional bilateral investment holds the potential of adding to the many jobs that current high levels of bilateral investment support.

An FTA will also help strengthen Korea's cooperation with the United States in multilateral and regional trade fora. Korea is already a close partner in the Asia-Pacific Economic Cooperation (APEC) and in the Doha Round of negotiations in the World Trade Organization (WTO). As host country for the APEC Leaders Meeting in November 2005, Korea played a leadership role in securing a call by all 21 APEC Leaders for an ambitious conclusion to the WTO Doha Development Agenda. It similarly played a constructive role in the recent Hong Kong Ministerial meeting. Concluding an FTA will help ensure that there continues to be a commonality of interest and close cooperation between the United States and Korea in all international trade fora.

In addition to complementing our cooperative efforts with Korea on global and regional trade issues, an FTA will further enhance the strong United States-Korea regional partnership, which is a force for stability and development in Asia. An FTA will reinforce the shared interests of the United States and Korea and promote common values, facilitating our efforts to work together on a wide range of issues. Korea is a key ally in the region on military and security matters. We are partners in the global war on terrorism, and the extensive ties between the U.S. and Korean armed forces bolster U.S. strategic interests in the region.

While we see substantial benefits in pursuing an FTA with Korea, we are also giving careful consideration to concerns that some members of Congress have raised regarding Korea's trade policies. We will continue to consult closely with Congress as we consider how to address these issues in the context of FTA negotiations.

Initial consultations with the Congressional Oversight Group (COG) on September 8, 2005 and with other Members of Congress regarding potential FTA negotiations with Korea have been positive, and our decision to move ahead with negotiations with Korea was strongly influenced by the bipartisan expressions of interest we have received from members of Congress and U.S. industry. The Administration will continue to consult closely with the Congress, including the COG, throughout the negotiation process on the full range of issues.

Our specific objectives for negotiations with Korea are as follows:

Trade in Goods

Seek to eliminate tariffs and other duties and charges on trade between Korea and the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.

Seek to eliminate non-tariff barriers in Korea to U.S. exports, including permit and licensing barriers on agricultural and other products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, and other trade restrictive measures that U.S. exporters identify.

Seek to eliminate government practices that adversely affect U.S. exports of perishable or cyclical agricultural products, while providing for improved U.S. import relief mechanisms as appropriate.

Pursue a mechanism with Korea that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide bona fide food aid and preserving U.S. agricultural market development and export credit programs.

Pursue fully reciprocal access to the Korean market for U.S. textile and apparel products.

Customs Matters, Rules of Origin, and Enforcement Cooperation

Seek specific and trade facilitative customs commitments to ensure that Korea's customs operations are conducted with transparency, efficiency, and predictability, and that Korea's customs laws, regulations, decisions, and rulings are applied in a manner that facilitates the efficient and timely release of goods, and prevents unwarranted procedural obstacles to international trade.

Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under an FTA with Korea apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.

Seek terms for cooperative efforts with Korea regarding enforcement of customs and related issues, including in the area of trade in textiles and apparel.

Sanitary and Phytosanitary (SPS) Measures

Seek to have Korea reaffirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.

Seek to strengthen cooperation between U.S. and Korean SPS authorities.

Seek to strengthen collaboration with Korea in implementing the WTO SPS Agreement and to enhance cooperation with Korea in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

Technical Barriers to Trade (TBT)

Seek to have Korea reaffirm its WTO TBT commitments and eliminate any unjustified TBT measures.

Seek to strengthen collaboration with Korea in implementing the WTO TBT Agreement and create a procedure for exchanging information with Korea on TBT-related issues.

Intellectual Property Rights

Seek to establish standards to be applied in Korea that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and other international intellectual property agreements, such as the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Patent Cooperation Treaty.

In areas such as patent protection and protection of undisclosed information, seek to have Korea apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.

Seek to strengthen Korea's laws and procedures to enforce intellectual property rights, such as by ensuring that Korean authorities seize suspected pirated and counterfeit goods, equipment used to make such goods or to transmit pirated goods, and documentary evidence.

Seek to strengthen measures in Korea that provide for compensation of right holders for infringements of intellectual property rights and to provide for criminal penalties under Korean law that are sufficient to have a deterrent effect on piracy and counterfeiting.

Trade in Services

Pursue disciplines to address discriminatory and other barriers to trade in Korea's services market, and pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, professional services, or other sectors.

Seek improved transparency and predictability of Korean regulatory procedures, specialized disciplines for financial services, and additional disciplines for telecommunications and other service sectors, as necessary.

Investment

Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in Korea, while ensuring that Korean investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in Korea important rights comparable to those that would be available under U.S. legal principles and practice.

Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in Korea and to address unjustified barriers to the establishment and operation of U.S. investments in Korea.

Provide procedures to resolve disputes between U.S. investors and the Korean government that are in keeping with the Trade Promotion Authority goals of being expeditious, fair, and transparent.

Electronic Commerce

Seek to have Korea affirm that it will allow products and services to be delivered electronically and will not unjustifiably discriminate among those products and services.

Seek to affirm that Korea does not apply customs duties to digital products that are delivered electronically.

Seek to ensure that Korea determines the dutiable value of digital products contained on carrier media based on the value of the media, not their content.

Government Procurement

Seek to expand on Korea's commitments in the WTO Government Procurement Agreement (GPA), thus providing greater opportunities for U.S. firms to secure construction and supply contracts with the Korean government, particularly by allowing U.S. suppliers to compete for smaller contracts that are not currently open to U.S. bidders or goods.

Transparency/Anti-Corruption/Regulatory Reform

Seek to make Korea's administration of its trade and investment regime more transparent, and pursue rules that will permit timely and meaningful public comment before Korea adopts trade- and investment-related measures.

Seek to eliminate Korean government regulation or other measures that discriminate against or deny full market access for U.S. exporters or investors.

Seek to ensure that Korea applies high standards prohibiting corrupt practices affecting international trade and investment and enforces such prohibitions.

Competition

Address anticompetitive business conduct, designated monopolies, state enterprises, and other competition-related issues, as appropriate.

Seek provisions that foster cooperation on competition law and policy and that provide for consultations on specific competition issues that may arise.

Trade Remedies

Provide a safeguard mechanism during the transition period to allow a temporary revocation of tariff preferences if increased imports from Korea are a substantial cause of

serious injury or threat of serious injury to the domestic industry.

Make no changes to U.S. antidumping and countervailing duty laws.

Environment

Seek to promote trade and environment policies that are mutually supportive.

Seek an appropriate commitment by Korea to effectively enforce its environmental laws.

Establish that Korea will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.

Seek to develop ways to work with Korea, including through consultative mechanisms, to promote sustainable development and address environmental issues of mutual interest.

Labor

Seek an appropriate commitment by Korea to effectively enforce its labor laws.

Establish that Korea will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.

Based upon review and analysis of Korea's labor law and practices, establish procedures for consultations and cooperative activities with Korea to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor.

State-to-State Dispute Settlement

Encourage the early identification and settlement of disputes through consultation.

Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

In addition, the FTA with Korea will take into account other legitimate U.S. objectives including, but not limited to, the protection of health, safety, environment, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, consumers, businesses, and farmers, and will pursue these specific objectives, keeping in mind the overall and principal U.S. negotiating objectives and priorities that the Congress has identified. We look forward to continuing to work with the Congress as negotiations with Korea begin, and we commit to work with you as we bring them to a successful conclusion.

Sincerely,

ROB PORTMAN.

REMEMBERING CORETTA SCOTT KING

Mr. SANTORUM. Mr. President, I rise today to honor the life of Coretta Scott King and express my condolences on her passing. Mrs. King carried the message of nonviolence and the dream of racial equality around our great nation and throughout the world. She led goodwill missions in Africa, Latin America, Europe, and Asia. Mrs. King traveled throughout the world advocating racial justice, religious freedom, and helping those in need.

Coretta Scott was born in Marion, AL, on April 27, 1927. In a world where neither women nor minorities pursued an education, she graduated as valedictorian of her high school class and attended Antioch College in Yellow Springs, OH. She received a bachelor of arts in music and education and then studied concert singing at the New England Conservatory of Music in Boston, MA.

While in Boston, she met Martin Luther King, Jr., and the two forged a unique relationship that led to the raising of their four children and an endeavor to find racial equality throughout our country. She was not just the wife of one of our great civil rights leaders. She was a great civil rights leader in her own right. She became the first woman to deliver the Class Day address at Harvard, and the first woman to preach at a statutory service at St. Paul's Cathedral in London.

Just days after the death of Martin Luther King, Jr., Mrs. King carried out her husband's dream by leading a march on behalf of sanitation workers in Memphis, TN. Mrs. King continued to speak publicly and write nationally syndicated columns. As founding president, chair, and chief executive officer of the Martin Luther King, Jr. Center for Nonviolent Social Change, she dedicated herself to providing local, national, and international programs that have trained tens of thousands of people in Dr. King's philosophy and methods. In 1983, she led an effort that brought more than a half million demonstrators to Washington, DC, to commemorate the 20th anniversary of the 1963 March on Washington for Jobs and Freedom, where King delivered his famous ''I Have a Dream'' speech.

Mrs. King was also an instrumental part in establishing Dr. King's birthday, January 15, as a national holiday in the United States. By an act of Congress, the first national observance of the holiday took place in 1986. Dr. King's birthday is now marked by annual celebrations in over 100 countries.

Mrs. King has received honorary doctorates from over 60 colleges and universities and was the author of three books. She served on, or helped create, dozens of organizations, and has met with various heads of state to address the issues of racial inequality and fighting poverty.

As a nation, we owe Mrs. King a debt of gratitude for her strength and perseverance throughout her lifelong pursuit of equality for all Americans. She and her husband inspired generations of Americans to work towards freedom and equality. Their legacy will live on and their quest for civil rights will never be forgotten.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS BRIAN J. SCHOFF

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man who was born in Michigan City. Brian Schoff, 22 years old, died on January 29 when a roadside bomb exploded near his humvee during a combat operation. With his entire life before him, Brian risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Although Brian moved to Tennessee when he was young, his valor over the course of his service in Iraq is proof that he was a Hoosier at heart. He joined the Army in 2003, a year after he graduated from high school, because he wanted to serve his country. Brian enjoyed the military, but he intended to return to Indiana in May to join his father working at Sullair Corporation. His father described his son to local media outlets as an adventurous, active person who enjoyed hunting, fishing and sports.

Brian was killed while serving his country in Operation Iraqi Freedom. He was a member of the 101st Airborne Division based at Fort Campbell, KY. This brave young soldier leaves behind his father, Brian L. Schoff, and his mother, Cathy Odle of Manchester, TN.

Today, I join Brian's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Brian, a memory that will burn brightly during these continuing days of conflict and grief.

Brian was known for his dedication to his family and his love of country. Today and always, Brian will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Brian's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Brian's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Brian J. Schoff in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Brian's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Brian.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress, I have come to the floor to highlight a separate hate crime that has occurred in our country.

On February 1, 2006, in New Bedford, MA, a man walked into Puzzles Lounge and asked someone at the bar if it was a gay bar. The man then opened fire with a handgun, wounding at least three people. Two of the victims were flown to Boston hospitals for treatment, while the third person was taken to St. Luke's hospital in New Bedford.

I believe that the 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.

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT

Mr. ALEXANDER. Mr. President, I rise today to express my support for the Fairness in Asbestos Injury Resolution Act sponsored by Senators SPECTER and LEAHY. The FAIR Act is a bill about American jobs. It will have a substantial effect on a number of jobs at Tennessee manufacturers such as Nissan, Saturn, and Eastman as well as hundreds of their Tennessee suppliers. That is because while it means faster, more efficient resolution of claims for those harmed by asbestos exposure, it also means certainty for manufacturers so that they can spend more of their money investing in their businesses and creating more American jobs.

Americans injured by asbestos are waiting too long and paying too much to adjudicate these claims. According to estimates from the RAND Institute, of the $70 billion expended on asbestos litigation through 2002, nearly 60 percent was spent on attorneys' fees and other transaction costs. Put another way, asbestos victims are only getting a little more than 40 cents of every dollar that is being paid out on asbestos claims. In addition, in many cases, these claimants are waiting more 3 years to collect this compensation as their cases wind their way through the tort system. As a result, many of these victims are not able to cover the costs of medical treatments that cannot be delayed. The FAIR Act will help claimants by capping attorneys' fees at 5 percent—and thereby putting 95 percent of the compensation paid out into the pockets of the victims. It will also ensure that victims get a ruling on their claim within 90 to 180 days from the Department of Labor—not 3 years or more.

Since the 1980s, the number of companies defending themselves from asbestos claims has risen from 300 to more than 8,400. More than 70 companies have gone bankrupt, resulting in more than 60,000 workers losing their jobs and retirees seeing their retirement funds shrink. In Tennessee, according to the 2002 Economic Census, more than 400,000 jobs are in the manufacturing sector. Without this bill, tens of thousands of those jobs may be shipped overseas as companies struggle to afford the enormous payouts that result under the current system.

The Senate Judiciary Committee has considered this issue for more than 20 years. Senator SPECTER and Senator HATCH before him held numerous meetings with stakeholders and members of the Judiciary Committee. The bill has gone through numerous revisions to accommodate issues raised by parties on all sides. Senator SPECTER and Senator LEAHY have been cooperative, accommodating, flexible, and generous with their time. And they have produced a bill that has garnered support from a broad spectrum of manufacturers, insurers, and claimants.

The FAIR Act may not be perfect, but it will start us on the road toward achieving two critical goals: it allow people injured by asbestos to receive compensation quickly and efficiently, without spending years tied up in the courts and losing a large chunk of their award to attorneys' fees; and it will save jobs by giving American companies certainty with regard to the costs of compensating claimants.

I urge my colleagues to support this important legislation.

ILLEGAL EXPORT OF DANGEROUS FIREARMS TO MEXICO

Mr. LEVIN. Mr. President, several recent published reports indicate that lax gun safety laws here in the United States may be resulting in the trafficking of thousands of firearms across the border into Mexico and contributing to a surge in violence and crime in that country.

Many firearms are illegal in Mexico. In fact, there are apparently less than 2,500 licensed gun owners in the entire country. This is because such licenses take a year or more to process, cost nearly $2,000, and must be renewed every 2 years. In addition, Mexican authorities say they confiscate more than 250 illegal firearms every day from crime suspects. U.S. and Mexican law enforcement officials estimate that as much as 95 percent of these guns can be traced back to the United States.

Mexican law enforcement officials have made several major illegal weapons seizures in the last few months alone. In December, 20 assault rifles were seized in Tijuana, just across the border from California. In another seizure, police recovered a cache of weapons that included seven assault rifles and several semiautomatic handguns in the Mexican border town of Nuevo Laredo. It also should be noted that in the last year alone more than 100 people were shot to death by suspected drug cartel members in Nuevo Laredo. According to Mexican and U.S. officials, these drug smuggling operations are frequently the end users of guns illegally trafficked from the United States.

Reportedly, weak U.S. gun regulations are being exploited to help arm criminals in Mexico. One way of doing this is through the use of a ''straw purchaser'' who buys firearms legally in the United States on behalf of a Mexican gun trafficker. In one reported case last year, a handgun recovered in Reynosa, Mexico, was traced back to a Texas man who had reportedly bought more than 150 guns for criminals in Mexico. In another case, more than 80 guns were traced to a Mexican national who apparently paid Texas residents to purchase them for him. According to Mexican authorities, guns recovered in Mexico are often traced to original buyers in Texas, where ''straw purchasers'' can buy guns and ammunition in unlimited quantities.

Law enforcement authorities in Mexico say assault rifles are the most sought-after weapons by Mexican criminals. Unfortunately, these dangerous weapons are in plentiful supply here in the United States due to Congress's failure to reauthorize or strengthen the 1994 Assault Weapons Ban. On September 13, 2004, this legislation expired, allowing 19 previously banned assault weapons, as well as firearms that can accept detachable magazines and have more than one of several specific military features, such as a folding/telescoping stock, protruding pistol grip, bayonet mount, threaded muzzle or flash suppressor, barrel shroud or grenade launcher to be legally sold again. These dangerous weapons are being bought in the United States and trafficked into Mexico, where they are frequently used in violent crime, conflicts between rival drug cartels, and shootouts with Mexican law enforcement authorities.

Apparently, law enforcement officials are also concerned about the prevalence of .50-caliber firearms, which are turning up more frequently in Mexico in recent years. These high-powered weapons fire thumb-sized bullets that come in armor-piercing, incendiary, and explosive varieties and can easily punch through aircraft fuselages, fuel tanks, and engines. Under current U.S. law, .50-caliber sniper rifles can be purchased by private individuals with only minimal federal regulation. In fact, these dangerous weapons are treated the same as other long rifles including shotguns, hunting rifles, and smaller target rifles.

I am a cosponsor of the Fifty-Caliber Sniper Weapon Regulation Act introduced by Senator FEINSTEIN. This bill

would reclassify .50-caliber rifles under the National Firearms Act, NFA, treating them the same as other high-powered or especially lethal firearms like machineguns and sawed off shotguns. Among other things, reclassification of .50-caliber sniper rifles under the NFA would subject them to new requirements, including registration with federal authorities. These additional requirements would help law enforcement officials identify ''straw purchasers'' and other sources of illegally trafficked .50-caliber rifles recovered in Mexico more easily.

The United States has a responsibility to do what it can to help prevent the illegal export of dangerous firearms outside of our borders. By enacting commonsense legislation, like the Fifty-Caliber Sniper Weapon Regulation Act and the Assault Weapons Ban, we can improve the security of communities in the United States, as well as those in neighboring countries.

FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. JOHNSON. Mr. President, last year, I joined with Senators ENZI, HAGEL and ALLARD to introduce S. 1562, the Safe and Fair Deposit Insurance Act of 2005, legislation to overhaul and reform this country's deposit insurance system. I also wish to thank Senator BEN NELSON for joining us as a cosponsor.

I have been closely tied to deposit insurance reform for many years, and I am pleased to see that my strong commitment to this issue will result in the enactment of critical reforms that will provide tangible benefits to financial institutions and their customers. Many of my colleagues on the Banking Committee will recall when I first introduced the Main Street Act back in 2000. We have come a long way since then. The legislation that is now making its way to President Bush's desk is the result of many years of debate and careful deliberation, and has garnered strong bipartisan support along the way.

The enactment of this legislation will mark a notable milestone in the history of banking and financial services in this country. Deposit insurance is one of the cornerstones of our country's financial system, and it is especially critical to our Nation's smaller financial institutions and community banks.

I am pleased that we are giving the Federal Deposit Insurance Corporation and the National Credit Union Administration the requisite tools to appropriately operate and manage the newly merged deposit insurance fund and assess premiums based on the risks that institutions pose to the system. These reforms were long overdue. It is imperative that the framework of deposit insurance that was established to promote the stability and soundness of our banking system not fall victim to the political process or become static but rather be appropriately reformed and dynamic enough to keep pace with the evolution of that system.

The key reforms embodied in the legislation will promote depositor confidence by ensuring that depositors' hard-earned money, from the funds that cover daily living expenses to funds they are saving for retirement and a rainy day, will continue to be insured against risks over which they have no control.

By merging the bank insurance fund with the savings association insurance fund, we create a stronger and more diversified fund, and eliminate the possibility for disparities in premiums between banks and thrifts. Implementing a system of risk-based insurance premiums will ensure that banks pay based on the risk they pose to the system, and the FDIC will be able to price insurance premiums accordingly. By increasing the level of coverage for retirement accounts to $250,000, we are adjusting for the real value of coverage, and will promote financial stability for individual retirees. In the current environment, with the uncertainty surrounding Social Security and pension benefits, it is critical that we provide appropriate coverage for the hard-working Americans who have saved for their retirement and long-term needs.

I would again like to recognize the banking community in South Dakota for the invaluable and critical role they have played in this process over the past 5 years. I truly appreciate the input and recommendations that I have received from the industry overall. I would also like to thank Chairman SHELBY, and Ranking Member SARBANES for their leadership, Senators ENZI, HAGEL and ALLARD for the many hours of hard work, and former FDIC Chairman Don Powell for his commitment to deposit insurance reform and tremendous leadership.

ADDITIONAL STATEMENTS

RECOGNIZING THE COMMISSION ON INDEPENDENT COLLEGES AND UNIVERSITIES

● Mrs. CLINTON. Mr. President, I want to take this opportunity to recognize a remarkable organization, the Commission on Independent Colleges and Universities, cIcu, with which I have had the pleasure of working closely in the years since I was elected to the U.S. Senate. I am delighted to announce that this year cIcu is celebrating its 50th anniversary. In 50 years of service, cIcu has been at the forefront of every major issue facing postsecondary education in New York. With Abe Lackman's leadership, cIcu has been a powerful champion for college access, helping to increase opportunities for thousands upon thousands of New Yorkers.

cIcu's more than 100 members—private, nonprofit colleges and universities in New York—offer an exceptional educational experience, with personalized attention, and world-class faculty. New York is home to more of the Nation's top 100 colleges and universities than any other State and a leading destination for students attending college out of State. Because of the hard work and commitment of the people at cIcu and throughout the independent sector, cIcu member campuses have been pioneers in expanding access to higher education in New York, serving more low-income and minority students than many public higher education institutions. New York's independent colleges and universities are also a robust economic engine, generating innovative ideas and sustaining thousands of jobs—a fact that Abe would never allow me to forget.

cIcu schools enroll 452,000 students, including 300,000 New Yorkers, employ 131,000 people with an annual payroll of $6 billion, and generate $40 billion of annual economic impact. From major research universities to small faith-based institutions, cIcu's schools are shaping the future of individual students' lives and New York's economy. So happy birthday cIcu. May your second 50 years be as successful and productive as your first 50.●

IN MEMORY OF WILLIAM MATTHEW BYRNE, JR.

● Mrs. FEINSTEIN. Mr. President, I would like to offer a few words in observance of the passing of U.S. District Judge William Matthew Byrne, Jr., a great legal mind and ambassador of justice who nobly served our country for over 30 years on the Federal bench.

I extend my deepest sympathy to the family of Judge Byrne, his many friends and colleagues, and the members of the legal community everywhere who had come to know his talent and charm. A giant in his field, Judge Byrne tirelessly traveled the globe teaching and promoting the rule of law. His efforts touched countless individuals and left an immeasurable impact on legal systems on an international scale.

After honorably serving our Nation in the U.S. Air Force and amassing an unparalleled 96 percent conviction record as a U.S. attorney in Los Angeles, Judge Byrne was named head of the Commission on Campus Unrest by President Nixon. As head of the Commission, Judge Byrne sought to bridge the growing cultural divide that had developed as a result of the war in Vietnam.

The Commission's report revealed Judge Byrne's unassailable judgment and great courage. Bravely stepping into the middle of the fray, he found fault with students and police alike. Judge Byrne's work on the Commission played an important role in reuniting the country around our shared values. His contribution was recognized in 1971, when he was confirmed to a Federal judgeship at the age of 40, making

him at that time the youngest man in America's history to rise to this prominent position.

Although he dealt with many high-profile cases, Judge Byrne was most remembered for his courageous handling of the trial of Daniel Ellsberg, the man charged with releasing classified documents in the infamous Pentagon Papers case. The Government, he ruled, did not have a case, and a mistrial was declared.

In a time of rampant government scandal and deep-seated corruption at the highest levels of power, Judge Byrne courageously stood up for his convictions, sending the powerful message that nobody was above the law.

''The totality of the circumstances in this case,'' Judge Byrne ruled, ''offend a sense of justice.'' It is for this sense of justice that Judge Byrne will always be remembered.

Throughout his long and remarkable career, Judge Byrne distinguished himself as a man of sound jurisprudence, honor, and integrity. His lasting legacy of sensible legal adjudication serves as an inspiration to all Americans.

Once again, my heart goes out to Judge Byrne's family and all those who knew him.

He will truly be missed.●

THE RETIREMENT OF TOM CAMPBELL

● Mr. ROBERTS. Mr. President, I rise to recognize the life work of Mr. Tom Campbell as he retires from Dow Agrosciences after more than 40 years of dedicated service. Tom will leave a legacy of leadership and a belief in the unlimited potential of American agriculture.

Mr. Campbell joined the Dow Chemical Company agriculture division in 1965 as a field representative servicing corn and soybean producers in Illinois and Missouri. From there, he transferred to Louisiana to work with producers of sugar cane, rice, soybeans, sweet potatoes, cotton, strawberries, timber, and livestock. He moved to Hawaii in 1973 as manager for the company's Hawaii operations where he worked with sugar cane, pineapple, and fresh fruit producers as well as customers of product groups Dow served. In 1975, Mr. Campbell was moved to Midland, MI, to manage the market introduction of a new insecticide into the cotton and corn markets in North America. Transferring to Dallas, TX, he then managed product sales for Texas, Oklahoma, New Mexico, Montana, North and South Dakota, Wyoming, and Colorado. He then returned to Michigan to manage the marketing of agricultural products serving the rangeland and industrial vegetation markets of North America.

In 1989, he became the Federal Government Affairs manager, based in Washington, DC. In this capacity, Mr. Campbell has been responsible for Federal legislative activities, interfacing with governmental agencies on regulatory matters, continued involvement and cooperation with domestic trade associations, and support to business development in other countries. Mr. Campbell held this position until his retirement on December 31, 2005.

On the home front, Tom and his wife Lynda have raised two sons, been members of the St. John's Episcopal Church of McLean, VA, and are active in numerous community groups and boards, from the Langley High School Boosters Club to their local homeowners association.

In this business, there are people who tell you what you want to hear and people who tell you what you need to hear. Tom Campbell has always been someone who tells me and other Members of Congress what we need to hear, and I thank him for that.

The reason that I mention all these things, the reason that Mr. Campbell has had such a long and rich career, of course can be traced back to his roots on a wheat and cattle farm in Mitchell County, KS, and the bachelor's degree in animal science he earned at Kansas State University. Kansans join me in celebrating the many accomplishments of Tom Campbell.●

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–5520. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, the Department's Fiscal Year 2005 Competitive Sourcing Report; to the Committee on the Judiciary.

EC–5521. A communication from the Principal Deputy Director of National Intelligence, transmitting, pursuant to law, a report entitled ''Information Sharing Environment Interim Implementation Plan''; to the Select Committee on Intelligence.

EC–5522. A communication from the Deputy Chief for National Forest System, Forest Service, Department of Agriculture, transmitting, pursuant to law, the 2004 Report for the Granite Watershed Enhancement and Protection Stewardship Project; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5523. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Fruits and Vegetables'' (Doc. No. 03–077–2) received on January 28, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5524. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis in Cattle and Bison; State and Zone Designations; Minnesota'' (Doc. No. 6–004–1) received on January 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5525. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Add Argentina to the List of Regions Considered Free of Exotic Newcastle Disease'' (Doc. No. 04–083–3) received on January 31, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5526. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report to Congress on Adoption and Other Permanency Outcomes for Children in Foster Care: Focus on Older Children; to the Committee on Health, Education, Labor, and Pensions.

EC–5527. A communication from the Assistant Secretary for Civil Rights, Department of Education, transmitting, pursuant to law, the Department's Office for Civil Rights Fiscal Year 2004 Annual Report; to the Committee on Health, Education, Labor, and Pensions.

EC–5528. A communication from the Secretary of Education, transmitting, pursuant to law, the Department's Fiscal Year 2005 Competitive Sourcing Report; to the Committee on Health, Education, Labor, and Pensions.

EC–5529. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Competitive Sourcing Report; to the Committee on Health, Education, Labor, and Pensions.

EC–5530. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 06–09–06–20; to the Committee on Foreign Relations.

EC–5531. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Hague Convention on Intercountry Adoption; Intercountry Adoption Act of 2000; Accreditation of Agencies; Approval of Persons'' (RIN1400–AA88) received on January 28, 2006; to the Committee on Foreign Relations.

EC–5532. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Intercountry Adoption—Preservation of Convention Records'' (RIN1400–AB69) received on January 28, 2006; to the Committee on Foreign Relations.

EC–5533. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, a report relative to competitive sourcing programs; to the Committee on Foreign Relations.

EC–5534. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report relating to post-liberation Iraq under Section 7 of the Iraq Liberation Act of 1998 for the August 15, 2005 through October 15, 2005 period; to the Committee on Foreign Relations.

EC–5535. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, a report relating to the report on the amount of Department of Defense purchases from foreign entities in fiscal year 2005; to the Committee on Armed Services.

EC–5536. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report on the account balance in the Defense Cooperation Account as of December 31, 2005 and a listing of personal property contributed by coalition partners to the Global War on Terrorism for

the quarter ending December 31, 2005; to the Committee on Armed Services.

EC–5537. A communication from the Team Chief, Department of the Army, transmitting, pursuant to law, the report of a rule entitled ''Personnel Review Board'' received on January 26, 2006; to the Committee on Armed Services.

EC–5538. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contracting by Negotiation'' (DFARS Case 2003–D077) received on January 31, 2006; to the Committee on Armed Services.

EC–5539. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Simplified Acquisition Procedures'' (DFARS Case 2003–D075) received on January 31, 2006; to the Committee on Armed Services.

EC–5540. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Utility Rates Established by Regulatory Bodies'' (DFARS Case 2003–D096) received on January 31, 2006; to the Committee on Armed Services.

EC–5541. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Acquisition of Utility Services'' (DFARS Case 2003–D069) received on January 31, 2006; to the Committee on Armed Services.

EC–5542. A communication from the Acting, Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Specialized Service Contracting'' (DFARS Case 2003–D041) received on January 31, 2006; to the Committee on Armed Services.

EC–5543. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Department of Defense Mentor-Protege Program'' (DFARS Case 2004–D028) received on January 31, 2006; to the Committee on Armed Services.

EC–5544. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled ''Effects of Medicare Payment Changes on Oncology Services''; to the Committee on Finance.

EC–5545. A communication from the Assistant Secretary for Import Administration, Alternate Chairman, Department of Commerce, transmitting, pursuant to law, the Fiscal Year 2004 Foreign-Trade Zones Board Report; to the Committee on Finance.

EC–5546. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Revised Medical Criteria for Evaluating Cardiovascular Impairments'' (RIN0960–AD48) received on January 31, 2006; to the Committee on Finance.

EC–5547. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Payment for Respiratory Assist Devices With Bi-level Capability and a Backup Date'' (RIN0938–AN02) received on January 31, 2006; to the Committee on Finance.

EC–5548. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—November 2005'' (Rev. Rul. 2006–6) received on January 31, 2006; to the Committee on Finance.

EC–5549. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Allocation and Apportionment of Expenses; Alternative Method for Determining Tax Book Value of Assets'' (TD9247) received on January 31, 2006; to the Committee on Finance.

EC–5550. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Clarification of Definitions'' ((RIN1545–BD37)(TD9246)) received on January 31, 2006; to the Committee on Finance.

EC–5551. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Provisions Regarding Cross-border Transactions'' ((RIN1545–BA65)(TD9243)) received on January 31, 2006; to the Committee on Finance.

EC–5552. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the construction of a hurricane and storm damage reduction project for the Dare County Beaches, North Carolina; to the Committee on Environment and Public Works.

EC–5553. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Indian River Lagoon—South, ecosystem restoration project, which is located in Martin, St. Lucie, and Lake Okeechobee Counties, Florida; to the Committee on Environment and Public Works.

EC–5554. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's November 2005 monthly report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–5555. A communication from the General Manager, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Fiscal Year 2005 Competitive Sourcing Report; to the Committee on Energy and Natural Resources.

EC–5556. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a draft joint resolution entitled ''Approving the Location of a Dwight D. Eisenhower Memorial in the Nation's Capital''; to the Committee on Energy and Natural Resources.

EC–5557. A communication from the Administrator and Chief Executive Officer, Department of Energy, transmitting, pursuant to law, the Bonneville Power Administration's 2005 Annual Report; to the Committee on Energy and Natural Resources.

EC–5558. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''Solar and Wind Technologies for Hydrogen Production''; to the Committee on Energy and Natural Resources.

EC–5559. A communication from the Chief Human Capital Officer/Director, Human Resources, Department of Energy, transmitting, pursuant to law, the report of action on a nomination for the position of Assistant Secretary, Fossil Energy , received on January 31, 2006; to the Committee on Energy and Natural Resources.

EC–5560. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Transactions Subject to FPA Section 203'' (Docket No. RM05–34–000) received on January 31, 2006; to the Committee on Energy and Natural Resources.

EC–5561. A communication from the Acting Deputy Chief Financial Officer, Department of Housing and Urban Development, transmitting, pursuant to law, the Department's Fiscal Year 2005 Competitive Sourcing Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–5562. A communication from the Acting Director, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Florida as a result of Tropical Storm Rita on September 18—October 23, 2005, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–5563. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's 2006 Report on Foreign Policy-Based Export Controls; to the Committee on Banking , Housing, and Urban Affairs.

EC–5564. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's annual report on the Emergency Oil and Gas Guaranteed Loan Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–5565. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Department's annual report on the Emergency Steel Loan Guarantee Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–5566. A communication from the Associate General Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Renewal of Expiring Section 8 Project-Based Assistance Contracts'' ((RIN2502–AH47)(FR–4551–F–01)) received on January 31, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–5567. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (FEMA–7903) received on January 31, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–5568. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Post-Employment Restrictions for Certain NCUA Examiners'' (12 CFR Part 796) received on January 31, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–5569. A communication from the Acting Senior Procurement Executive, General Service Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–07'' (FAC2005–07) received on January 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–5570. A communication from the Director, Trade and Development Agency, transmitting, pursuant to law, the report on the amount of acquisitions made by the agency from entities that manufacture the articles, materials,or supplies outside of the United States during fiscal years 2004 and 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5571. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the report on the amount of acquisitions made by the agency

from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5572. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the report on the amount of acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal years 2003, 2004, 2005, and 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–5573. A communication from the Chairman, Postal Rate Commission, transmitting, pursuant to law, the Commission's Report required by the Government in the Sunshine Act for calendar year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5574. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report on the amount of acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5575. A communication from the Colonel, Corps of Engineers and Secretary, Mississippi River Commission, transmitting, pursuant to law, the Commission's report as required by the Government in the Sunshine Act for calendar year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5576. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the report on the amount of acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States for fiscal year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–5577. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Administrations report as required by the Government in the Sunshine Act for calendar year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5578. A communication from the Comptroller General, Government Accountability Office, transmitting, pursuant to law, a report concerning GAO's Performance and Accountability Highlights for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–5579. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Competitive Sourcing Efforts Report; to the Committee on Commerce, Science, and Transportation.

EC–5580. A communication from the Acting Deputy Director, Bureau of Transportation Statistics, Department of Transportation , transmitting, pursuant to law, the Bureau's Transportation Statistics Annual Report; to the Committee on Commerce, Science, and Transportation.

EC–5581. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Bluefish and Summer Flounder Fisheries'' (RIN0648–AT50) received on January 31, 2006; to the Committee on Commerce, Science, and Transportation.

EC–5582. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Cape Sarichef Research Restriction Area Opening for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area'' ((RIN0648–AT54)(I.D. 100705C)) received on January 31, 2006; to the Committee on Commerce, Science, and Transportation.

EC–5583. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 feet (18.3 Meters) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 120705A) received on January 31, 2006; to the Committee on Commerce, Science, and Transportation.

EC–5584. A communication from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary Rule, Inseason Retention Limit Adjustment'' (I.D.010406B) received on January 31, 2006; to the Committee on Commerce, Science, and Transportation.

EC–5585. A communication from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Tilefish Fishery; Adjustment to the Fishing Year 2006 Tilefish Full-time Tier 1 Permit Category Commercial Quota'' (I.D. 122905B) received on January 31, 2006; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 265. A bill to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes (Rept. No. 109–215).

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. LEVIN (for himself and Ms. STABENOW):

S. 2240. A bill to amend title XVIII to reform the Medicare prescription drug program; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2241. A bill for the relief of Carmen Shahrzad Kulcsar; to the Committee on the Judiciary.

By Mr. VITTER:

S. 2242. A bill to establish the policy of the United States with respect to the deployment of missile defense systems capable of defending allies of the United States against ballistic missile attack; to the Committee on Foreign Relations.

By Mr. MENENDEZ:

S. 2243. A bill to make college more affordable by expanding and enhancing financial aid options for students and their families and providing loan forgiveness opportunities for public service employees, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2244. A bill to provide funding and incentives for caregiver support and long-term care assistance; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself and Mrs. FEINSTEIN):

S. Res. 365. A resolution to provide a 60 vote point of order against out of scope material in conference reports and open the process of earmarks in the Senate; to the Committee on Rules and Administration.

By Mr. INHOFE (for himself, Mr. COLEMAN, Mr. SANTORUM, Mr. DEMINT, Mrs. HUTCHISON, Mr. DEWINE, Mr. MARTINEZ, Mr. BOND, Mr. CHAMBLISS, Mr. KYL, Mr. SPECTER, Mr. SMITH, Mr. ROBERTS, Mr. ALLARD, Mr. BURNS, Mr. BUNNING, Mr. ENSIGN, Mr. MCCAIN, Mr. SESSIONS, Mr. HATCH, Mr. ENZI, Mr. BENNETT, Mr. GRASSLEY, Mr. CRAIG, Mr. MCCONNELL, Mr. COBURN, Mr. FRIST, Mr. BROWNBACK, Mr. VITTER, Mr. NELSON of Florida, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, Mrs. LINCOLN, Mr. DAYTON, Mr. JEFFORDS, Ms. LANDRIEU, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. NELSON of Nebraska, Mr. FEINGOLD, Mr. KENNEDY, and Mr. LAUTENBERG):

S. Res. 366. A resolution affirming the importance of increased international action and a national week of prayer for the Ugandan victims of Joseph Kony's Lord's Resistance Army, and expressing the sense of the Senate that Sudan, Uganda, and the international community bring justice and humanitarian assistance to Northern Uganda and that February 2 through 9, 2006 should be designated as a national week of prayer and reflection for the people of Uganda; considered and agreed to.

ADDITIONAL COSPONSORS

S. 368

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 368, a bill to provide assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.

S. 424

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 438, a bill to amend title XVIII of the

Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 537

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 709

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1086

At the request of Mr. BYRD, his name was added as a cosponsor of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1215

At the request of Mr. GREGG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1217

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1217, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 1263

At the request of Mr. BOND, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1263, a bill to amend the Small Business Act to establish eligibility requirements for business concerns to receive awards under the Small Business Innovation Research Program.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1575

At the request of Mr. BINGAMAN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1575, a bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty.

S. 1698

At the request of Mr. KERRY, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1698, a bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes.

S. 1723

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1723, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fishermen, and for other purposes.

S. 1881

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1881, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the ''Granite Lady'', and for other purposes.

S. 2178

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2178, a bill to make the stealing and selling of telephone records a criminal offense.

S. 2180

At the request of Mr. DODD, his name was added as a cosponsor of S. 2180, a bill to provide more rigorous requirements with respect to disclosure and enforcement of ethics and lobbying laws and regulations, and for other purposes.

S. 2182

At the request of Mr. ISAKSON, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2182, a bill to terminate the Internal Revenue Code of 1986, and for other purposes.

S. 2201

At the request of Mr. OBAMA, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2201, a bill to amend title 49, United States Code, to modify the mediation and implementation requirements of section 40122 regarding changes in the Federal Aviation Administration personnel management system, and for other purposes.

S. 2231

At the request of Mr. BYRD, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Iowa (Mr. HARKIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2231, a bill to direct the Secretary of Labor to prescribe additional coal mine safety standards, to require additional penalties for habitual violators, and for other purposes.

S. 2235

At the request of Mr. SCHUMER, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from South Carolina (Mr. GRAHAM), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2235, a bill to posthumously award a congressional gold medal to Constance Baker Motley.

S. CON. RES. 69

At the request of Mr. ISAKSON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Con. Res. 69, a concurrent resolution supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects, and for other purposes.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 320

At the request of Mr. ENSIGN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 320, a resolution calling on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 355

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Res. 355, a resolution honoring the service of the National Guard and requesting consultation by the Department of Defense with Congress and the chief executive officers of the States prior to offering proposals to change the National Guard force structure.

At the request of Mr. NELSON of Nebraska, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 355, supra.

S. RES. 357

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. Res. 357, a resolution designating January 2006 as ''National Mentoring Month''.

S. RES. 359

At the request of Ms. LANDRIEU, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 359, a resolution concerning the

Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania.

AMENDMENT NO. 2697

At the request of Mr. NELSON of Florida, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Ohio (Mr. DEWINE) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 2697 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

AMENDMENT NO. 2698

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 2698 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

AMENDMENT NO. 2699

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. DAYTON) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 2699 intended to be proposed to H.R. 4297, a bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

by Mr. LEVIN (for himself and Ms. STABENOW):

S. 2240. A bill to amend title XVIII to reform the Medicare prescription drug program; to the Committee on Finance.

Mr. LEVIN. Mr. President, today I am introducing ''The Medicare Part D Reform Act of 2006.'' This bill is necessary to address some of the major problems in the Medicare prescription drug benefit that took effect on January 1 of this year. As we all know, the reaction of our seniors has been widespread disappointment, mass confusion and downright anger.

Let me describe some of the problems that I am hearing from people in Michigan about this new Medicare prescription drug benefit.

First, many drug companies have previously issued discount cards and are currently providing drugs to low-income people and seniors at a nominal or no cost. These are individuals usually at 200 percent of the Federal poverty level, which is 19,600 for a single person or $26,400 for a couple, while to qualify for the Medicare low-income subsidy, their income must be $14,700 for a single person or $19,800 for a couple. Many of these programs are being discontinued, and seniors are losing a vital method of obtaining low cost prescription drugs.

Second, prescription drug plans can drop a drug from its list of covered drugs with 60 days notice at any time during the calendar year. This is particularly egregious for a senior who relied on a particular medication being available and covered when the senior chose that particular plan.

Third, the situation of so-called ''dual eligibles'' is clearly worse now than before enactment of the prescription drug benefit. These are former Medicaid beneficiaries who are being forced into Medicare prescription drug coverage, often putting them in plans with more restrictive formularies and higher co-payments, in other words leaving them worse off.

Fourth, many Michigan residents are retirees from good paying jobs and currently have a good prescription drug plan. This has changed for the worse with the creation of the new Medicare prescription drug benefit because many companies have decided to scale back or eliminate that retiree coverage. As a result, many of those retirees are worse off than they were before the bill became law.

Fifth, Medicare is specifically barred from negotiating lower drug prices for all of its beneficiaries.

Finally, the coverage gap from $2,250–$3,600 in prescription drug expenses per year, commonly referred to as the ''doughnut hole,'' is unconscionable. Many seniors do not yet understand that this huge coverage gap is looming in their future and that during this gap, they are still expected to pay their monthly premiums, although they are getting no prescription drug coverage assistance.

To address many of these concerns I, along with my colleague Senator STABENOW, today am introducing the Medicare Part D Reform Act of 2006, and I hope the Senate will immediately consider these positive reforms. My legislation has four goals and I will briefly outline them.

First, this legislation would prohibit prescription drug plans from removing drugs from the plan's list of covered drugs until January 1 of the following year. This will give seniors the opportunity to make an informed decision during open enrollment at the end of each year if one plan decides to remove a particular drug from the plan.

Second, my legislation clearly states that the discount cards that pharmaceutical companies are providing to our lower income seniors are permissible and that seniors should be allowed to participate in these programs. There has been some confusion as to whether companies can legally continue these programs and, if companies do continue their assistance, questions have arisen as to whether that assistance will count towards the ''true-out-of-pocket'' costs for that beneficiary, which plunges them into the ''doughnut hole'' when they reach $2,250. My legislation mandates that there will be no negative consequences for pharmaceutical companies continuing to provide discount cards to our low-income seniors.

Third, my legislation would allow former Medicaid beneficiaries now receiving their medications under Medicare to continue to receive their prescription drugs even if they cannot meet the worsened co-payment requirements.

Lastly, the legislation would specifically give the Federal Government the authority to negotiate lower prescription drug prices for our seniors. Current Medicare law prohibits the Department of Health and Human Services from negotiating lower prices, as we do for veterans in our VA health programs. As a result, Medicare beneficiaries do not have the benefit of the bargaining power of Medicare.

All of us are hearing from our constituents that we need to improve Medicare Part D. Congress needs to fulfill the promise it made that Medicare Part D would lower prescription drug prices, not increase them. This bill will help us begin to keep that promise.

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

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

S. 2240

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 ''Medicare Part D Reform Act of 2006''.

SEC. 2. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

''(i) LIMITATION ON REMOVAL OR CHANGE.—Beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than during the period beginning on September 1 and ending on October 31. Subject to clause (ii), such removal or change shall only be effective beginning on January 1 of the immediately succeeding calendar year.

''(ii) NOTICE.—Any removal or change under this subparagraph shall not take effect unless appropriate notice is made available (such as under subsection (a)(3)) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists. Such notice shall ensure that such information is made available prior to the annual, coordinated open election period described in section 1851(e)(3)(B)(iii), as applied under section 1860D–1(b)(1)(B)(iii).''.

SEC. 3. PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.

(a) PROVIDING A SAFE HARBOR FOR PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in subparagraph (G)—

(A) by inserting ''or under a patient assistance program (including a pharmaceutical

manufacturer patient assistance program)'' after ''Indian organizations)''; and

(B) by striking ''and'' at the end;

(2) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(A) by moving such subparagraph 2 ems to the left; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I) and moving such subparagraph 2 ems to the left.

(b) EXCLUSION OF EXPENDITURES UNDER CERTAIN PHARMACY ASSISTANCE PROGRAMS FROM TROOP.—Section 1860D–2(b)(4)(C)(ii) of such Act (42 U.S.C. 1395w–102(b)(4)(C)(ii)) is amended by inserting ''under a pharmaceutical manufacturer patient assistance program,'' after ''a group health plan,''.

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

SEC. 4. PROTECTION AGAINST COST-SHARING FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(ii)) is amended—

(1) in the heading, by striking ''LOWEST INCOME'';

(2) by striking ''and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved''; and

(3) by adding at the end the following new sentence: ''In the case of an individual who is unable to pay the copayment applicable under the preceding sentence, such copayment shall be waived.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after the date of enactment of this Act.

SEC. 5. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following new subsection:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.''.

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

By Mrs. FEINSTEIN:

S. 2241. A bill for the relief of Carmen Shahrzad Kulcsar; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Carmen Shahrzad Kulcsar, a 15-year-old Australian national currently living with her aunt and uncle in San Marcos, CA.

I have decided to offer private relief legislation on Carmen's behalf because I believe that removal from the United States would not only be tragically unfair to her, but also to her aunt and uncle who have taken Carmen into their home and treated her like a daughter after the tragic events that brought her to America. Furthermore, Carmen's removal could put her aunt's, her uncle's, and her own life in grave danger.

Carmen's parents separated due to physical abuse, alcohol abuse, and allegations of affairs. In 1992, at the young age of two, Carmen witnessed her father shoot her mother point blank range in the head.

Her father—David Kulcsar—was convicted of murder and sentenced to 12 to 16 years in prison. Fortunately for Carmen, her American aunt Manieh Varner was granted sole guardianship and custody of her niece by an Australian court.

Carmen entered the United States on a temporary Visitor's Visa and has resided here for the past 13 years with her aunt and uncle.

Carmen is a model student at her high school. She takes honor classes and has worked hard to earn a cumulative grade point average of 3.5. Her report card has multiple comments regarding her outstanding citizenship and as being a pleasure to have in class.

Carmen is a member of the competitive Academic Decathlon Team. Her future can be a bright one and it is unlikely that she will become a burden on the State or Federal Government.

Carmen's aunt has always wanted to adopt her niece and begin the path to legal residency. However, there has always been one problem. Carmen's father never wanted Carmen to go with her aunt and made repeated threats for revenge against Mrs. Varner. Adopting Carmen requires notifying Mr. Kulcsar about the adoption and Mrs. Varner believed always, as she does now, that doing so would put her and Carmen's life in risk.

Mrs. Varner cannot pursue adoption now because time constraints prevent the process from being completed before Carmen's 16th birthday; thus, adoption would have no bearing for immigration purposes.

Mr. and Mrs. Varner have done their best to try and create a life for Carmen that would otherwise have been impossible for her in Australia.

Both U.S. citizens, Mr. Varner is a high school teacher while Mrs. Varner is employed by the State of California's Department of Transportation. Along with a daughter of their own, they have made the best possible situation of a horrible tragedy.

Unfortunately, if this private relief bill is not approved, the choices available to Carmen are grim. Clearly it would be impossible for her to go back to Australia.

The only memory she has of that country is the memory of her mother's murder at the hands of her father. The only family in Australia is that of her unstable, recently released from prison father. She would be forced to live illegally in the United States through no fault of her own. America is the only land she has ever known. It is her home.

Given these extraordinary and unique facts, I offer this private relief bill on behalf of Carmen Shahrzad Kulcsar. We have the opportunity to make a just and fitting solution for this wonderful family. Therefore, I ask my colleagues to support this private relief bill.

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

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

S. 2241

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law or any order, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Carmen Shahrzad Kulcsar shall be deemed to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon the payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Carmen Shahrzad Kulcsar under section 1, the Secretary of State shall instruct the proper officer to reduce by 1 the total number of immigrant visas available during the current fiscal year to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. MENENDEZ:

S. 2243. A bill to make college more affordable by expanding and enhancing financial aid options for students and their families and providing loan forgiveness opportunities for public service employees, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2244. A bill to provide funding and incentives for caregiver support and long-term care assistance; to the Committee on Finance.

Mr. MENENDEZ. Mr. President, I rise today to introduce The Caregiver Assistance and Relief Effort, CARE, Act and the College Access and Affordability Act because far too many families today are squeezed by the demands of caring for aging loved ones while working to give their children what all parents want for their kids—the opportunity to go to college and be successful. As a son helping to care for a mother with Alzheimer's disease and the proud parent of two college-age kids, I know personally the intergenerational demands families are facing and the sacrifices they are making to care for their loved ones. That's exactly why my first legislative initiatives in the United States Senate are to make higher education and long-term care more affordable and more accessible for New Jersey families and families across the country.

The CARE Act would provide tax credits to those caring for ailing family members and loved ones, and encourage individuals to plan and invest in their own long-term care by offering a tax deduction for long-term care insurance. In addition, it would double the funding for the existing National Family Caregiver Support Program, which supports a wide range of important services for older persons.

There are an estimated 44.4 million caregivers in the U.S., which is 21 percent of the adult population. My home State of New Jersey has over 830,000 caregivers, ranking it 9th in the country.

Caregiving families face unique strains. They are challenged with additional costs, and often caregivers must sacrifice their job or cut back on their hours at work. Almost 6 in 10 caregivers either work or have worked while providing care, and 62 percent of caregivers report having had to make work-related adjustments ranging from going in late and leaving early to having to give up work entirely. Caregivers are also a valuable asset to keeping health care costs down. They are providing $257 billion in care annually, more than double the annual spending on home care and nursing home care combined. Their compassion, dedication, and selflessness come at a price to their families and are a benefit to the greater good of our State and Nation. This legislation is aimed at addressing their hard work, sacrifice, and contributions to society.

The other bill I'm introducing today, the College Access and Affordability Act, will help open the doors to higher education for more young people by making financial assistance more flexible for students and by expanding and enhancing existing financial aid options.

I know the difference a college education can have on a young person's life. As the first in my family to go to college, and later law school, I had opportunities that would not have been available to me had I not been able to go to college. But financing a higher education was not an easy thing for my family. Federal financial aid helped ensure that I could go to college and that I could pursue my dreams. I know firsthand the important benefits of receiving Federal aid—not only did it help me finance my dreams of college, but it also gave me the extra confidence that I needed to succeed.

So, I am committed to ensuring that other promising young people get the same chance that I did and that we, as a Nation, will be there to help everyone in this country achieve their dreams of college, regardless of background, race, language, or income level. One of the great foundations of this country is that the doors of opportunity are open to anyone who works hard. We must follow through on that promise by providing a path for young people to have access to and attend college. If we do not lead the way to ensure that our colleges are full of the brightest minds and fullest potential, we are failing to prepare our future generations and we are jeopardizing the future of our Nation.

The College Access and Affordability Act will make financial aid more flexible and accessible to more students, such as extending Pell Grant eligibility to students who attend school yearround. It will also make substantial changes to the Hope Scholarship Tax Credit, a useful tool in helping cover the costs of a higher education. Since the Credit was enacted in 1997, the maximum credit has not increased to reflect the rising cost of tuition. This bill would raise the award by $1,000 and allow the credit to be claimed for all 4 years of college, instead of the current 2 years. It will also make more families eligible for the credit by expanding the eligibility limits.

Finally, in recognizing that many of our communities are in need of qualified individuals to serve in essential public service positions, this bill would help attract dedicated college graduates who serve low-income communities in positions such as science, math, bilingual, or special education teachers; nurses; first responders; and child welfare workers.

Too many students do not pursue a college education because they think it is out of their reach. We must commit to providing sensible tools and adequate resources so that financing a college education is not more of a burden on families, and achieving the dreams of a higher education is not beyond the reach of our Nation's young people.

On any given day, families across New Jersey, and indeed, across this country, face the daunting challenges of making ends meet—putting food on the table, clothing their children, and putting a roof over their head. If that weren't enough, add the challenge of trying to pay for college or care for an aging parent, or in many cases, both, and you have what many times is an insurmountable challenge. But that's exactly what's happening to more and more people everyday. And the intergenerational demands will only increase as the baby boom generation grows older and our life expectancy increases. We need to work now to address the challenges on both fronts—from providing affordable long-term care and encouraging future retirees to plan for their own long-term care, to ensuring that anyone who is willing to work hard has the opportunity to go to college and succeed. That's what this country is all about, and that's why I've made these initiatives my first priorities in the U.S. Senate. I'm hopeful that we will be able to work in a bipartisan fashion to address these important challenges facing American families.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 365—TO PROVIDE A 60 VOTE POINT OF ORDER AGAINST OUT OF SCOPE MATERIAL IN CONFERENCE REPORTS AND OPEN THE PROCESS OF EARMARKS IN THE SENATE

Mr. LOTT (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Rules and Administration

S. RES. 365

Resolved,

SECTION 1. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS .

(a) IN GENERAL.—It shall not be in order in the Senate to consider a conference report that includes any matter not committed to the conferees by either House. A point of order shall be made and voted on separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order against a conference report under subsection (a) is sustained, then—

(1) the matter in such conference report shall be deemed to have been struck;

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck;

(B) the question shall be debatable; and

(C) no further amendment shall be in order; and

(3) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 2. EARMARKS.

(a) HONESTY IN EARMARKS.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

''10.(a) In this paragraph, the term 'earmark' means a provision that specifies the identity of an entity to receive assistance and the amount of the assistance.

''(b) It shall not be in order to consider any bill or amendment between the Houses or conference report on such a bill unless a list of—

''(1) all earmarks in such measure;

''(2) an identification of the member who proposed the earmark; and

''(3) an explanation of the essential governmental purpose for the earmark;

are available to all Members and made available to the general public by means of the Internet for at least 24 hours before its consideration..''.

(b) MEMBER REQUESTS.—Prior to the consideration of a bill in the Senate, any Member who requests an earmark in the bill shall file a copy of the request with the Secretary of the Senate and the request shall be printed in the Congressional Record.

SEC. 3. AVAILABILITY OF CONFERENCE REPORTS ON THE INTERNET.

Rule XXVIII of all the Standing Rules of the Senate is amended by adding at the end the following:

''9. It shall not be in order to consider a conference report unless such report is available to all Members and made available to the general public by means of the Internet for at least 24 hours before its consideration.''.

Mr. LOTT. Mr. President, I am pleased to be joined by the senior Senator from California, Senator FEINSTEIN, in submitting a bipartisan proposal to reform some of the procedures of the Senate that have caused an explosion of anonymous earmarks in conference reports.

Our proposal does not bar the longstanding practice of allowing Members to channel resources to communities in their States that need Federal resources. However, we attempt to bring a far greater degree of transparency to the process and make it nearly impossible for Members to insert items in unamendable conference reports which have not undergone thorough scrutiny by either the House or Senate.

The proposal we are submitting today would create a point of order against any item included in a conference report that had not been considered by either body. This point of order lies against all legislation, not simply appropriations bills. Thus a transportation authorization conference report that includes highway and bridge projects that were not considered by either body would be subject to this point of order, just as an earmark inserted in an appropriations conference report would be subject to a point of order. This point of order could be waived by 60 votes.

Although current Standing Rule 28 allows a point of order against items in conference reports that were not considered by either body, this point of order is almost never used. That is because if the Rule 28 point of order is sustained, the entire conference report is rejected and Senate and House Members must reconstitute a new conference where all items in the original bills must be renegotiated.

Under our approach, if a point of order against an item in the conference report is sustained, the conference report, minus the items struck by the point of order, is returned to the House for its concurrence.

Our approach is modeled after the Byrd Rule that applies in the case of reconciliation conference reports.

I believe that this new point of order will make it far less likely that Members will attempt to insert new items in conference reports that have not been thoroughly aired in debate. However, our resolution goes much further in enhancing the transparency of earmarks, especially in appropriations bills.

Our resolution requires that any Senator who requests an earmark in an appropriations bill must file a copy of the request with the Secretary of the Senate, who is then required to publish the earmark request in the CONGRESSIONAL RECORD.

Moreover, our resolution requires that all earmarks that are included in appropriations bills must be specifically identified in the Report, along with the sponsor of the earmark and an explanation of the essential government purpose of the earmark. In addition, such reports, including conference reports, must be made available to all Members, and the general public via the Internet, at least 24 hours before consideration of the measure.

There is nothing inherently wrong when a Member directs financing for a key project in his or her state. Sometimes it is necessary to get the Federal bureaucracy to focus on the needs of our constituents. However, the process needs far greater transparency, and it is my hope that this resolution will resolve some of the problems that have been associated with this process.

SENATE RESOLUTION 366—AFFIRMING THE IMPORTANCE OF INCREASED INTERNATIONAL ACTION AND A NATIONAL WEEK OF PRAYER FOR THE UGANDAN VICTIMS OF JOSEPH KONY'S LORD'S RESISTANCE ARMY, AND EXPRESSING THE SENSE OF THE SENATE THAT SUDAN, UGANDA, AND THE INTERNATIONAL COMMUNITY BRING JUSTICE AND HUMANITARIAN ASSISTANCE TO NORTHERN UGANDA AND THAT FEBRUARY 2 THROUGH 9, 2006 SHOULD BE DESIGNATED AS A NATIONAL WEEK OF PRAYER AND REFLECTION FOR THE PEOPLE OF UGANDA

Mr. INHOFE (for himself, Mr. COLEMAN, Mr. SANTORUM, Mr. DEMINT, Mrs. HUTCHISON, Mr. DEWINE, Mr. MARTINEZ, Mr. BOND, Mr. CHAMBLISS, Mr. KYL, Mr. SPECTER, Mr. SMITH, Mr. ROBERTS, Mr. ALLARD, Mr. BURNS, Mr. BUNNING, Mr. ENSIGN, Mr. MCCAIN, Mr. SESSIONS, Mr. HATCH, Mr. ENZI, Mr. BENNETT, Mr. GRASSLEY, Mr. CRAIG, Mr. MCCONNELL, Mr. COBURN, Mr. FRIST, Mr. BROWNBACK, Mr. VITTER, Mr. NELSON of Florida, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, Mrs. LINCOLN, Mr. DAYTON, Mr. JEFFORDS, Ms. LANDRIEU, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. NELSON of Nebraska, Mr. FEINGOLD, Mr. KENNEDY, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 366

Whereas, Joseph Kony has led the Lord's Resistance Army (LRA) since 1987, terrorizing the region of Northern Uganda;

Whereas, up to 200,000 people have been killed in violent conflict and from disease and malnutrition;

Whereas, 80 to 90 percent of Kony's fighters are enslaved children—brutalized and brainwashed to kill;

Whereas, sources estimate that between 20,000 and 50,000 children have been abducted by the LRA since 1987;

Whereas, these children are sexually abused, raped, beaten, taunted and traumatized by older soldiers in the LRA;

Whereas, these children are maliciously coerced to mutilate, rape, and murder others, even their own family members and friends;

Whereas, LRA leaders often force the friends and siblings of unsuccessful escapees to carry out vicious punishments to further the LRA's culture of fear, intimidation and guilt;

Whereas, even those children who do manage to escape are unspeakably traumatized, often infected with sexually transmitted diseases, and stigmatized by society;

Whereas, approximately 40,000 children in rural Uganda trek miles into towns each night to sleep under the protection of soldiers and attempt to avoid capture;

Whereas, more than 1.6 million people have been forced to flee their homes;

Whereas, the conflict has slowed Uganda's development efforts, costing the country at least $1.33 billion, or 3 percent of its GDP;

Whereas, starting in October 2005, the Sudan government gave Joseph Kony a three month grace period to surrender;

Resolved, That it is the sense of the Senate—

(1) that the government of Sudan continue to prosecute LRA terrorists within its borders and aid Uganda in ending the conflict;

(2) that Uganda use every available resource to end the atrocities of the LRA and bring its members to justice;

(3) that the United States and international community recognize the atrocities occurring daily in Uganda and provide necessary humanitarian assistance; and

(4) that the week of February 2 through 9, 2006 should be designated as a National Week of Prayer and Reflection for the people of Northern Uganda.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2703. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2704. Mrs. BOXER (for herself, Mr. KERRY, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2705. Mr. MENENDEZ (for himself, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. LAUTENBERG, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2706. Mr. MENENDEZ (for himself, Mr. KERRY, Mr. SCHUMER, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. WYDEN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2707. Mr.FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 4297, supra.

SA 2708. Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2709. Mr. FRIST proposed an amendment to amendment SA 2708 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2710. Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) proposed an amendment to the bill H.R. 4297, supra.

SA 2711. Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2710

proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, supra.

SA 2712. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2713. Mrs. FEINSTEIN (for herself, Mr. KOHL, Mr. DORGAN, Mr. BINGAMAN, Mr. SCHUMER, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2714. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2715. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2716. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2717. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2718. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2719. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2720. Mr. BURNS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2721. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2722. Mr. DORGAN (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DURBIN, Mr. LEVIN, Mr. FEINGOLD, Mr. KOHL, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2723. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2724. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2725. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2726. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2727. Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2728. Mr. BAUCUS (for Mr. BYRD (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. KERRY, Mr. DURBIN, Mr. OBAMA, Mr. MCCONNELL, and Mr. BUNNING)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2729. Mr. CONRAD (for himself and Mr. BINGAMAN) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2730. Mr. NELSON, of Florida (for himself, Mr. BINGAMAN, Mrs. CLINTON, Mr. LIEBERMAN, Mr. SCHUMER, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2731. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2732. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2733. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2734. Mr. MENENDEZ (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 4297, supra; which was ordered to lie on the table.

SA 2735. Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, Mr. REED, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2736. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

SA 2737. Mr. REED (for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KERRY, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, supra.

TEXT OF AMENDMENTS

SA 2703. Mr. TALENT submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

SA 2704. Mrs. BOXER (for herself, Mr. KERRY, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISCLOSURE OF WHITE HOUSE CONTACTS WITH JACK ABRAMOFF.

(a) FINDINGS.—The Senate finds the following:

(1) Public confidence in Government has been undermined by widespread reports of public corruption involving Jack Abramoff, including indictments and plea agreements that cite alleged wrongdoing by senior public officials.

(2) Public perception of a culture of corruption undermines the people's faith in their Government representatives and our system of Government.

(3) Due to the serious nature of Jack Abramoff's crimes and continuing allegations of corruption involving him, public confidence in the Government can be restored only if there is full disclosure of his contacts with the President, White House staff, and senior executive branch officials.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the White House should immediately and publicly disclose each visit and meeting between Jack Abramoff and the President, White House staff, or senior executive branch officials, which should include the date, list of attendees, purpose of the visit or meeting, any documentation associated with the visit or meeting, including any photographs, and any action taken or withheld by the Government as a result of the contact.

SA 2705. Mr. MENENDEZ (for himself, Mr. SCHUMER, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. LAUTENBERG, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING PROTECTING MIDDLE-CLASS FAMILIES FROM THE ALTERNATIVE MINIMUM TAX.

(a) FINDINGS.—The Senate finds that—

(1) the alternative minimum tax was originally enacted in 1969 as a supplemental tax on wealthy tax evaders, but has evolved into a tax on millions of middle-class working families, particularly families in which both parents work, and families with 2 or more children;

(2) by the end of the decade, the alternative minimum tax will ensnare more than 30,000,000 taxpayers, the majority of which will have adjusted gross incomes below $100,000, and the National Taxpayer Advocate has thus identified it as the most serious problem facing individual taxpayers;

(3) the alternative minimum tax is often portrayed as a tax that is most problematic for residents of States such as New York, California, Massachusetts, and New Jersey, but the truth is that many other States have a significant percentage of taxpayers affected by the alternative minimum tax, including Oregon, Maryland, Virginia, Minnesota, Ohio, Maine, Georgia, North Carolina, and Pennsylvania, so the problem is of national importance;

(4) a family with 2 children will become subject to the alternative minimum tax at about $67,500 of income in 2006, and a family with 5 children will start owing the alternative minimum tax at about $54,000 of income, if Congress fails to act;

(5) the year 2006 is the ''tipping point'' for the alternative minimum tax, as the number of taxpayers affected nationally will explode from 3,600,000 to 19,000,000 if Congress fails to act;

(6) in 2004, only 6.2 percent of families earning $100,000 to $200,000 a year were subject to the alternative minimum tax, and that number will explode to nearly 50 percent if Congress fails to act;

(7) if alternative minimum tax relief is extended through 2006, about two-thirds of the benefits will be realized by families earning under $200,000, with more than half of the total benefits going to families with incomes between $100,000 and $200,000;

(8) starting in 2008, the average married couple with 2 children earning $75,000 or more will find that more than half of the tax cuts they have been expecting from the various laws passed since 2001 will be ''taken back'' via the alternative minimum tax; and

(9) the temporary relief from the alternative minimum tax (provided in 2001 and extended twice in 2003 and 2004) expired at the end of 2005, but the tax reductions on dividends and capital gains do not expire until the end of 2008, making immediate action on those provisions a less urgent matter.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008.

SA 2706. Mr. MENENDEZ (for himself, Mr. KERRY, Mr. SCHUMER, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. WYDEN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

TITLE IV—MINIMUM TAX RELIEF AND REPEAL OF EXTENSION OF CAPITAL GAINS AND DIVIDENDS

SEC. 401. REPEAL OF EXTENSION OF TAX TREATMENT FOR CAPITAL GAINS AND DIVIDENDS.

The amendment made by section 203 of this Act is repealed.

SEC. 402. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE V—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 501. 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. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) EFFECTIVE DATE MODIFICATION.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary one or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

SEC. 503. 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. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

SEC. 505. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting '', or tax liability reflected in,'' after ''the preparation or presentation of'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Subtitle B—Economic Substance Doctrine

SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 512. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 522. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

Subtitle D—Penalties and Fines

SEC. 531. 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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 532. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(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. 533. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING 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 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 534. DENIAL 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 535. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

Subtitle E—Provisions To Discourage Expatriation

SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 542. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(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 2005, 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 2004' 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:

''(49) 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) is inadmissible.''.

(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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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.

Subtitle F—Miscellaneous Provisions

SEC. 551. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 554. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 556. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 557. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 558. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SEC. 559. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and

2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 560. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	120
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 561. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

SEC. 563. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

SEC. 564. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to taxable years beginning after December 31, 2004.

SEC. 565. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity 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 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the 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 regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

SEC. 566. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to

such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

SEC. 567. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) 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 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, 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 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) 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,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 568. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

SEC. 569. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used

for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 570. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

SEC. 571. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 572. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 573. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

SA 2707. Mr. FRIST (for Mr. GRASSLEY (FOR HIMSELF AND MR. BAUCUS)) proposed an amendment to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; 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 ''Tax Relief Act of 2005''.

(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.—The table of contents for this Act is as follows:

TITLE I—TAX BENEFITS FOR AREAS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA

Subtitle A—Gulf Opportunity Zone Benefits

SEC. 101. GULF OPPORTUNITY ZONE BENEFITS.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Z—Hurricane Relief Benefits

"SEC. 1400N. DEFINITIONS.

''For purposes of this subchapter—

''(1) GULF OPPORTUNITY ZONE.—The term 'Gulf Opportunity Zone' or 'GO Zone' means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

''(2) HURRICANE KATRINA DISASTER AREA.—The term 'Hurricane Katrina disaster area' means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

''(3) RITA GO ZONE.—The term 'Rita GO Zone' means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

''(4) HURRICANE RITA DISASTER AREA.—The term 'Hurricane Rita disaster area' means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

''(5) WILMA GO ZONE.—The term 'Wilma GO Zone' means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

''(6) HURRICANE WILMA DISASTER AREA.—The term 'Hurricane Wilma disaster area' means an area with respect to which a major disaster has been declared by the President before October 25, 2005, under section 401 of such Act by reason of Hurricane Wilma.

"SEC. 1400O. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.

''(a) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER AUGUST 27, 2005.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified Gulf Opportunity Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified Gulf Opportunity Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified Gulf Opportunity Zone property' means property—

''(i)(I) which is described in section 168(k)(2)(A)(i), or

''(II) which is nonresidential real property or residential rental property,

''(ii) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the Gulf Opportunity Zone commences with the taxpayer after August 27, 2005,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after August 27, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

''(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified Gulf Opportunity Zone property' shall not include any property described in section 168(k)(2)(D)(i).

''(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

''(iii) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

''(iv) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii) shall apply.

''(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(E) shall apply, except that—

''(i) clause (i) thereof shall be applied by substituting 'after August 27, 2005, and before the termination date (as defined in section 1400O(a)(2))' for 'after September 10, 2001, and before January 1, 2005',

''(ii) clauses (ii), (iii), and (iv) thereof shall be applied by substituting 'August 27, 2005' for 'September 10, 2001' each place it appears, and

''(iii) clause (iv) thereof shall be applied by substituting 'qualified Gulf Opportunity Zone property' for 'qualified property'.

''(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

''(3) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

''(b) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the $100,000 amount in section 179(b)(1) for the taxable year shall be increased by the lesser of—

''(i) $100,000, or

''(ii) the cost of section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property placed in service during the taxable year, and

''(B) the $400,000 amount in section 179(b)(2) for the taxable year shall be increased by the lesser of—

''(i) $600,000, or

''(ii) the cost of section 179 property (as so defined) which is qualified Gulf Opportunity Zone property placed in service during the taxable year.

''(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection, the term 'qualified Gulf Opportunity Zone property' has the meaning given such term by subsection (a)(2).

''(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property for any taxable year, unless the taxpayer elects not to have this subsection apply to all such qualified Gulf Opportunity Zone property placed in service by the taxpayer during the taxable year.

''(4) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be Gulf Opportunity Zone property.

''(c) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified Gulf Opportunity Zone Bond shall be treated as a qualified bond.

''(2) QUALIFIED GULF OPPORTUNITY ZONE BOND.—For purposes of this subsection, the term 'qualified Gulf Opportunity Zone Bond' means any bond issued as part of an issue if—

''(A) except as provided in paragraph (4), such bond meets the applicable requirements of part IV of subchapter B of this chapter,

''(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof),

''(C) the Governor of such State designates such bond for purposes of this section, and

''(D) such bond is issued after the date of the enactment of this section and before January 1, 2011.

''(3) LIMITATION ON AGGREGATE AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed the product of $2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

''(4) SPECIAL RULES.—In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:

''(A) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond) shall be applied—

''(i) by treating any residence in the Gulf Opportunity Zone as a targeted area residence,

''(ii) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(iii) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(B) Section 146 (relating to volume cap) shall not apply.

''(C) Section 57(a)(5) shall not apply.

''(5) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

''(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

''(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(B)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the Gulf Opportunity Zone (or property which is functionally related and subordinate to facilities located within the Gulf Opportunity Zone), one additional advanced refunding after the date of the enactment of this section and before January 1, 2007, shall be allowed under the applicable rules of section 149(d) if—

''(A) the chief executive officer of the issuer of the bond designates the advance refunding bond for purposes of this subsection, and

''(B) the requirements of paragraph (3) are met.

''(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on August 27, 2005, and is—

''(A) a State or local bond (as defined in section 103(c)(1)) other than a private activity bond (as defined in section 141(a)) issued by the State of Alabama, Louisiana, or Mississippi (or any political subdivision thereof), or

''(B) a qualified 501(c)(3) bond (as defined in section 145(a)) issued by or on behalf of any such State or political subdivision.

''(3) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

''(A) no advance refundings of such bond would be allowed under any provision of law after August 27, 2005,

''(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(e) LOW-INCOME HOUSING CREDIT.—

''(1) INCREASE IN STATE HOUSING CREDIT CEILING.—

''(A) IN GENERAL.—In the case of the State of Alabama, Louisiana, or Mississippi—

''(i) the amount otherwise determined under subclause (I) of section 42(h)(3)(C)(ii) for each calendar year beginning after 2005 and before 2010 shall be increased by an amount equal to 3 times the dollar amount otherwise specified for such calendar year under such subclause multiplied by the State population located in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005), and

''(ii) the unused State housing credit ceiling for such State for any calendar year under section 42(h)(3)(C)(i) shall be determined without regard to the amount of the increase determined under clause (i).

''(B) ELECTIVE CARRYFORWARD OF UNUSED INCREASED CEILING.—

''(i) IN GENERAL.—If the amount determined under section 42(h)(3)(C)(ii)(I), as increased under subparagraph (A)(i), for any calendar year for any State described in subparagraph (A) exceeds the aggregate housing credit dollar amount allocated during such calendar year by such State, such State may elect to treat as a carryforward to the following calendar year an amount equal to lesser of—

''(I) the amount of such excess, or

''(II) the amount by which the amount determined under section 42(h)(3)(C)(ii)(I) for such calendar year was increased under subparagraph (A)(i)).

''(ii) USE OF CARRYFORWARD.—If any State elects a carryforward under clause (i), any housing credit dollar amount allocated by such State during the calendar year following the calendar year in which the carryforward arose shall not be considered so allocated for purposes of section 42(h)(3)(C) and section 42(h)(3)(D) to the extent such housing credit dollar amount does not exceed the amount of the carryforward elected.

''(2) DIFFICULT DEVELOPMENT AREA.—

''(A) IN GENERAL.—For purposes of section 42—

''(i) in the case of property placed in service during 2006, 2007, or 2008, the Gulf Opportunity Zone—

''(I) shall be treated as a difficult development area designated under subclause (I) of section 42(d)(5)(C)(iii), and

''(II) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section, and

''(ii) subsection (b)(2)(B) thereof shall be applied with respect to any such property placed in service in the Gulf Opportunity Zone by substituting '91 percent' and '39 percent' for '70 percent' and '30 percent', respectively.

''(B) APPLICATION.—Subparagraph (A) shall apply only to—

''(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

''(ii) buildings placed in service during such period to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

''(f) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RESIDENTIAL RENTAL PROJECT REQUIREMENTS.—For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual's income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual's tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

''(g) APPLICATION OF NEW MARKETS TAX CREDIT TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTITIES SERVING GULF OPPORTUNITY ZONE.—For purposes of section 45D—

''(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone,

''(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

''(A) $300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

''(B) $400,000,000 for 2007, to be so allocated, and

''(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

''(h) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO GULF OPPORTUNITY ZONE LOSSES.—

''(1) IN GENERAL.—If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply:

''(A) EXTENSION OF CARRYBACK PERIOD.—Section 172(b)(1) shall be applied with respect to such portion—

''(i) by substituting '5 taxable years' for '2 taxable years' in subparagraph (A)(i), and

''(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) for the taxable year.

''(B) SUSPENSION OF 90 PERCENT AMT LIMITATION.—Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

''(2) QUALIFIED GULF OPPORTUNITY ZONE LOSS.—For purposes of paragraph (1), the term 'qualified Gulf Opportunity Zone loss' means the lesser of—

''(A) the amount of the net operating loss for the taxable year, or

''(B) the aggregate amount of the following deductions for such taxable year:

''(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

''(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

''(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

''(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

''(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term 'moving expenses' has the meaning given such term by section 217(b), except that the taxpayer's former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

''(iii) Any deduction for expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

''(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (a)(2)) for the taxable year such property is placed in service.

''(v) Any deduction for repair expenses (including expenses for removal of debris) allowable under this chapter paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

''(3) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSS.—

''(A) IN GENERAL.—For purposes of paragraph (2)(B)(i), the term 'qualified Gulf Opportunity Zone casualty loss' means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

''(i) such loss is allowed as a deduction under section 165 for the taxable year, and

''(ii) such loss is attributable to Hurricane Katrina.

''(B) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

''(C) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (j) and section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

''(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion.

''(i) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—

''(1) IN GENERAL.—Upon the election of the taxpayer, in the case of any eligible public utility property loss—

''(A) section 165(i) shall be applied by substituting 'the fifth taxable year immediately preceding' for 'the taxable year immediately preceding',

''(B) an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

''(C) section 6611 shall not apply to any overpayment attributable to such loss.

''(2) ELIGIBLE PUBLIC UTILITY PROPERTY LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible public utility property loss' means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

''(B) PUBLIC UTILITY PROPERTY.—The term 'public utility property' has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

''(3) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

''(j) SPECIAL RULE FOR GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSSES.—

''(1) IN GENERAL.—The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the amount of the Gulf Opportunity Zone public utility casualty loss for such year.

''(2) GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSS.—For purposes of this subsection, the term 'Gulf Opportunity Zone public utility casualty loss' means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

''(A) such loss is allowed as a deduction under section 165 for the taxable year,

''(B) such loss is attributable to Hurricane Katrina, and

''(C) the taxpayer elects the application of this subsection with respect to such loss.

''(3) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

''(4) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (h) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

''(5) ELECTION.—Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

''(k) SPECIAL RULES FOR SMALL TIMBER PRODUCERS.—

''(1) INCREASED EXPENSING FOR QUALIFIED TIMBER PROPERTY.—In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

''(A) the limitation which would (but for this subsection) apply under such subparagraph, or

''(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

''(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIMBER LOSSES.—For purposes of determining farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

''(3) RULES NOT APPLICABLE TO CERTAIN ENTITIES.—Paragraphs (1) and (2) shall not apply to any taxpayer which—

''(A) is a corporation the stock of which is publicly traded on an established securities market, or

''(B) is a real estate investment trust.

''(4) RULES NOT APPLICABLE TO LARGE TIMBER PRODUCERS.—Paragraphs (1) and (2) shall not apply with respect to any qualified timber property unless—

''(A) such property was held by the taxpayer—

''(i) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

''(ii) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

''(iii) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

''(B) such taxpayer held not more than 500 acres of qualified timber property on such date.

''(5) DEFINITIONS.—For purposes of this subsection—

''(A) SPECIFIED PORTION.—The term 'specified portion' means—

''(i) in the case of qualified timber property located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before January 1, 2007,

''(ii) in the case of qualified timber property located in the Rita GO Zone and no part of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after September 23, 2005, and before January 1, 2007, and

''(iii) in the case of qualified timber property located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before January 1, 2007.

''(B) QUALIFIED TIMBER PROPERTY.—The term 'qualified timber property' has the meaning given such term in section 194(c)(1).

''(l) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—

''(1) IN GENERAL.—A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

''(2) GULF OPPORTUNITY ZONE CLEAN-UP COST.—For purposes of this subsection, the term 'Gulf Opportunity Zone clean-up cost' means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

''(A) held by the taxpayer for use in a trade or business or for the production of income, or

''(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

''(m) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28,

2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198 (relating to expensing of environmental remediation costs) shall be applied—

''(1) by substituting 'December 31, 2007' for 'December 31, 2006' in subsection (h) thereof, and

''(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

''(n) GULF OPPORTUNITY ZONE.—For purposes of this section, the term 'Gulf Opportunity Zone' means an area—

''(1) with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as a result of Hurricane Katrina, and

''(2) which is determined by the President to warrant individual assistance, or individual and public assistance, from the Federal Government under such Act.''

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''SUBCHAPTER Z—HURRICANE RELIEF BENEFITS.''.

SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDIT FOR STUDENTS IN THE GULF OPPORTUNITY ZONE.

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2) of the Internal Revenue Code of 1986) located in the Gulf Opportunity Zone (as defined in section 1400N(1) of such Code) for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A of the Internal Revenue Code of 1986, the term ''qualified tuition and related expenses'' shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3) of such Code),

(2) each of the dollar amounts in effect under of subparagraphs (A) and (B) of section 25A(b)(1) of such Code shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) of such Code shall be applied by substituting ''40 percent'' for ''20 percent''.

SEC. 103. EXTENSION OF SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

Section 404(d) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2010''.

SEC. 104. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.

(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of a qualified employee shall not include the value of any lodging furnished to such employee, such employee's spouse, or any of such employee's dependents by or on behalf of a qualified employer for any month during the taxable year.

(2) LIMITATION.—The amount which may be excluded under subsection (a) for any month for which lodging is furnished during the taxable year shall not exceed $600.

(3) TREATMENT OF EXCLUSION.—For purposes of the Internal Revenue Code of 1986 (other than sections 3121(a)(19) and 3306(b)(14), an exclusion under subsection (a) shall be treated as an exclusion under section 119 of such Code.

(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—In the case of a qualified employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any month during the taxable year an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a).

(2) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of section 280C(a) of such Code shall apply.

(3) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of such Code.

(c) QUALIFIED EMPLOYEE.—For purposes of this section, the term ''qualified employee'' means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121 of the Internal Revenue Code of 1986) in the GO Zone (as defined in section 1400N(1) of such Code) on August 28, 2005, and

(2) who performs not less than 80 percent of the employment services for a qualified employer in the Hurricane Katrina disaster area (as so defined).

(d) QUALIFIED EMPLOYER.—For purposes of this section, the term ''qualified employer'' means any employer with a trade or business located in the Hurricane Katrina disaster area (as so defined).

(e) APPLICATION OF SECTION.—This section shall apply to lodging provided—

(1) after the date of the enactment of this Act,

(2) before the date which is 6 months after the date of the enactment of this Act, and

(3) no credit with respect to such lodging shall be claimed before October 1, 2006.

Subtitle B—Tax Benefits Related to Hurricanes Rita and Wilma

SEC. 111. EXTENSION OF CERTAIN EMERGENCY TAX RELIEF FOR HURRICANE KATRINA TO HURRICANES RITA AND WILMA.

(a) IN GENERAL.—Subchapter Z of chapter 1, as added by this Act, is amended by adding at the end the following new sections:

''SEC. 1400P. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

''(a) IN GENERAL.—In the case of financing provided with respect to residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied—

''(1) by treating any residence in the GO Zone, the Rita GO Zone, or the Wilma GO Zone as a targeted area residence,

''(2) by applying subsection (f)(3) without regard to subparagraph (A) thereof, and

''(3) by substituting '$150,000' for '$15,000' in subsection (k)(4) thereof.

''(b) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2010.

''SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

''(a) TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.—

''(1) IN GENERAL.—Section 72(t) shall not apply to any qualified hurricane distribution.

''(2) AGGREGATE DOLLAR LIMITATION.—

''(A) IN GENERAL.—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

''(i) $100,000, over

''(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

''(B) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

''(C) CONTROLLED GROUP.—For purposes of subparagraph (B), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(3) AMOUNT DISTRIBUTED MAY BE REPAID.—

''(A) IN GENERAL.—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

''(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

''(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

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

''(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term 'qualified hurricane distribution' means—

''(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

''(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

''(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained

an economic loss by reason of Hurricane Wilma.

''(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' shall have the meaning given such term by section 402(c)(8)(B).

''(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

''(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

''(6) SPECIAL RULES.—

''(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

''(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

''(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

''(1) RECONTRIBUTIONS.—

''(A) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

''(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

''(B) QUALIFIED KATRINA DISTRIBUTION.—The term 'qualified Katrina distribution' means any distribution—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before August 29, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

''(C) QUALIFIED RITA DISTRIBUTION.—The term 'qualified Rita distribution' means any distribution (other than a qualified Katrina distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before September 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but which was not so purchased or constructed on account of Hurricane Rita.

''(D) QUALIFIED WILMA DISTRIBUTION.—The term 'qualified Wilma distribution' means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

''(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

''(ii) received after February 28, 2005, and before October 24, 2005, and

''(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

''(3) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means—

''(A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

''(B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

''(C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

''(c) LOANS FROM QUALIFIED PLANS.—

''(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

''(A) clause (i) of section 72(p)(2)(A) shall be applied by substituting '$100,000' for '$50,000', and

''(B) clause (ii) of such section shall be applied by substituting 'the present value of the nonforfeitable accrued benefit of the employee under the plan' for 'one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan'.

''(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

''(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

''(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

''(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

''(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified individual' means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

''(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term 'qualified Hurricane Katrina individual' means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

''(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term 'qualified Hurricane Rita individual' means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

''(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term 'qualified Hurricane Wilma individual' means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

''(4) APPLICABLE PERIOD; QUALIFIED BEGINNING DATE.—For purposes of this subsection—

''(A) HURRICANE KATRINA.—In the case of any qualified Hurricane Katrina individual—

''(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

''(ii) the qualified beginning date is August 25, 2005.

''(B) HURRICANE RITA.—In the case of any qualified Hurricane Rita individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is September 23, 2005.

''(C) HURRICANE WILMA.—In the case of any qualified Hurricane Wilma individual—

''(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

''(ii) the qualified beginning date is October 23, 2005.

''SEC. 1400R. EMPLOYMENT RELIEF.

''(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on August 28, 2005, in the Gulf Opportunity Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the Gulf Opportunity Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal

place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

''(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE RITA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

''(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE WILMA.—

''(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) ELIGIBLE EMPLOYER.—The term 'eligible employer' means any employer—

''(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

''(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

''(B) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

''(C) QUALIFIED WAGES.—The term 'qualified wages' means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

''(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Wilma, and

''(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

''(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) shall apply.

''(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

''SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.

''(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

''(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170—

''(A) INDIVIDUALS.—In the case of an individual—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (F) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

''(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

''(B) CORPORATIONS.—In the case of a corporation—

''(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

''(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

''(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

''(4) QUALIFIED CONTRIBUTIONS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

''(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

''(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

''(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

''(B) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

''(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

''(b) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

''(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

''(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

''(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38 is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting a comma, and by adding at the end the following new paragraphs:

''(27) the Hurricane Katrina employee retention credit determined under section 1400R(a),

''(28) the Hurricane Rita employee retention credit determined under section 1400R(b), and

''(29) the Hurricane Wilma employee retention credit determined under section 1400R(c).''.

(2) The table of sections for subchapter Z of chapter 1 is amended by adding at the end the following new items:

''Sec. 1400P. Special rules for mortgage revenue bonds.
''Sec. 1400Q. Special rules for use of retirement funds.
''Sec. 1400R. Employment relief.
''Sec. 1400S. Additional tax relief provisions.''.

(3) The following provisions of the Katrina Emergency Tax Relief Act of 2005 are hereby repealed:

(A) Title I.

(B) Sections 202, 301, and 402.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Multi-Year Extensions

SEC. 201. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

SEC. 202. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

SEC. 203. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking **''2004 AND 2005''** and inserting **''AFTER 2003''.**

SEC. 204. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

Subtitle B—One-Year Extensions

SEC. 211. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2007''.

SEC. 212. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 213. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''2005'' in the heading and inserting ''2006'', and

(2) by striking ''or 2005'' and inserting ''2005, or 2006''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006.—For purposes of any taxable year beginning during 2006, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(3) Section 904(h) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

(4) 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 2006.

SEC. 214. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2006''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2006''.

(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 subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6)(A) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2005.

SEC. 215. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2006''.

(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) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) 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.''

(2) 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.''

(3) 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 SECOND-YEAR WAGES 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'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) 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.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

SEC. 216. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, and 2006''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Section 54(l)(3)(B) is amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

SEC. 217. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.

Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2006''.

SEC. 218. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, or 2006''.

SEC. 219. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2006''.

(b) EXPANSION.—

(1) IN GENERAL.—Section 198(d)(1) (defining hazardous substance) 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) any petroleum product (as defined in section 4612(a)(3)).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 220. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

SEC. 221. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) is amended by striking ''2005'' and inserting ''2006''.

SEC. 222. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) is amended by striking ''2005'' and inserting ''2006''.

SEC. 223. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2007''.

SEC. 224. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

Subtitle C—Application of EGTRRA Sunset

SEC. 231. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE III—PROVISIONS RELATING TO CHARITABLE DONATIONS

Subtitle A—Charitable Giving Incentives

SEC. 301. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, the charitable contributions of the taxpayer for any taxable year shall be taken into account for purposes of determining the deduction under paragraph (1) only to the extent that the aggregate of such contributions exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 302. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p) of section 408)—

''(i) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(ii) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

''SEC. 6034. RETURNS BY CERTAIN TRUSTS.

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the

person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

SEC. 303. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property), as added by section 305 of the Katrina Emergency Tax Relief Act of 2005, is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

SEC. 304. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

SEC. 305. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property), as added by section 305 of the Katrina Emergency Tax Relief Act of 2005, is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization,''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed after the date of the enactment of this Act.

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011, as amended by section 311 of this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 316 of this Act, is amended by adding at the end the following new section:

''SEC. 6720C. UNRELATED BUSINESS INCOME REQUIREMENTS.

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(h)(3)) which fails to file a statement required under section 6011(h) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68, as amended by section 316 of this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 307. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D).

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of clause (i) of section 170(b)(1)(C) is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (D) or (E)''.

(2) Clause (i) of section 170(b)(1)(D) is amended by striking ''subparagraph (A)'' and inserting ''subparagraphs (A) or (E)''.

(3) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(4) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

SEC. 308. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this section 33 of this Act, is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the

donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 309. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

''Sec. 139A. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 310. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle B—Reforming Charitable Organizations

PART I—GENERAL REFORMS

SEC. 311. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

''Subchapter F—Tax Shelter Transactions

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions

''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters of chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by section 302, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

SEC. 312. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers,

directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 6050V. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

''(3) contains such other information as the Secretary may prescribe.

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050V, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

SEC. 313. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and in the heading and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

SEC. 314. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

SEC. 315. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by section 314 of this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

SEC. 316. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

''(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

''In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is required under section 170(e)(7).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6720A the following new section:

''SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

SEC. 317. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by section 315 of this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

SEC. 318. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by section 317 of this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 319. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by section 301 of this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(q) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the

taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

SEC. 320. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.

''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

SEC. 321. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this

section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

SEC. 322. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 323. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SEC. 324. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by section 346 of this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(k)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting ''(other than subsection (j) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(j).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(j).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(j) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(j) and of the penalty established under section 6033(k)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(k) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

SEC. 325. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appear.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

SEC. 331. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by section 311, is amended by adding at the end the following new subchapter:

''Subchapter G—Donor Advised Funds

''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3)) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include

any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

''SEC. 4969. TAXES ON PROHIBITED BENEFITS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such

persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENT.—The table of subchapters of chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

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

SEC. 332. PROHIBITED TRANSACTIONS.

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

''Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 333. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by section 318 of this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or(4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i),

4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

SEC. 334. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(h) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

SEC. 341. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

SEC. 342. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

''(d) DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such

organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceed

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of section for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 343. EXCESS BENEFIT TRANSACTIONS.

(a) IN GENERAL.—Section 4958(c), as amended by section 332 of this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by section 332 of this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

SEC. 344. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B)), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

(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. 345. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

SEC. 346. RETURNS OF SUPPORTING ORGANIZATIONS.

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by section 311, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by section 334 of this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

SEC. 402. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—

(1) IN GENERAL.—Section 1362(d) is amended by striking paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581), 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))), or a financial holding company (within the meaning of section 2(p) of such Act), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) Subsection (d) of section 1375 is amended by striking ''subchapter C'' both places it appears and inserting ''accumulated''.

(6) The heading for section 1375 is amended by striking ''25 percent'' and inserting ''60 percent''.

(7) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 403. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

SEC. 404. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end 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 section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest 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.—Section 163(h)(4) (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 Veterans Administration, 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 Veterans Administration 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) mortgage insurance provided by the Veterans Administration, 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 subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

SEC. 405. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States

most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

SEC. 406. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

SEC. 407. SENSE OF CONGRESS REGARDING DOHA ROUND.

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

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

SEC. 408. MODIFICATION OF BOND RULE.

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred

to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

SEC. 409. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

SEC. 410. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

TITLE V—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 501. 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. 502. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) EFFECTIVE DATE MODIFICATION.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: ''If, after the return for a taxable year is filed, the taxpayer provides to the Secretary one or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

SEC. 503. 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. 504. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

SEC. 505. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting '', or tax liability reflected in,'' after ''the preparation or presentation of'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Subtitle B—Economic Substance Doctrine

SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 512. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 513. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 521. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 522. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 523. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

Subtitle D—Penalties and Fines

SEC. 531. 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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 532. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(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. 533. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING 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 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 534. DENIAL 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 535. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

Subtitle E—Provisions To Discourage Expatriation

SEC. 541. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 542. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(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 2005, 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 2004' 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:

''(49) 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) is inadmissible.''.

(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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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.

Subtitle F—Miscellaneous Provisions

SEC. 551. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 552. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 553. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 554. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 555. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 556. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 557. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 558. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SEC. 559. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and

2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 560. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	120
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 561. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 562. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

SEC. 563. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

SEC. 564. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to taxable years beginning after December 31, 2004.

SEC. 565. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity 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 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the 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 regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

SEC. 566. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to

such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

SEC. 567. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) 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 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, 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 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) 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,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 568. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

SEC. 569. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C thereof, relating to refundable credits).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used

for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 570. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

SEC. 571. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 572. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 573. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

TITLE VI—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

SEC. 601. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.

The provisions of, and amendments made by, title I, title II, subtitle A of title III, and title IV shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

SA 2708. Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Act of 2005''.

(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.—The table of contents for this Act is as follows:

TITLE I—EXTENSION OF EXPIRING PROVISIONS

SEC. 101. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

SEC. 102. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

SEC. 103. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 104. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

SEC. 105. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 106. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 107. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''2005'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 108. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after 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 subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—Except as provided in subsection (a)(3), the amendments made by

this section shall apply to taxable years ending after December 31, 2005.

SEC. 109. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2007''.

(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) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) 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.''

(2) 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.''

(3) 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 SECOND-YEAR WAGES 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'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) 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.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

SEC. 110. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

SEC. 111. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 112. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 113. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) 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) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 114. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

SEC. 115. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 116. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

SEC. 117. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 118. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(e) is amended by striking ''2006'' and inserting ''2007''.

(b) REPEAL OF PHASEOUT.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 119. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—PROVISIONS RELATING TO CHARITABLE DONATIONS

Subtitle A—Charitable Giving Incentives

SEC. 201. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, for any taxable year beginning after December 31, 2005, and before January 1, 2008, the amount otherwise allowed as a deduction under paragraph (1) shall be allowed only to the extent that such amount exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 202. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

''(i) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity, and

''(ii) which is made on or after—

''(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(II) in the case of any distribution described in clause (i)(II), the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).

''(H) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

''SEC. 6034. RETURNS BY CERTAIN TRUSTS.

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

SEC. 203. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 204. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 205. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 206. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization, but only if such organization is described in section 501(c)(3),''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed after the date of the enactment of this Act.

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6720B. UNRELATED BUSINESS INCOME REQUIREMENTS.

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(g)(3)) which fails to file a statement required under section 6011(g) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 207. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

''(v) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(2) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 208. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—

''(i) IN GENERAL.—Subsections (b) and (d) shall not apply to the amount by which any charitable contribution is increased by reason of this paragraph and such increased contribution shall not be taken into account for purposes of applying subparagraphs (A) through (D) of subsection (b)(1) and subsection (d).

''(ii) CONTRIBUTION BASE LIMITATION.—The increased contributions shall be allowed to the extent the aggregate of such contributions do not exceed the excess of 50 percent of the contribution base (as defined in subparagraph (F) of subsection (b)(1)) over the amount of all other charitable contributions allowable under subparagraphs (A) through (D) of subsection (b)(1).

''(iii) ARTISTIC ADJUSTED GROSS INCOME.—The aggregate increase in the charitable contributions by reason of this paragraph for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 209. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A the following new item:

''Sec. 139B. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 210. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2)(A) shall be applied by substituting for '10 percent of the taxpayer's taxable income' the following: 'the sum of (i) the lesser of all eligible mathematics and science contributions or 15 percent of the taxpayer's taxable income, plus (ii) the lesser of the contributions (other than eligible mathematics and science contributions and contributions to which subparagraph (B) applies) or 10 percent of the taxpayer's taxable income reduced by all eligible mathematics and science contributions'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle B—Reforming Charitable Organizations

PART I—GENERAL REFORMS

SEC. 211. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

''Subchapter F—Tax Shelter Transactions

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by this Act, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

SEC. 212. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers, directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

''SEC. 6050U. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which

the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

''(3) contains such other information as the Secretary may prescribe.

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050U, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61is amended by adding at the end the following new item:

''Sec. 6050U. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

SEC. 213. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and heading thereof and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

SEC. 214. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

SEC. 215. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

SEC. 216. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (8)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (8)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(8)(D) if such certification is required under section 170(e)(8).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by inserting after section 6720B the following new section:

''SEC. 6720C. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(8)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

SEC. 217. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has not obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to

any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

SEC. 218. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 219. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

SEC. 220. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading thereof and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.

''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

SEC. 221. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial

services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

SEC. 222. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 223. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SEC. 224. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (k) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(i)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by inserting ''(other than subsection (h) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(h).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(h).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(h) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(h) and of the penalty established under section 6033(i) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(i) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

SEC. 225. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appears.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

SEC. 231. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by this Act, is amended by adding at the end the following new subchapter:

''Subchapter G—Donor Advised Funds

''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described in section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

''SEC. 4969. TAXES ON PROHIBITED BENEFITS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 42, as amended by this Act, is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

(2) Section 6213(e) is amended by inserting ''4967 (relating to taxes on sponsoring organizations of donor advised funds for failure to meet distribution requirements),'' after ''benefit),''.

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

SEC. 232. PROHIBITED TRANSACTIONS.

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 233. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

SEC. 234. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(j) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

SEC. 241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

SEC. 242. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

''(d) DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceeds

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 243. EXCESS BENEFIT TRANSACTIONS.

(a) IN GENERAL.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

SEC. 244. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

(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. 245. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

SEC. 246. RETURNS OF SUPPORTING ORGANIZATIONS.

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by this Act, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

SEC. 302. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) OTHER PROVISIONS.—

(1) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—Section 1362(d) is amended by striking paragraph (3).

(2) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(5) The heading for section 1375 is amended by striking ''25 PERCENT'' and inserting ''60 PERCENT''.

(6) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 and before October 2, 2009.

SEC. 303. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

SEC. 304. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end 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 section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest 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.—Section 163(h)(4) (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 Veterans Administration, 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 Veterans Administration 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) mortgage insurance provided by the Veterans Administration, 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 subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

SEC. 305. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

SEC. 306. SENSE OF CONGRESS REGARDING DOHA ROUND.

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

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

SEC. 307. MODIFICATION OF BOND RULE.

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

SEC. 308. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

SEC. 309. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

SEC. 310. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

SEC. 311. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended by striking ''MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE'' and inserting ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

TITLE IV—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

SEC. 401. 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 thereof 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. 402. 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. 403. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

SEC. 404. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting '', or tax liability reflected in,'' after ''the preparation or presentation of'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance,

procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Subtitle B—Economic Substance Doctrine

SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 421. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 422. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 423. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

Subtitle D—Penalties and Fines

SEC. 431. 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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 432. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(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. 433. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after section 6050U the following new section:

''SEC. 6050V. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after the item relating to section 6050U the following new item:

''Sec. 6050V. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 434. DENIAL 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 435. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

Subtitle E—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 442. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(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 2005, 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 2004' 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:

''(49) 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) is inadmissible.''.

(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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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.

Subtitle F—Miscellaneous Provisions

SEC. 451. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 452. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 453. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 454. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 455. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 456. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 457. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7),

respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(1)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 458. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SEC. 459. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 460. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(C) is amended by striking ''substituting'' and all that follows through ''1997.'' and inserting ''substituting '110 percent (120 percent if the preceding taxable year begins in 2005)' for '100 percent'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 461. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 462. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

SEC. 463. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

SEC. 464. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment

company'' after ''regulated investment company''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to taxable years beginning after December 31, 2004.

SEC. 465. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity 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 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the 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 regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

SEC. 466. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

SEC. 467. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) 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 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, 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 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) 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,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 468. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

SEC. 469. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 470. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 471. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

TITLE V—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

SEC. 501. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.

The provisions of, and amendments made by, title I, subtitle A of title II, and title III shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

SA 2709. Mr. FRIST proposed an amendment to amendment SA 2708 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment add the following:

''This section shall become effective 1 day after enactment.''

SA 2710. Mr. FRIST (for himself, Mr. GRASSLEY and Mr. BAUCUS) proposed an amendment to the bill H.R. 4297, to provide for reconciliation pursuant to

section 201(b) of the concurrent resolution on the budget for fiscal year 2006; 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 ''Tax Relief Act of 2005''.

(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.—The table of contents for this Act is as follows:

TITLE I—EXTENSION OF EXPIRING PROVISIONS

SEC. 101. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Section 179 is amended by striking ''2008'' each place it appears and inserting ''2010''.

SEC. 102. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

Section 25B(h) is amended by striking ''2006'' and inserting ''2009''.

SEC. 103. ABOVE-THE-LINE DEDUCTION FOR HIGHER EDUCATION.

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2009''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 104. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end by the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

SEC. 105. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 106. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) is amended—

(1) by striking ''$58,000'' and all that follows through ''2005'' in subparagraph (A) and inserting ''$62,550 in the case of taxable years beginning in 2006'', and

(2) by striking ''$40,250'' and all that follows through ''2005'' in subparagraph (B) and inserting ''$42,500 in the case of taxable years beginning in 2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 107. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''2005'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2006 AND 2007.—For purposes of any taxable year beginning during 2006 or 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 108. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after 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 subsection (a)) for such year.

(d) EXPANSION OF CREDIT TO EXPENSES OF GENERAL COLLABORATIVE RESEARCH CONSORTIA.—Section 41 is amended—

(1) by striking ''an energy research consortium'' in subsections (a)(3) and (b)(3)(C)(i) and inserting ''a research consortium'',

(2) by striking ''energy'' each place it appears in subsection (f)(6)(A),

(3) by inserting ''or 501(c)(6)'' after ''section 501(c)(3)'' in subsection (f)(6)(A)(i)(I), and

(4) by striking ''ENERGY RESEARCH'' in the heading for subsection (f)(6) and inserting ''RESEARCH''.

(e) EFFECTIVE DATE.—Except as provided in subsection (a)(3), the amendments made by this section shall apply to taxable years ending after December 31, 2005.

SEC. 109. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Section 51(c)(4)(B) is amended by striking ''2005'' and inserting ''2007''.

(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) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) 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.''

(2) 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.''

(3) 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 SECOND-YEAR WAGES 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'.''

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) 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.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

SEC. 110. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) FORM OF PRIVATE BUSINESS CONTRIBUTIONS.—Section 1397E(d)(2)(B) is amended by striking ''any contribution'' and all that follows and inserting ''any cash or cash equivalent contribution''.

(c) SPECIAL RULES RELATING TO AMORTIZATION, EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), (h), and (i).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (j), (k), (l), and (m), respectively, and by inserting after subsection (e) the following new subsections:

''(f) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—An issue shall be treated as meeting the requirements of this subsection if such issue provides for an equal amount of principal to be paid by the issuer during each calendar year that the issue is outstanding.

''(g) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(i) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1397E(d)(3) is amended by inserting ''without regard to the requirements of subsection (f) and'' after ''Such present value shall be determined''.

(B) Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

SEC. 111. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT.

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 112. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 113. EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) 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) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 114. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2007''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2011'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2011''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2011''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2011''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

SEC. 115. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 116. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

SEC. 117. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 118. EXTENSION OF FULL CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30(e) is amended by striking ''2006'' and inserting ''2007''.

(b) REPEAL OF PHASEOUT.—Section 30(b) (relating to limitations) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 119. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—PROVISIONS RELATING TO CHARITABLE DONATIONS

Subtitle A—Charitable Giving Incentives

SEC. 201. CHARITABLE DEDUCTION FOR NON-ITEMIZERS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year beginning after December 31, 2005, and before January 1, 2008, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions (determined without regard to any carryover).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(o).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—Section 170(a) is amended by adding at the end the following new paragraph:

''(4) DOLLAR FLOOR ON CHARITABLE CONTRIBUTIONS BY INDIVIDUALS.—In the case of an individual, for any taxable year beginning after December 31, 2005, and before January 1, 2008, the amount otherwise allowed as a deduction under paragraph (1) shall be allowed only to the extent that such amount exceeds $210 ($420 in the case of a joint return).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 202. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

''(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

''(i) which is made directly by the trustee—

''(I) to an organization described in section 170(c), or

''(II) to a split-interest entity, and

''(ii) which is made on or after—

''(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the plan is maintained has attained age 70½, and

''(II) in the case of any distribution described in clause (i)(II), the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such plan is maintained, the spouse of such individual, or any organization described in section 170(c).

''(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

''(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsections (a)(4) and (b) thereof and this paragraph).

''(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

''(E) SPECIAL RULES FOR SPLIT-INTEREST ENTITIES.—

''(i) CHARITABLE REMAINDER TRUSTS.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

''(ii) POOLED INCOME FUNDS.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

''(iii) CHARITABLE GIFT ANNUITIES.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

''(F) DENIAL OF DEDUCTION.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

''(G) SPLIT-INTEREST ENTITY DEFINED.—For purposes of this paragraph, the term 'split-interest entity' means—

''(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

''(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

''(iii) a charitable gift annuity (as defined in section 501(m)(5)).

''(H) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.''.

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

''SEC. 6034. RETURNS BY CERTAIN TRUSTS.

''(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

''(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

''(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

''(A) the amount of the deduction taken under section 642(c) within such year,

''(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

''(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

''(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

''(E) the total income of the trust within such year and the expenses attributable thereto, and

''(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

''(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

''(B) the trust is described in section 4947(a)(1).''.

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

''(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

''(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

''(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

''(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.''.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: ''In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2005.

SEC. 203. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) LIMITATION ON REDUCTION.—In the case of any such contribution, notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the apparently wholesome food exceeds twice the basis of such food.

''(iv) DETERMINATION OF BASIS.—If a taxpayer—

''(I) does not account for inventories under section 471, and

''(II) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of subparagraph (B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(v) DETERMINATION OF FAIR MARKET VALUE.—In the case of any such contribution of apparently wholesome food which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(I) without regard to such internal standards or such lack of market and

''(II) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(vi) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 204. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

''The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 205. MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended to read as follows:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

''(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

''(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

''(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

''(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

''(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

''(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

''(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

''(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

''(I) determined using the same printing and edition,

''(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

''(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.

''(vii) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 206. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS AND PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME.

(a) MODIFICATION OF SECTION 512(B)(13).—

(1) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to payments received or accrued after December 31, 2000.

(B) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

(b) PUBLIC AVAILABILITY OF UNRELATED BUSINESS INCOME TAX RETURNS.—

(1) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

''(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such organization, but only if such organization is described in section 501(c)(3),''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed after the date of the enactment of this Act.

(c) CERTIFICATION OF UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN ORGANIZATIONS.—

(1) IN GENERAL.—Section 6011 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) RETURNS OF CERTAIN ORGANIZATIONS RELATING TO UNRELATED BUSINESS TAXABLE INCOME.—

''(1) IN GENERAL.—Every applicable exempt organization shall include with the return under subsection (a) for the taxable year a statement by an independent auditor or an independent counsel which meets the requirements of paragraph (2).

''(2) STATEMENT.—A statement meets the requirement of this paragraph if the statement—

''(A) contains a certification that—

''(i) the information contained in the return—

''(I) has been reviewed by the auditor or counsel, and

''(II) to the best of the auditor's or counsel's knowledge, is accurate, and

''(ii) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the unrelated trades and business of the organization and the activities related to the purpose or function constituting the basis of the organization's exemption under section 501 complies with the requirements set forth by the Secretary under section 512, and

''(B) indicates—

''(i) whether the auditor or counsel has provided a tax opinion to the organization regarding—

''(I) the classification of any trade or business of the organization as an unrelated trade or business, or

''(II) the treatment of any income as unrelated business taxable income, and

''(ii) a description of any material facts with respect to any such opinion.

''(3) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this subsection, the term 'applicable exempt organization' means any organization which—

''(A) is described in section 501(c)(3),

''(B) has—

''(i) gross income and receipts of not less than $10,000,000 for the taxable year, or

''(ii) gross assets of not less than $10,000,000 on the last day of the taxable year, and

''(C) is subject to the tax imposed under section 511 for the taxable year.''.

(2) PENALTY.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

''SEC. 6720B. UNRELATED BUSINESS INCOME REQUIREMENTS.

''(a) IN GENERAL.—Any applicable exempt organization (as defined in section 6011(g)(3)) which fails to file a statement required under section 6011(g) shall pay a penalty in an amount equal to ½ percent of the gross revenue amount of such organization for the taxable year to which such statement relates.

''(b) GROSS REVENUE AMOUNT.—For purposes of subsection (a), the term 'gross revenue amount' means, with respect to any taxable year, the gross income and receipts of the organization determined without regard to any contributions or grants received by the organization.

''(c) REASONABLE CAUSE.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(B) CONFORMING AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

''Sec. 6720B. Unrelated business income requirements.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 207. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Paragraph (1) of subsection 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) to an organization described in subparagraph (A) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

''(iv) QUALIFIED FARMER OR RANCHER.—

''(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year in which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

''(II) DEFINITION.—For purposes of subclause (I), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

''(v) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.''.

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows:

''(2) CORPORATIONS.—In the case of a corporation—

''(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

''(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) made—

''(I) by a corporation which, for the taxable year during which the contribution is made,

is a qualified farmer or rancher (as defined in paragraph (1)(E)(iv)(II)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

''(II) to an organization described in paragraph (1)(A),

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

''(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

''(i) this section,

''(ii) part VIII (except section 248),

''(iii) any net operating loss carrryback to the taxable year under section 172,

''(iv) section 199, and

''(v) any capital loss carryback to the taxable year under section 1212(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 170(d) is amended by striking ''subsection (b)(2)'' each place it appears and inserting ''subsection (b)(2)(A)''.

(2) Section 545(b)(2) is amended by striking ''and (D)'' and inserting ''(D), and (E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 208. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, ARTISTIC, OR SCHOLARLY COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—

''(i) IN GENERAL.—Subsections (b) and (d) shall not apply to the amount by which any charitable contribution is increased by reason of this paragraph and such increased contribution shall not be taken into account for purposes of applying subparagraphs (A) through (D) of subsection (b)(1) and subsection (d).

''(ii) CONTRIBUTION BASE LIMITATION.—The increased contributions shall be allowed to the extent the aggregate of such contributions do not exceed the excess of 50 percent of the contribution base (as defined in subparagraph (F) of subsection (b)(1)) over the amount of all other charitable contributions allowable under subparagraphs (A) through (D) of subsection (b)(1).

''(iii) ARTISTIC ADJUSTED GROSS INCOME.—The aggregate increase in the charitable contributions by reason of this paragraph for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).

''(G) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 2007.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 209. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

''SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A the following new item:

''Sec. 139B. Mileage reimbursements to charitable volunteers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 210. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2)(A) shall be applied by substituting for '10 percent of the taxpayer's taxable income' the following: 'the sum of (i) the lesser of all eligible mathematics and science contributions or 15 percent of the taxpayer's taxable income, plus (ii) the lesser of the contributions (other than eligible mathematics and science contributions and contributions to which subparagraph (B) applies) or 10 percent of the taxpayer's taxable income reduced by all eligible mathematics and science contributions'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965.

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).

''(C) TERMINATION.—This paragraph shall not apply to any contributions made in taxable years beginning after December 31, 2006.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

Subtitle B—Reforming Charitable Organizations

PART I—GENERAL REFORMS

SEC. 211. TAX INVOLVEMENT BY EXEMPT ORGANIZATIONS IN TAX SHELTER TRANSACTIONS.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

''Subchapter F—Tax Shelter Transactions

''Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions

''SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.

''(a) PARTICIPATION IN AND APPROVAL OF PROHIBITED TRANSACTIONS.—

''(1) TAX-EXEMPT ENTITY.—

''(A) IN GENERAL.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know such transaction is a prohibited tax shelter transaction, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1)(A).

''(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity (other than a tax-exempt entity described in paragraph (4), (5), (6), or (7) of subsection (c)) is a party to a subsequently listed transaction at any time during the taxable year, such entity shall pay a tax in the amount determined under subsection (b)(1)(B).

''(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

''(3) REASONABLE CAUSE EXCEPTION.—No tax shall be imposed under paragraph (1)(A) or (2) if it is shown that the participation of the tax-exempt entity in the transaction was not willful and was due to reasonable cause.

''(b) AMOUNT OF TAX.—

''(1) ENTITY.—In the case of a tax-exempt entity—

''(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1)(A) on the entity with respect to a taxable year shall be the greater of—

''(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

''(ii) 75 percent of the proceeds received by the entity which are attributable to the prohibited tax shelter transaction.

''(B) POST-TRANSACTION DETERMINATION.—The amount of the tax imposed under subsection (a)(1)(B) on the entity with respect to any taxable year shall be an amount equal to the product of—

''(i) the highest rate of tax under section 11, and

''(ii) the greater of—

''(I) the entity's net income (after taking into account any tax imposed by this subtitle with respect to the subsequently listed transaction) for such taxable year which is attributable to the subsequently listed transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

''(II) 75 percent of the proceeds received by the entity which are attributable to the subsequently listed transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

''(2) ENTITY MANAGER.—In the case of each entity manager to whom subsection (a)(2) applies, the amount of the tax under such subsection shall be $20,000 for each approval.

''(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

''(1) described in section 501(c) or 501(d),

''(2) described in section 170(c) (other than an agency or instrumentality of the United States) to which paragraph (1) of this subsection does not apply,

''(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

''(4) described in paragraph (1), (2), or (3) of section 4979(e),

''(5) a program described in section 529,

''(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

''(7) an arrangement described in section 4973(a).

''(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

''(1) with respect to a tax-exempt entity described in paragraph (3) or (4) of section 501(c)—

''(A) in the case of an entity other than a private foundation, an organization manager (as defined in section 4958(f)(2)), and

''(B) in the case of a private foundation, a foundation manager (as defined in section 4946(b)), and

''(2) in all other cases, the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization.

''(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

''(1) PROHIBITED TAX SHELTER TRANSACTION.—

''(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

''(i) any listed transaction, or

''(ii) any prohibited reportable transaction if the tax-exempt entity knows or has reason to know that such transaction is a reportable transaction.

''(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

''(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

''(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has entered into the transaction.

''(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

''(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

''SUBCHAPTER F. TAX SHELTER TRANSACTIONS.''.

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ORGANIZATION TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) PARTICIPATION IN CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

''(A) such entity's participation in any prohibited tax shelter transaction (as defined in section 4965(e)), and

''(B) the identity of any other party participating in such transaction which is known by such tax-exempt entity.''.

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.''.

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts), as amended by this Act, is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) DISCLOSURE UNDER SECTION 6033.—

''(A) PENALTY ON ORGANIZATIONS.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

''(B) PERSONS.—

''(i) IN GENERAL.—The Secretary may make a written demand on any tax-exempt entity subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

''(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such person failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all tax-exempt entities for failures with respect to any 1 disclosure shall not exceed $10,000.

''(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 6652(c)(1) of such Code is amended by striking ''6033'' each place it appears in the text and heading thereof and inserting ''6033(a)(1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions after the date of the enactment of this Act, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income that is properly allocable to any period on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

SEC. 212. EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subchapter F of chapter 42 (relating to tax shelter transactions), as added by this Act, is amended by adding at the end the following new section:

''SEC. 4966. EXCISE TAX ON ACQUISITION OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

''(a) IMPOSITION OF TAX.—If there is a taxable acquisition of any interest in an applicable insurance contract, there is hereby imposed on the person acquiring the interest a tax equal to 100 percent of the acquisition costs of the interest.

''(b) TAXABLE ACQUISITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'taxable acquisition' means the acquisition of any direct or indirect interest in an applicable insurance contract by—

''(A) an applicable exempt organization, or

''(B) a person other than an applicable exempt organization if such interest in the hands of such person is not an interest described in clause (i), (ii), (iii), or (iv) of paragraph (2)(B).

''(2) APPLICABLE INSURANCE CONTRACT.—

''(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt organization have directly or indirectly held an interest in the contract (whether or not at the same time).

''(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

''(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

''(ii) the sole interest in the contract of each person other than an applicable exempt organization is as a named beneficiary,

''(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

''(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

''(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in clauses (i), (ii), and (iv) or subclause (I) of this clause, or

''(iv) except as provided in subparagraph (C), the sole interest in the contract of each person other than an applicable exempt organization is as a lender with respect to the contract and the contract covers only 1 individual and such individual is an officer, director, or employee of the applicable exempt organization with an interest in the contract.

''(C) RESTRICTIONS ON EXCEPTION FOR LENDERS.—

''(i) NUMERICAL LIMIT.—The number of contracts that may be taken into account under subparagraph (B)(iv) with respect to officers, directors, or employees of the applicable exempt organization with interests in the contracts shall not exceed the greater of—

''(I) the lesser of 5 percent of the total officers, directors, and employees of the organization or 20, or

''(II) 5.

''(ii) AGGREGATE INDEBTEDNESS.—The exception under subparagraph (B)(iv) shall apply only to the extent that the aggregate amount of the indebtedness with respect to 1 or more contracts covering a single individual does not exceed $50,000.

''(D) SECRETARIAL AUTHORITY.—The Secretary may exempt a contract from treatment as an applicable insurance contract based on specific factors, including factors such as whether the transaction is at arms length, whether economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and the likelihood of abuse.

''(3) DEFINITION AND RULE RELATING TO ACQUISITION COSTS.—

''(A) ACQUISITION COSTS DEFINED.—The term 'acquisition costs' means the direct or indirect costs of acquiring an interest in an applicable insurance contract. Such term shall include any fees, commissions, charges, or other amounts paid in connection with the acquisition, whether or not paid to the issuer of the contract.

''(B) TIMING OF PAYMENTS.—Except as provided in regulations, if acquisition costs of any acquisition are paid or incurred in more than 1 calendar year, the tax imposed by subsection (a) with respect to the acquisition shall be imposed each time the costs are so paid or incurred.

''(4) RULES RELATING TO INTERESTS.—

''(A) IN GENERAL.—An interest in the contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise.

''(B) INDIRECT INTERESTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), an indirect interest in a contract includes an interest in an entity which directly or indirectly holds an interest in the contract.

''(ii) PORTFOLIO INVESTMENTS.—If an applicable exempt organization holds an interest in a contract solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds the interest in the contract, such indirect interest in the contract shall not be taken into account for purposes of this section.

''(C) EXCHANGED CONTRACTS.—In the case of an exchange of an applicable insurance contract on which no gain or loss is recognized under section 1035, any interest in any of the contracts involved in the exchange shall be treated as an interest in all such contracts.

''(5) INCREASE IN INTEREST.—If a person increases an interest in an applicable insurance contract, the increase shall be treated as a separate acquisition for purposes of this section.

''(6) PRIOR ACQUISITIONS.—Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition shall be treated as a taxable acquisition of an interest in an applicable insurance contract as of the date the contract becomes an applicable insurance contract.

''(c) APPLICABLE EXEMPT ORGANIZATION.—For purposes of this section, the term 'applicable exempt organization' means—

''(1) an organization described in section 170(c),

''(2) an organization described in section 168(h)(2)(A)(iv), or

''(3) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

''(d) TAX NOT TREATED AS INVESTMENT IN THE CONTRACT.—For purposes of section 72, the tax imposed by this section shall not be included in investment in the contract.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. Such regulations may include regulations which—

''(1) provide, for purposes of subsection (b)(6), appropriate rules for the application of this section in any case where an interest is acquired before a contract becomes an applicable insurance contract,

''(2) prevent, in cases the Secretary determines appropriate, the imposition of more than one tax under this section if the same interest is acquired more than once, and

''(3) are designed to prevent avoidance of the purposes of this section, including through the use of intermediaries.''.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter F of chapter 42, as added by this Act, is amended by adding at the end the following new item:

''Sec. 4966. Excise tax on acquisition of interests in insurance contracts in which certain exempt organizations hold an interest.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

''SEC. 6050U. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.

''(a) REQUIREMENTS OF REPORTING.—

''(1) EXEMPT ORGANIZATIONS.—Each—

''(A) applicable exempt organization which acquires (within the meaning of section 4966) an interest in any applicable insurance contract, and

''(B) other person which makes an acquisition of such an interest if such acquisition is taxable under section 4966,

shall make the return described in subsection (c).

''(2) TRANSFERS.—If a person (including an applicable exempt organization) acquires an

interest in an applicable insurance contract in an acquisition which is taxable under section 4966 and then transfers such interest to 1 or more other persons, each person acquiring all or a portion of such interest shall make the return described in subsection (c).

''(b) TIME FOR MAKING RETURN.—Any organization or person required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary with respect to—

''(1) in the case of a person described in subsection (a)(1), the calendar year in which the acquisition occurs, any calendar year in which acquisition costs are paid or incurred, and any other calendar years specified by the Secretary, and

''(2) in the case of a person described in subsection (a)(2), the calendar year in which the transfer occurs.

''(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary prescribes,

''(2) in the case of—

''(A) a return required under subsection (a)(1)(A), contains the name, address, and taxpayer identification number of the applicable exempt organization, the issuer of the applicable insurance contract, and any person acquiring an interest in the contract if the acquisition is taxable under section 4966,

''(B) a return required under subsection (a)(1)(B), contains the name, address, and taxpayer identification number of the person acquiring an interest in the applicable insurance contract if the acquisition is taxable under section 4966, any applicable exempt organization holding an interest in the contract, and the issuer of the contract, and

''(C) a return required under subsection (a)(2), contains the name, address, and taxpayer identification number of the transferor and transferee, and

''(3) contains such other information as the Secretary may prescribe.

''(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose taxpayer identification information is required to be included in such return under subsection (c) a written statement showing—

''(1) the name and address of the person required to make such return and the telephone number of the information contact for such person, and

''(2) the taxpayer identity and other information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before the date specified by the Secretary.

''(e) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 4966 shall have the meaning given such term by section 4966.''.

(2) PENALTIES.—

(A) IN GENERAL.—Section 6724(d) is amended—

(i) in paragraph (1)(B), by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix) and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),'', and

(ii) in paragraph (3), by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) the statement required by subsection (d) of section 6050U (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests).''.

(B) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking ''or'' at the end of subparagraph (B), by striking ''and'' at the end of subparagraph (C) and inserting ''or'', and by adding at the end the following new subparagraph:

''(D) in the case of a return required to be filed under section 6050U, the amount of tax imposed under section 4966 which has not been paid with respect to items required to be included on the return, and''.

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61is amended by adding at the end the following new item:

''Sec. 6050U. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after May 3, 2005.

(2) REPORTING OF EXISTING CONTRACTS.—In the case of any life insurance, annuity, or endowment contract—

(A) which was issued on or before May 3, 2005,

(B) with respect to which an applicable exempt organization (as defined in section 4966 of the Internal Revenue Code of 1986, as added by this section) holds an interest on May 3, 2005, and

(C) which would be treated as an applicable insurance contract (as so defined) if issued after May 3, 2005,

such organization shall, not later than the date which is 1 year after the date of the enactment of this Act, report to the Secretary of the Treasury with respect to such contract. Such report shall be in such form and manner, and contain such information, as the Secretary may prescribe. The Secretary shall submit such reports, along with any recommendations for legislation as the Secretary considers appropriate, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate within 6 months of the date such reports are required to be filed.

SEC. 213. INCREASE IN PENALTY EXCISE TAXES ON PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASE IN TAX IF SELF-DEALING INCLUDES COMPENSATION TO DISQUALIFIED PERSON.—Section 4941(a)(1) is amended by adding at the end the following new sentence: ''If the act of self-dealing includes acts described in subsection (d)(1)(D), '25 percent' shall be substituted for '10 percent', except that the Secretary may abate under section 4962 (determined without regard to the exception under subsection (b) thereof) not more than 15 percentage points of such tax.''.

(3) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking ''$10,000'' each place it appears in the text and heading thereof and inserting ''$20,000''.

(4) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking ''15 percent'' and inserting ''30 percent''.

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking ''5 percent'' and inserting ''10 percent''.

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking ''5 percent'' both places it appears and inserting ''10 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking ''10 percent'' and inserting ''20 percent'', and

(B) in paragraph (2), by striking ''2½ percent'' and inserting ''5 percent''.

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended—

(A) by striking ''$5,000,'' and inserting ''$10,000,'', and

(B) by striking ''$10,000.'' and inserting ''$20,000.''.

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

SEC. 214. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS ON BUILDINGS IN REGISTERED HISTORIC DISTRICTS.

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

''(i) such interest—

''(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

''(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

''(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

''(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

''(II) has the resources to manage and enforce the restriction and a commitment to do so, and

''(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

''(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

''(II) photographs of the entire exterior of the building, and

''(III) a description of all restrictions on the development of the building.''.

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

(1) by striking ''any building, structure, or land area which'',

(2) by inserting ''any building, structure, or land area which'' before ''is listed'' in clause (i), and

(3) by inserting ''any building which'' before ''is located'' in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by inserting at the end the following new paragraph:

''(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

''(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

''(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of the greater of—

''(i) 3 percent of the fair market value of the building (determined immediately before such contribution), or

''(ii) $10,000.

''(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).''.

(d) EFFECTIVE DATE.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after November 15, 2005.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND.—The amendments made by subsection (b) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

SEC. 215. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) CONTRIBUTIONS OF TAXIDERMY PROPERTY.—

''(A) CONTRIBUTIONS OF MORE THAN $500.—In the case of any contribution of taxidermy property for which a deduction of more than $500 is claimed, no deduction shall be allowed under subsection (a) unless the donor includes with the return for the taxable year in which the contribution is made a photograph of the taxidermy property and data with respect to the sales prices of similar taxidermy property.

''(B) CONTRIBUTIONS OF MORE THAN $5,000.—In the case of any contribution of taxidermy property for which a deduction of more than $5,000 is claimed, no deduction shall be allowed under subsection (a) unless the donor—

''(i) notifies the Internal Revenue Service of such deduction, and

''(ii) includes with the return for the taxable year in which the contribution is made—

''(I) a statement of value from the Internal Revenue Service, or

''(II) a request for a statement of value from the Internal Revenue Service and a $500 fee.

''(C) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means a mounted work of art which contains any part of a dead animal.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after November 15, 2005.

SEC. 216. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

''(i) of tangible personal property—

''(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

''(II) which is applicable property (as defined in paragraph (8)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (8)(D),''.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

''(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

''(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

''(ii) the donor's basis in such property at the time such property was contributed.

''(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

''(i) after the last day of the taxable year of the donor in which such property was contributed, and

''(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

''(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

''(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

''(ii) for which a deduction in excess of the donor's basis is allowed.

''(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

''(i) which—

''(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

''(II) describes how the property was used and how such use furthered such purpose or function, or

''(ii) which—

''(I) states the intended use of the property by the donee at the time of the contribution, and

''(II) certifies that such intended use has become impossible or infeasible to implement.''.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking ''2 years'' and inserting ''3 years'', and

(2) by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

''(F) a description of the donee's use of the property, and

''(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(1)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(8)(D) if such certification is required under section 170(e)(8).''.

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by this Act, is amended by inserting after section 6720B the following new section:

''SEC. 6720C. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY.

''In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(8)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by this Act, is amended by adding after the item relating to section 6720B the following new item:

''Sec. 6720C. Fraudulent identification of exempt use property.''.

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after June 1, 2006.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after June 1, 2006.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act.

SEC. 217. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

''(A) IN GENERAL.—In the case of an individual, partnership, or S corporation, the deduction allowed under subsection (a) for any contribution of clothing or household items with respect to which the donor has not obtained a qualified appraisal shall be—

''(i) in the case of an item which is in good used condition or better, no more than the amount assigned to such item under subparagraph (B) for such year,

''(ii) except as provided by clause (iii), in the case of an item which is not in good used condition or better, no more than 20 percent of the amount assigned to such item under subparagraph (B) for such year, and

''(iii) in the case of an item which is not functional with respect to the use for which it was designed, zero.

''(B) ASSIGNED VALUES.—Each year the Secretary shall publish an itemized list of clothing and household items and shall assign an amount with respect to each item on the list which represents the fair market value of such item in good used condition.

''(C) EXCEPTION FOR ITEMS SOLD BY THE DONEE.—Subparagraph (A) shall not apply to any contribution of clothing or household items for which a deduction of more than $500 is claimed if—

''(i) the donee sells the clothing or household items before the earlier of—

''(I) the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made, or

''(II) the date on which such return was filed,

''(ii) the donee reports the sales price of the clothing or household items to the donor, and

''(iii) the amount claimed as a deduction with respect to such clothing or household items does not exceed the amount of the sales price reported to the donor.

''(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

''(ii) EXCLUDED ITEMS.—Such term does not include—

''(I) food,

''(II) paintings, antiques, and other objects of art,

''(III) jewelry and gems, and

''(IV) collections.

''(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''.

(b) SUBSTANTIATION.—

(1) ITEMS OF $250 OR MORE.—Subparagraph (B) of section 170(f)(8) is amended by inserting after clause (iii) the following new clause:

''(iv) In the case of a contribution consisting of clothing or household items, the number of items contributed, an indication of the condition of each item, a description of the type of item contributed, and a copy of the list published under paragraph (15)(B) or an instruction on how to obtain such list.''.

(2) ITEMS OF $500 OR MORE.—Subparagraph (B) of section 170(f)(11) is amended by inserting '', the information contained in the acknowledgment required under paragraph (8) in the case of any contribution of clothing or household items,'' after ''a description of such property''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2006.

SEC. 218. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution—

''(A) a cancelled check, or

''(B) a receipt or a letter or other written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 219. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a taxpayer's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph through the transfer of any such undivided interest to a third party controlled by the taxpayer.''.

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) VALUATION OF SUBSEQUENT GIFTS.—

''(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(A) the fair market value of the property at the time of the initial fractional contribution, or

''(B) the fair market value of the property at the time of the additional contribution.

''(2) DEFINITIONS.—For purposes of this paragraph—

''(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

''(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.''.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

''(1) VALUATION OF SUBSEQUENT GIFTS.—

''(A) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

''(i) the fair market value of the property at the time of the initial fractional contribution, or

''(ii) the fair market value of the property at the time of the additional contribution.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

''(ii) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).

''(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES.—

''(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided interest of a donor's entire interest in property in any case where such property is not in the physical possession of the donee during any applicable period for a period of time which bears substantially the same ratio to 1 year as—

''(i) the percentage of the undivided interest of the donee in the property (determined on the day after such contribution was made), bears to

''(ii) 100 percent.

''(B) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means any 1-year period which begins on—

''(i) in the year of the contribution, the date of the contribution, and

''(ii) in any subsequent calendar year, the date which corresponds to the date described in clause (i).

''(C) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as necessary to prevent the avoidance of the purposes of this paragraph though the transfer of any such undivided interest to a third party controlled by the donor.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act.

SEC. 220. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.

(a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

(1) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalties) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULES FOR CHARITABLE DEDUCTION PROPERTY.—In the case of charitable deduction property (as defined in section 6664(c)(3)(A))—

''(1) the determination under subsection (e)(1)(A) as to whether there is a substantial valuation misstatement under chapter 1 with respect to the value of the property shall be made by substituting '150 percent' for '200 percent', and

''(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting '200 percent' for '400 percent' and by substituting '150 percent' for '200 percent' in applying subsection (e)(1)(A) for purposes of such determination.''.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking ''paragraph (1) shall not apply unless'' and inserting ''paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if''.

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

''SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.

''(a) IMPOSITION OF PENALTY.—If—

''(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

''(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property,

then such person shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

''(1) the greater of—

''(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

''(B) $1,000, or

''(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

''(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.''.

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking ''6694 and 6695'' each place it appears in the text and heading thereof and inserting ''6694, 6695, and 6695A'', and

(B) by striking ''6694 or 6695'' each place it appears in the text and inserting ''6694, 6695, or 6695A''.

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

''Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
''Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.''.

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows:

''(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

''(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

''(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

''(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

''(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

''(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

''(II) regularly performs appraisals for which the individual receives compensation, and

''(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

''(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

''(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

''(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.''.

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

''(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

''(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).''.

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986''.

(e) EFFECTIVE DATES.—

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and (d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after December 16, 2004.

SEC. 221. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

''(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

''(ii) makes no loans to debtors and does not negotiate the making of loans on behalf of debtors, and

''(iii) does not promote, or charge any separate fee for, any service for the purpose of improving any consumer's credit record, credit history, or credit rating.

''(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

''(C) The organization establishes and implements a fee policy which—

''(i) requires that any fees charged to a consumer for services are reasonable, and

''(ii) prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

''(D) At all times the organization has a board of directors or other governing body—

''(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

''(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

''(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

''(E) The organization does not own more than 35 percent of—

''(i) the total combined voting power of a corporation which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

''(ii) the profits interest of a partnership which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

''(iii) the beneficial interest of a trust or estate which is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

''(F) The organization receives no amount for providing referrals to others for financial services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers.

''(2) REQUIREMENTS UNDER SUBSECTION (c)(3).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

''(A) The organization—

''(i) charges no fees (other than nominal fees) for debt management plan services or credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(ii) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

''(B) The activities of the organization related to debt management plan services (in the aggregate) do not exceed 25 percent of the total activities of the organization activities measured by any of the following:

''(i) The time spent on activities.

''(ii) The resources dedicated to activities.

''(iii) The effort expended by the organization with respect to activities.

''(iv) The sources of revenue of the organization.

''(v) Any other measures prescribed by the Secretary.

''(3) REQUIREMENTS UNDER SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization—

''(A) is organized and operated such that it charges no fees (other than nominal fees) for credit counseling services and waives any fees if the consumer is unable to pay such fees, and

''(B) notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

''(4) SECRETARIAL AUTHORITY.—The Secretary may require any organization described in paragraph (1) to submit such information as the Secretary requires to verify that such organization meets the requirements of this section.

''(5) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

''(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

''(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

''(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

''(iii) a combination of the activities described in clauses (i) and (ii).

''(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.''.

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

''(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes—

''(1) the provision of debt management plan services (as defined in section 501(q)(4)(B)) by an organization described in section 501(q) to the extent such services are not substantially related to the provision of credit counseling services (as defined in section 501(q)(4)(A)) to a consumer, and

''(2) the provision of debt management plan services (as so defined) by any organization other than an organization which meets the requirements of section 501(q).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

SEC. 222. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: ''Such term shall also include income from sources similar to those in the preceding sentence.''.

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking ''used for the production of interest, dividends, rents, and royalties'' and inserting ''used for the production of gross investment income (as defined in paragraph (2))'', and

(2) in subparagraph (C), by inserting ''or carrybacks'' after ''carryovers''.

(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. 223. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection(o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.''.

SEC. 224. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

''(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

''(A) the legal name of the organization,

''(B) any name under which such organization operates or does business,

''(C) the organization's mailing address and Internet web site address (if any),

''(D) the organization's taxpayer identification number,

''(E) the name and address of a principal officer, and

''(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

''(2) upon the termination of the existence of the organization, shall furnish notice of such termination.''.

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

''(1) IN GENERAL.—If an organization described in subsection (a)(1) or (k) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

''(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

''(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.''.

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

''(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(i)(1).''.

(d) NO INSPECTION REQUIREMENT.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act,

is amended by inserting ''(other than subsection (h) thereof)'' after ''6033''.

(e) NO DISCLOSURE REQUIREMENT.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) NONDISCLOSURE OF ANNUAL NOTICES.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(h).''.

(f) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

''(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(h).''.

(g) SECRETARIAL OUTREACH REQUIREMENTS.—

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(h) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(h) and of the penalty established under section 6033(i) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(i) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2005.

SEC. 225. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

''(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

''(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

''(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

''(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

''(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

''(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

''(i) upon written request by an appropriate State officer, and

''(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

''(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

''(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

''(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

''(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

''(i) the State attorney general,

''(ii) the State tax officer,

''(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

''(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting ''an section 6104(c)'' after ''section'' in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'',

(B) in subparagraph (F)(i), by inserting ''or any appropriate State officer (as defined in section 6104(c)),'' before ''or any other person'', and

(C) in the matter following subparagraph (F), by inserting '', an appropriate State officer (as defined in section 6104(c)),'' after ''including an agency'' each place it appears.

(3) The heading for paragraph (1) of section 6104(c) is amended by inserting ''FOR CHARITABLE ORGANIZATIONS'' after ''RULE''.

(4) Paragraph (2) of section 7213(a) is amended by inserting ''or under section 6104(c)'' after ''6103''.

(5) Paragraph (2) of section 7213A(a) is amended by inserting ''or 6104(c)'' after ''6103''.

(6) Paragraph (2) of section 7431(a) is amended by inserting ''(including any disclosure in violation of section 6014(c)'' after ''6103''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

PART II—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

SEC. 231. EXCISE TAX ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by this Act, is amended by adding at the end the following new subchapter:

''Subchapter G—Donor Advised Funds

''SEC. 4967. TAXES ON SPONSORING ORGANIZATIONS OF DONOR ADVISED FUNDS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on any sponsoring organization a tax equal to 30 percent of each of the following amounts:

''(1) The organization level undistributed amount of such sponsoring organization (other than any organization subject to tax under section 4942) for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period).

''(2) The fund level undistributed amount of any donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the first (or any succeeding) taxable year following the applicable period (if such 181st day falls within the taxable period).

''(3) The illiquid fund undistributed amount of any illiquid asset donor advised fund of such sponsoring organization for any taxable year which has not been distributed before the 181st day of the second (or any succeeding) taxable year following such taxable year (if such 181st day falls within the taxable period).

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on any amount, if any portion of such amount remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT; FUND LEVEL UNDISTRIBUTED AMOUNT; ILLIQUID FUND UNDISTRIBUTED AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL UNDISTRIBUTED AMOUNT.—The term 'organization level undistributed amount' means, with respect to any sponsoring organization for any taxable year, the amount by which—

''(A) the organization level distributable amount for such taxable year, exceeds

''(B) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(2) FUND LEVEL UNDISTRIBUTED AMOUNT.—The term 'fund level undistributed amount' means, with respect to any donor advised fund of a sponsoring organization for any applicable period, the amount by which—

''(A) the fund level distributable amount for such applicable period, exceeds

''(B) the qualifying distributions made during such applicable period and designated for the purpose of reducing such amount.

''(3) ILLIQUID FUND UNDISTRIBUTED AMOUNT.—

''(A) IN GENERAL.—The term 'illiquid fund undistributed amount' means, with respect to any illiquid asset donor advised fund of a sponsoring organization for any taxable year, the amount by which—

''(i) the illiquid fund distributable amount for such taxable year, exceeds

''(ii) the qualifying distributions made during such taxable year and designated for the purpose of reducing such amount.

''(B) ILLIQUID ASSET DONOR ADVISED FUND.—The term 'illiquid asset donor advised fund' means for any taxable year a donor advised fund the value of the illiquid assets of which (as of the end of the preceding taxable year) exceeds 10 percent of the value of the total assets of such fund.

''(C) ILLIQUID ASSET.—The term 'illiquid asset' means for any taxable year any asset other than cash and marketable securities the value of which is held for the entire taxable year as such asset or any other illiquid asset.

''(d) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT; FUND LEVEL DISTRIBUTABLE AMOUNT; ILLIQUID FUND DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) ORGANIZATION LEVEL DISTRIBUTABLE AMOUNT.—The term 'organization level distributable amount' means, with respect to any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the fair market value of the aggregate assets of all donor advised funds maintained by such organization as determined on the last day of the preceding taxable year (other than such funds which have been in existence for less than 1 year as so determined).

''(2) FUND LEVEL DISTRIBUTABLE AMOUNT.—The term 'fund level distributable amount' means, with respect to any donor advised fund of any sponsoring organization for any applicable 3-consecutive taxable year period, an amount equal to the greater of—

''(A) $250, or

''(B) 2.5 percent of the greater of—

''(i) the average of the sponsoring organization's required minimum initial contribution amount for such period, or

''(ii) the average of the sponsoring organization's required minimum balance for such period,

for the type of donor with respect to such donor advised fund.

''(3) ILLIQUID FUND DISTRIBUTABLE AMOUNT.—The term 'illiquid fund distributable amount' means, with respect to any illiquid asset donor advised fund of any sponsoring organization for any taxable year, an amount equal to the applicable percentage of the value of the assets in such fund as determined at the end of the preceding taxable year.

''(4) APPLICABLE PERCENTAGE.—For purposes of paragraphs (1) and (3), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means—

''(A) any amount paid by the sponsoring organization from a donor advised fund—

''(i) to any organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund), and

''(ii) notwithstanding clause (i), to any organization described section 170(f)(17)(B)(ii), but only to the extent not prohibited by regulations, and

''(B) any amount set aside in such donor advised fund for purposes, and under procedures similar to those, described in section 4942(g)(2).

Such term shall also include any amount paid during any taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

''(2) DISTRIBUTIONS TO SPONSORING ORGANIZATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), such term shall include any distribution to a sponsoring organization.

''(B) ORGANIZATION LEVEL DISTRIBUTIONS.—For purposes of subsection (c)(1)(B), such term shall not include any distribution to a sponsoring organization unless such distribution is designated for use in connection with a charitable program of such organization.

''(3) PURPOSE OF DISTRIBUTION.—Each qualifying distribution shall be taken into account in determining whether each of the requirements of paragraphs (1), (2), and (3) of subsection (a) are met, except that only qualifying distributions from a donor advised fund shall be taken into account in determining whether the requirements of paragraphs (2) and (3) of subsection (a) are met with respect to the fund.

''(4) DESIGNATION OF TAXABLE YEAR.—

''(A) IN GENERAL.—A sponsoring organization shall designate the taxable years or applicable periods with respect to which any qualifying distribution shall be applied for purposes of satisfying the distribution requirements of such taxable year or applicable period.

''(B) CARRYOVER OF EXCESS DISTRIBUTION DESIGNATIONS.—If a sponsoring organization designates an amount of qualifying distributions in excess of the amount necessary to meet the distribution requirements for all taxable years and all applicable periods, the sponsoring organization may designate such excess as a carryover distribution which may be applied for purposes of satisfying the distribution requirements of the succeeding 5 taxable years.

''(f) VALUATION RULES.—For purposes of determining the value of any asset held by a donor advised fund, the following rules shall apply:

''(1) Securities for which market quotations are readily available shall be valued at fair market value determined on a monthly basis.

''(2) Cash shall be determined on an average monthly basis.

''(3) Any illiquid asset transferred by a donor to a sponsoring organization for maintenance in such donor advised fund shall be valued in an amount equal to the sum of—

''(A) the value of such asset claimed by the donor for purposes of determining the donor's deduction under section 170, 2055, or 2522 with respect to such transfer and reported by the donor to the sponsoring organization (in any manner specified by the Secretary), and

''(B) an assumed annual rate of return of 5 percent of such value.

''(4) Any illiquid asset purchased by such fund shall be valued in an amount equal to—

''(A) the purchase price paid for such asset by such fund, and

''(B) an assumed annual rate of return of 5 percent of such value.

''(g) SPONSORING ORGANIZATION; DONOR ADVISED FUND.—For purposes of this subchapter—

''(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

''(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof), and

''(B) maintains 1 or more donor advised funds.

''(2) DONOR ADVISED FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'donor advised fund' means a fund or account—

''(i) which is separately identified by reference to contributions of a donor or donors,

''(ii) which is owned and controlled by a sponsoring organization, and

''(iii) with respect to which a donor or any person appointed or designated by such person) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

''(B) EXCEPTION.—The term 'donor advised fund' shall not include any fund or account with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, but only if—

''(i) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee appointed by the sponsoring organization,

''(ii) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

''(iii) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations).

''(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account from treatment as a donor advised fund which—

''(i) is advised by committee not directly or indirectly controlled by the donor or advisor (and any related parties), or

''(ii) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed amount for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any donor advised fund of any sponsoring organization, a 3-consecutive taxable year period determined under the following rules:

''(A) The first applicable 3-consecutive taxable year period for any donor advised fund shall begin on the first day of the first taxable year of the sponsoring organization beginning after the date such fund has been in existence for 1 year.

''(B) Any applicable 3-consecutive taxable year period after the first such period shall begin on the day after the termination of any preceding applicable 3-consecutive taxable year period with respect to such donor advised fund.

''(i) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the purposes of this section, including regulations regarding—

''(1) the acceptable methods for calculating the organization level undistributed amount for sponsoring organizations,

''(2) the allowable adjustments in the determination of the value of any illiquid asset where the asset value has declined significantly after a contribution to, or purchase by, the donor advised fund, and

''(3) the treatment or disregard of transactions designed to avoid the application of the illiquid asset rules, such as through exchanges of illiquid assets for other assets.

''SEC. 4968. TAXES ON PROHIBITED DISTRIBUTIONS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR OR DONOR ADVISOR.—There is hereby imposed on the advice of any person described in section 4967(g)(2)(A)(iii) to have a sponsoring organization of a donor advised fund make a taxable distribution from such fund a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1) or (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) TAXABLE DISTRIBUTION.—For purposes of this subsection—

''(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any sponsoring organization if such amount is for maintenance in a donor advised fund).

''(2) EXCEPTION.—Notwithstanding paragraph (1), such term shall not include any distribution from a donor advised fund to any organization described in section 170(f)(17)(B)(ii) to the extent such distribution is not prohibited under regulations.

''(d) FUND MANAGER.—For purposes of this subchapter, the term 'fund manager' means, with respect to any sponsoring organization of a donor advised fund—

''(1) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

''(2) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

''SEC. 4969. TAXES ON PROHIBITED BENEFITS.

''(a) IMPOSITION OF TAXES.—

''(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (c) to have a sponsoring organization of a donor advised fund make a distribution from such fund which results in such a person receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 25 percent of the amount of such distribution. The tax imposed by this paragraph shall be paid by such person who advised the sponsoring organization of the donor advised fund to make the distribution.

''(2) ON THE RECIPIENT OF THE BENEFIT.—There is hereby imposed on any person described in subsection (c) who receives a benefit described in paragraph (1), a tax equal to 25 percent of the amount of the distribution described in paragraph (1).

''(3) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such distribution, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

''(b) JOINT AND SEVERAL LIABILITY.—For purposes of subsection (a), if more than one person is liable under subsection (a)(1), (a)(2), or (a)(3) with respect to the making of a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

''(c) DONOR, DONOR ADVISOR, OR RELATED PERSON.—A person is described in this subsection if such person is described in section 4958(f)(1)(D) (determined without regard to any investment advisor).''.

(b) ABATEMENT OF TAXES ALLOWED.—Section 4963 is amended—

(1) by inserting ''4967, 4968, 4969,'' after ''4958,'' each place it appears in subsections (a) and (c),

(2) by inserting ''4967,'' after ''4958,'' in subsection (b),

(3) in subsection (d)(2), by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) in the case of the second tier tax imposed by section 4967(b), reducing the amount of the undistributed amount to zero.'', and

(4) in subsection (e)(2), by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

''(C) in the case of section 4967(a)(1), on the first day of the taxable year for which there was a failure to distribute,

''(D) in the case of paragraph (2) or (3) of section 4967(a), on the 181st day of the taxable year for which there was a failure to distribute,''.

(c) CONFORMING AMENDMENTS.—

(1) The table of subchapters for chapter 42, as amended by this Act, is amended by adding at the end the following new item:

''SUBCHAPTER G. DONOR ADVISED FUNDS.''.

(2) Section 6213(e) is amended by inserting ''4967 (relating to taxes on sponsoring organizations of donor advised funds for failure to meet distribution requirements),'' after ''benefit),''.

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

SEC. 232. PROHIBITED TRANSACTIONS.

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

''(D) any person who is described in paragraph (7) with respect to any sponsoring organization (as defined in section 4967(g)(1)).''.

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraph:

''(7) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS WITH RESPECT TO SPONSORING ORGANIZATIONS.—For purposes of paragraph (1)(D)—

''(A) IN GENERAL.—A person is described in this paragraph if such person—

''(i) is described in section 4967(g)(2)(A)(iii),

''(ii) is an investment advisor,

''(iii) is a member of the family of an individual described in clause (i) or (ii), or

''(iv) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i), (ii), or (iii) of paragraph (7)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(B) INVESTMENT ADVISOR.—The term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4967(g)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4967(g)(2)) owned by such organization.''.

(3) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS WITH RESPECT TO A SPONSORING ORGANIZATION WHICH IS A PRIVATE FOUNDATION.—Section 4946(a)(1) is amended by striking ''and'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following new subparagraph:

''(J) a person described in section 4958(f)(1)(D).''.

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) SPECIAL RULES FOR DONOR ADVISED FUNDS OWNED BY SPONSORING ORGANIZATIONS.—In the case of any donor advised fund (as defined in section 4967(g)(2)) of a sponsoring organization (as defined in section 4967(g)(1))—

''(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other payment from such fund to a person described in subsection (f)(1)(D) (determined without regard to any investment advisor) with respect to such fund, and

''(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other payment.

Notwithstanding the last sentence of subsection (e), a sponsoring organization shall be treated as an applicable tax-exempt organization to the extent necessary to carry out this paragraph.''.

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting '', except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in, or credited to, any donor advised fund'' after ''standards''.

(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. 233. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3), (4), or (5) of subsection (c) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph:

''(13) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—

''(A) IN GENERAL.—A deduction otherwise allowed under subsection (a) for any contribution to a sponsoring organization (as defined in section 4967(g)(1)) to be maintained in any donor advised fund (as defined in section 4967(g)(2)) of such organization shall only be allowed if—

''(i) such sponsoring organization is not described in paragraph (3) or (4) of subsection (a) or section 509(a)(3), and

''(ii) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization that such organization has exclusive legal control over the assets contributed.

''(B) CONTRIBUTIONS TO TYPE I OR TYPE II SUPPORTING ORGANIZATIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), a contribution to a sponsoring organization (as so defined) described in clause (ii) to be maintained in any donor advised fund (as so defined) of such organization shall be allowed to the extent not prohibited by regulations.

''(ii) ORGANIZATION DESCRIBED.—An organization is described in this clause if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

''(I) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

''(II) supervised or controlled in connection with one or more such organizations.''.

(d) REGULATIONS.—The regulations prescribed under sections 170(f)(17)(B)(i), 2055(e)(5)(B)(i), 2522(c)(13)(B)(i), 4967(e)(i)(A)(ii), and 4968(c)(2) of the Internal Revenue Code of 1986 shall deny a deduction for contributions to sponsoring organizations (as defined in section 4967(g)(1) of such Code) which are described in section 170(f)(17)(B)(ii) of such Code and shall apply excise taxes to distributions from donor advised funds (as defined in section 4967(g)(2) of such Code) and sponsoring organizations (as so defined) to organizations so described in cases where the donor of the contributions or the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization (as defined in section 509(f)(3) of such Code) of such organization.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act.

SEC. 234. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4967(g)(1) shall, on the return required under subsection (a) for the taxable year—

''(1) list the total number of donor advised funds (as defined in section 4967(g)(2)) it owns at the end of such taxable year,

''(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

''(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.''.

(2) EXTENSION OF STATUTE OF LIMITATIONS.—Section 6501(c) is amended by adding at the end the following new paragraph:

''(11) DONOR ADVISED FUNDS.—If a sponsoring organization (as defined in section 4967(g)(1)) fails to include on any return for any taxable year any information with respect to any donor advised fund of such organization which is required under section 6033(j) to be included with such return, the time for assessment of any tax imposed under subchapter G of chapter 42 with respect to any distribution from such donor advised fund shall not expire before the date which is 3 years after the date on which the secretary is furnished the information so required.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

''(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4967(g)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section 4967(g)(2)) and the manner in which such organization plans to operate such funds.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

PART III—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

SEC. 241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

''(B) is—

''(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

''(ii) supervised or controlled in connection with one or more such organizations, or

''(iii) operated in connection with one or more such organizations, and''.

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

''(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

''(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

''(A) APPLICATION REQUIREMENT.—The organization provides to the Secretary, as a part of any notification filed under section 508(a) after the date of the enactment of this subsection, a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

''(B) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

''(C) SUPPORTED ORGANIZATIONS.—

''(i) IN GENERAL.—The organization—

''(I) is not operated in connection with more than 5 supported organizations, and

''(II) is not operated in connection with any supported organization that is not organized in the United States on any date after the date which is 180 days after the date of the enactment of this subsection.

''(ii) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with more than 5 supported organizations on the date of the enactment of this subsection—

''(I) clause (i)(I) shall not apply, and

''(II) the organization may not be operated in connection with any other organization after such date unless the total number of supported organizations is 5 or less.

''(D) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—The organization makes no contributions to or for the use of any donor advised fund (as defined in section 4967(g)(2)).

''(2) ORGANIZATIONS CONTROLLED BY DONORS.—

''(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

''(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

''(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who controls, directly or indirectly, either alone or together with persons described in clauses (ii) and (iii), the governing body of a supported organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

''(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

''(B) with respect to which the organization performs the functions of, or carries out the purposes of.''.

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because—

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

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

SEC. 242. EXCISE TAX ON SUPPORTING ORGANIZATIONS FOR FAILURE TO MEET DISTRIBUTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter D of chapter 42 (relating to failure by certain charitable organizations to meet certain qualification requirements) is amended by adding at the end the following new section:

''SEC. 4959. TAXES ON CERTAIN SUPPORTING ORGANIZATIONS FAILING TO MEET DISTRIBUTION REQUIREMENTS.

''(a) INITIAL TAX.—There is hereby imposed on the undistributed income of any type III supporting organization for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 30 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year.

''(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a type III supporting organization for any taxable year, if any portion of such income remains undistributed at the close of the taxable period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

''(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any type III supporting organization for any taxable year as of any time, the amount by which—

''(1) the distributable amount for such taxable year, exceeds

''(2) the qualifying distributions made before such time out of such distributable amount.

''(d) DISTRIBUTABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—the term 'distributable amount' means, with respect to any type III supporting organization for any taxable year, an amount equal to the sum of—

''(A) the greater of—

''(i) 85 percent of the adjusted net income (as defined in section 4942(f)) of the type III supporting organization for the preceding taxable year, or

''(ii) the applicable percentage of the fair market value of the aggregate assets of such organization (other than assets used or held to perform the functions of, or carry out the purposes of, a supported organization) on the last day of the preceding taxable year, and

''(B) any amount received during the preceding taxable year which is a repayment of amounts paid by the organization in any prior taxable year to a supported organization exclusively for the benefit of such supported organization or to perform the functions of, or carry out the purposes of such supported organization.

''(2) INVESTMENT ASSETS.—For purposes of paragraph (1)(A)(ii), assets held for investment or for the operation of an unrelated trade or business shall not be considered as assets used or held to perform the functions of, or carry out the purposes of, a supported organization.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(A)(ii), the applicable percentage is—

''(A) 3 percent for the first taxable year beginning after the date of the enactment of this section,

''(B) 4 percent for the second taxable year beginning after such date, and

''(C) 5 percent for any taxable year beginning after the second taxable year beginning after such date.

''(e) QUALIFYING DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying distribution' means amounts paid by the type III supporting organization to or for the use of a supported organization.

''(2) ADMINISTRATIVE AND OPERATING EXPENSES.—Reasonable and necessary administrative expenses of a type III supporting organization shall be treated as a qualifying distribution to a supported organization.

''(f) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

''(A) first out of the undistributed income of the immediately preceding taxable year (if the type III supporting organization was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof, and

''(B) second out of the undistributed income for the taxable year to the extent thereof.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

''(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the type III supporting organization may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year. The election shall be made by the type III supporting organization at such time and in such manner as the Secretary shall by regulations prescribe.

''(g) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

''(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a type III supporting organization—

''(A) the aggregate qualifying distributions treated (under subsection (f)) as made out of the undistributed income for such taxable years, exceeds

''(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (f)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

''(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a type III supporting organization, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after the date of the enactment of this section and immediately preceding the taxable year.

''(h) OTHER DEFINITIONS.—For purposes of this section—

''(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

''(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

''(B) the date on which the tax imposed by subsection (a) is assessed.

''(2) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

''(3) SUPPORTED ORGANIZATION.—The term 'supported organization' has the meaning given such term under section 509(f)(3).''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter D of chapter 42 is amended by inserting after the item relating to section 4958 the following new item:

''Sec. 4959. Taxes on certain supporting organizations failing to meet distribution requirements.''.

(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. 243. EXCESS BENEFIT TRANSACTIONS.

(a) IN GENERAL.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

''(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

''(i) the term 'excess benefit transaction' includes—

''(I) any grant, loan, compensation, or other payment provided by such organization to a person described in subparagraph (B), and

''(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

''(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other payment.

''(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to such organization,

''(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

''(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

''(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust.

''(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).''.

(b) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding after subparagraph (D) the following new subparagraph:

''(E) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) which is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.''.

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

SEC. 244. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

''(e) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, a qualified supporting organization shall be treated as a private foundation.

''(2) EXCEPTION.—The Secretary may exempt any qualified supporting organization from the application of this subsection if the Secretary determines that the excess business holdings of such organization are consistent with the purpose or function constituting the basis for its exemption under section 501.

''(3) QUALIFIED SUPPORTING ORGANIZATION.—For purposes of this subsection, the term 'qualified supporting organization' means any—

''(A) type III supporting organization (as defined in section 4959(h)(2)), or

''(B) organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with or one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

''(4) DISQUALIFIED PERSON.—

''(A) IN GENERAL.—In applying this section to any organization described in section 509(a)(3), the term 'disqualified person' means, with respect to the organization—

''(i) any person who was, at any time during the 5-year period ending on date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

''(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

''(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4943(e)(2)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

''(iv) any person described in section 4958(c)(3)(B), and

''(v) any organization—

''(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

''(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of their family (within the meaning of section 4946(d)) who made (directly or indirectly) substantially all of the contributions to the organization in question.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

''(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

''(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those officers, directors, or trustees of the organization), or

''(iii) an owner of more than 20 percent of—

''(I) the total combined voting power of a corporation,

''(II) the profits interest of a partnership, or

''(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

''(5) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization (as defined in section 4959(h)(2)) in any business enterprise if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the type III supporting organization.

''(6) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that—

''(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

''(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).''.

(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. 245. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows:

''(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to an organization described in section 509(a)(3).''.

(b) TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Subsection (d) of section 4945 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) to an organization described in section 509(a)(3),''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4945(d)(5), as redesignated by subparagraph (A), is amended—

(i) by striking ''a grant to an organization'' and inserting ''a grant to any other organization'', and

(ii) by striking ''paragraph (1), (2), or (3) of section 509(a)'' in subparagraph (A) and inserting ''paragraph (1) or (2) of section 509(a)''.

(B) Section 4945(f) is amended by striking ''Subsection (d)(4)'' in the last sentence thereof and inserting ''Subsection (d)(5)''.

(C) Section 4945(h) is amended by striking ''subsection (d)(4)'' and inserting ''subsection (d)(5)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

SEC. 246. RETURNS OF SUPPORTING ORGANIZATIONS.

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3), as redesignated by this Act, is amended by inserting ''(other than an organization described in section 509(a)(3))'' after ''paragraph (1)''.

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—

''(1) IN GENERAL.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

''(A) list the organizations described in section 509(a)(3)(A) with respect to which such organization provides support,

''(B) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

''(C) certify that the organization meets the requirements of section 509(a)(3)(C).

''(2) TYPE III SUPPORTING ORGANIZATIONS.—Every type III supporting organization (as defined in section 4959(h)(2)) shall indicate on the return required under subsection (a) for the taxable year whether the organization has received a letter from each supported organization (as defined in section 509(f)(3)) during the taxable year which—

''(A) acknowledges that the supporting organization has designated such organization as a supported organization,

''(B) details the type of support provided by the supporting organization, and

''(C) explains how such support furthers the charitable purpose of the supported organization.''.

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

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new section:

''SEC. 1400M. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—There shall be allowed as a credit against any taxes imposed by this title (other than by section 3111(a), section 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York, New York (including any agency or instrumentality thereof) for any calendar year an amount equal to the lesser of—

''(1) the total expenditures during such year by such governmental unit for qualifying projects, or

''(2) the amount allocated to such governmental unit for such calendar year under subsection (b)(2).

''(b) QUALIFYING PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400L(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(2) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account under subsection (a) for any calendar year in the credit period with respect to a qualifying project.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $200,000,000, plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate for any calendar year following the credit period for expenditures with respect to qualifying projects which may be taken into account under subsection (a) an amount equal to such excess, reduced by the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—If the amount allocated under subsection (b)(2) to a governmental unit for any calendar year exceeds the total expenditures for such year by such governmental unit for qualifying projects, the allocation of such governmental unit for the succeeding calendar year shall be increased by the amount of such excess.

''(2) REALLOCATION.—If a governmental unit does not use an amount allocated to it under subsection (b)(2) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(2) in the same manner as if it had never been allocated.

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

''(1) CREDIT PERIOD.—The term 'credit period' means the 10-year period beginning on January 1, 2006.

''(2) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400L(b)(2)(A)(v) is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Act of 2005 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400L(c)(2)(B) is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Act of 2005 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

SEC. 302. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) OTHER PROVISIONS.—

(1) REPEAL OF EXCESSIVE PASSIVE INCOME AS A TERMINATION EVENT.—Section 1362(d) is amended by striking paragraph (3).

(2) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subsection (b) of section 1375 is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) The heading for section 1375 is amended by striking ''**25 PERCENT**'' and inserting ''**60 PERCENT**''.

(6) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 and before October 1, 2009.

SEC. 303. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2006''.

SEC. 304. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end 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 section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest 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.—Section 163(h)(4) (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 Veterans Administration, 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 Veterans Administration 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) mortgage insurance provided by the Veterans Administration, 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 subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued during the period beginning after December 31, 2006, and before January 1, 2008, and properly allocable to such period, with respect to mortgage insurance contracts issued after December 31, 2006.

SEC. 305. SENSE OF THE SENATE ON USE OF NO-BID CONTRACTING BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) FINDINGS.—The Senate finds that—

(1) on September 8, 2005, the Federal Emergency Management Agency announced that it had awarded 4 contracts for emergency housing relief following Hurricane Katrina to The Shaw Group of Baton Rouge, Louisiana, Fluor Corporation of Aliso Viejo, California, Bechtel National of San Francisco, California, and CH2M Hill of Denver, Colorado;

(2) these contracts were awarded with no competition from other capable firms, and up to $100,000,000 in taxpayer funds were authorized for each of these contracts;

(3) in the midst of concerns about abusive and irresponsible spending of taxpayer funds, the Federal Emergency Management Agency pledged to re-bid these noncompetitive contracts, with Acting Under Secretary of Emergency Preparedness and Response, R. David Paulison, stating before the Committee on Homeland Security and Government Affairs of the Senate that ''[a]ll of these no-bid contracts, we are going to go back and re-bid'';

(4) the Federal Emergency Management Agency has yet to reopen these 4 contracts to competitive bidding, and declared on November 11, 2005, that these contracts would not be reopened for bidding until February 2006;

(5) by February 2006, the majority of the contracts will have been completed and the majority of taxpayer funds will have been spent;

(6) large and politically-connected firms continue to benefit from no-bid and limited-competition contracts, and contracts are not being awarded to capable, local companies;

(7) according to an analysis in the Washington Post, companies outside the States most affected by Hurricane Katrina have received more than 90 percent of the Federal contracts for recovery and reconstruction;

(8) the monitoring of Federal contracting practices remains difficult, with a report by the San Jose Mercury News stating ''The database of contracts is incomplete. Information released by Federal agencies is spotty and sporadic. And disclosure of many no-bid contracts isn't required by law''; and

(9)(A) there is currently no Chief Financial Officer charged with monitoring the flow of all funds to the affected areas; and

(B) the task of financial management is spread across disparate Federal departments and agencies with inadequate oversight of taxpayer funds.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Federal Emergency Management Agency should—

(1) immediately rebid noncompetitive contracts entered into following Hurricane Katrina, consistent with the commitment of the Agency made on October 6, 2005, before millions of taxpayer dollars are wasted on irresponsible and inefficient spending;

(2)(A) immediately implement the planned competitive contracting strategy of the Agency for recovery work in all current and future reconstruction efforts; and

(B) in carrying out that strategy, should prioritize local and small disadvantaged businesses in the contracting and subcontracting process; and

(3) immediately after the awarding of a contract, publicly disclose the amount and competitive or noncompetitive nature of the contract.

SEC. 306. SENSE OF CONGRESS REGARDING DOHA ROUND.

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

(1) Members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round).

(2) The Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement).

(3) The WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement.

(4) In section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies''.

(5) The countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws.

(6) Chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury.

(7) United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed.

(8) Trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy.

(9) The United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology.

(10) United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950.

(11) Many industries critical to United States national security are at severe risk from unfair foreign competition.

(12) The Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

SEC. 307. MODIFICATION OF BOND RULE.

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,

(2) paragraph (3) of such section shall be applied by substituting ''distributions from'' for ''the investment earnings of'' both places it appears, and

(3) Paragraph (4) of such section shall be applied by substituting ''March 1, 1985'' for ''October 9, 1969''.

SEC. 308. TREATMENT OF CERTAIN STOCK OPTION PLANS UNDER NONQUALIFIED DEFERRED COMPENSATION RULES.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 409A of the Internal Revenue Code of 1986 to extend to applicable foreign option plans the exception under such section for incentive stock options under section 422 of such Code and options granted under an employee stock purchase plan meeting the requirements of section 423 of such Code. Such extension shall be subject to such terms and conditions as may be prescribed in such regulations.

(b) APPLICABLE FOREIGN OPTION PLANS.—For purposes of subsection (a)—

(1) IN GENERAL.—The term ''applicable foreign option plan'' means a plan providing for the issuance of employee stock options—

(A) which is established under the laws of a foreign jurisdiction, and

(B) which, under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements under section 422 or 423 of such Code.

(2) SUBSTANTIALLY SIMILAR.—A plan shall not be treated as subject to substantially similar requirements under paragraph (1)(B) unless—

(A) the plan is required to cover substantially all employees,

(B) in the case of an option under an employee stock purchase plan, the plan is required to provide an option price which is not less than the amount specified in section 423(b)(6) of such Code, except that such section shall be applied by substituting ''80 percent'' for ''85 percent'' each place it appears,

(C) the plan is required to provide coverage of individuals who, but for the exception of the application of section 409A of such Code by reason of this section, would be subject to tax under such section with respect to the plan, and

(D) the plan meets such other requirements as the Secretary of the Treasury prescribes in the regulations under subsection (a).

SEC. 309. SENSE OF THE SENATE REGARDING THE DEDICATION OF EXCESS FUNDS.

It is the sense of the Senate that any increases in revenues to the Treasury as a result of this Act and the amendments made by this Act that exceed the amounts specified in the reconciliation instructions shall be dedicated to the Low-Income Home Energy Assistance Program, in an amount not to exceed the amount which is $2,900,000,000 more than the funding levels established for such Program for fiscal year 2005.

SEC. 310. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Subsection (g) of section 7872 is amended to read as follows:

''(g) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

''(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

''(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

''(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

''(B) the individual or individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or a nursing facility, as is available in the continuing care facility, as appropriate for the health of such individual or individual's spouse, and

''(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

''(3) QUALIFIED CONTINUING CARE FACILITY.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

''(i) which are designed to provide services under continuing care contracts,

''(ii) that include an independent living unit, plus an assisted living or nursing facility, or both, and

''(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

''(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to loans made after December 31, 2005.

SEC. 311. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless—

''(I) for purposes of such duty such employee has moved from 1 duty station to another, and

''(II) at least 1 of such duty stations is located outside of the Washington, District of Columbia, and Baltimore metropolitan statistical areas (as defined by the Secretary of Commerce).''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended by striking ''MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE'' and inserting ''UNIFORMED

SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

TITLE IV—REVENUE OFFSET PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

SEC. 401. 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 thereof 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. 402. 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. 403. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall be 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in paragraphs (1) and (2) of section 6700(a) of the Internal Revenue Code of 1986 and after the date of the enactment of this Act.

SEC. 404. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting '', or tax liability reflected in,'' after ''the preparation or presentation of'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall

be 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the activities described in section 6701(a) of the Internal Revenue Code of 1986 after the date of the enactment of this Act.

Subtitle B—Economic Substance Doctrine

SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 421. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 422. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 423. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

Subtitle D—Penalties and Fines

SEC. 431. 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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 432. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(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. 433. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after section 6050U the following new section:

''SEC. 6050V. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by inserting after the item relating to section 6050U the following new item:

''Sec. 6050V. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 434. DENIAL 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 435. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$2,000'', and

(2) by striking ''$15'' and inserting ''$40''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

Subtitle E—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 442. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(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 2005, 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 2004' 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:

''(49) 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) is inadmissible.''.

(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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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.

Subtitle F—Miscellaneous Provisions

SEC. 451. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 452. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 453. REPEAL OF SPECIAL PROPERTY EXCEPTION TO LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2005, with respect to leases entered into on or before March 12, 2004.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 454. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 455. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 456. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 457. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

''to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 458. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SEC. 459. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT.—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 460. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(C) is amended by striking ''substituting'' and all that follows through ''1997.'' and inserting ''substituting '110 percent (120 percent if the preceding taxable year begins in 2005)' for '100 percent'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 461. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—o addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year and which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005. For purposes of this subsection all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 462. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

SEC. 463. VALUATION OF EMPLOYEE PERSONAL USE OF NONCOMMERCIAL AIRCRAFT.

(a) IN GENERAL.—For purposes of Federal income tax inclusion, the value of any employee personal use of noncommercial aircraft shall equal the excess (if any) of—

(1) greater of—

(A) the fair market value of such use, or

(B) the actual cost of such use (including all fixed and variable costs), over

(2) any amount paid by or on behalf of such employee for such use.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to use after the date of the enactment of this Act.

SEC. 464. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting ''which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company'' after ''regulated investment company''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to taxable years beginning after December 31, 2004.

SEC. 465. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) QUALIFIED INVESTMENT ENTITY.—

(1) IN GENERAL.—Section 897(h)(1) is amended—

(A) by striking ''a nonresident alien individual or a foreign corporation'' in the first sentence and inserting ''a nonresident alien individual, a foreign corporation, or other qualified investment entity'',

(B) by striking ''such nonresident alien individual or foreign corporation'' in the first sentence and inserting ''such nonresident alien individual, foreign corporation, or other qualified investment entity'', and

(C) by striking the second sentence and inserting the following new sentence: ''Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien, a foreign corporation, or other qualified investment entity 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 1 year period ending on the date of such distribution.''.

(2) APPLICATION AFTER 2007.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraph (1) in any case in which a real estate investment trust makes a distribution to an entity described in clause (i)(II).''.

(b) TREATMENT OF CERTAIN DISTRIBUTIONS AS DIVIDENDS.—

(1) IN GENERAL.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the 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 regulated investment company.''.

(2) CONFORMING AMENDMENT.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN DISTRIBUTIONS.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

''(i) shall not be treated as a short-term capital gain dividend, and

''(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of qualified investment entities beginning after the date of the enactment of this Act.

(2) DIVIDENDS.—The amendments made by subsection (b) shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

SEC. 466. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) IN GENERAL.—Section 897(h) of the Internal Revenue Code of 1986 (relating to special rules in certain investment entities) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

''(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

''(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual or foreign corporation—

''(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

''(II) acquires an identical interest in such entity during the 60-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual or foreign corporation shall be treated as having acquired any interest acquired by a person related (within the meaning of section 465(b)(3)(C)) to the individual or corporation.

''(ii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual or foreign corporation receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

''(iii) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual or foreign corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).''.

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2005, in taxable years ending after such date.

SEC. 467. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION.

(a) MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.—

(1) 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 1 corporation. For purposes of the preceding sentence, the term 'separate affiliated group' means, with respect to any corporation, 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 1 distributee corporation.''.

(2) CONFORMING AMENDMENTS.—

(A) 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,''.

(B) Section 355(b)(2) of such Code is amended by striking the last sentence.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply—

(i) to distributions after the date of the enactment of this Act, and before January 1, 2010, and

(ii) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by paragraph (2)(A)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before January 1, 2010.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(C) ELECTIONS.—

(i) OUT OF TRANSITION RELIEF.—Subparagraph (B) shall not apply if the distributing

corporation elects not to have such subparagraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

(ii) APPLICATION TO PRIOR DISTRIBUTIONS.—Subparagraph (A)(ii) shall not apply to a distributing or controlled corporation if the corporation elects not to have such subparagraph apply to such corporation. Any such election, once made, shall be irrevocable.

(b) SECTION 355 NOT TO APPLY TO DISTRIBUTIONS IF THE DISTRIBUTING OR CONTROLLED CORPORATION IS A DISQUALIFIED INVESTMENT CORPORATION.—

(1) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

''(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

''(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

''(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

''(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

''(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation.

''(B) INVESTMENT ASSETS.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

''(I) cash,

''(II) any stock or securities in a corporation,

''(III) any interest in a partnership,

''(IV) any debt instrument or other evidence of indebtedness,

''(V) any option, forward or futures contract, notional principal contract, or derivative,

''(VI) foreign currency, or

''(VII) any similar asset.

''(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

''(I) a lending or finance business (within the meaning of section 954(h)(4)),

''(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

''(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

''(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

''(iv) STOCK OR SECURITIES IN A 25-PERCENT CONTROLLED ENTITY.—

''(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 25-percent controlled entity.

''(III) 25-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '25-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '25 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

''(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

''(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

''(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

''(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

''(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

''(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

''(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

''(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

''(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

''(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

''(C) which modify the application of the attribution rules applied for purposes of this subsection.''.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to distributions after the date of the enactment of this Act.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to any distribution pursuant to a transaction which is—

(i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 468. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

''(i) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

''(1) IN GENERAL.—If—

''(A) any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including any accompanying words) or any copyright with respect to a musical composition, and

''(B) such expense is required to be capitalized under this section,

then, notwithstanding section 167(g), the amount capitalized shall be amortized ratably over the 5-year period beginning with the month in which the composition or copyright was acquired (or, in the case of expenses paid or incurred in connection with the creation of a musical composition, the 5-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense—

''(A) which is a qualified creative expense under subsection (h),

''(B) to which a simplified procedure established under subsection (j)(2) applies,

''(C) which is an amortizable section 197 intangible (as defined in section 197(c)), or

''(D) which, without regard to this section, would not be allowable as a deduction.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2005, in taxable years ending after such date.

SEC. 469. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

''SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract

for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (f)(3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principle balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

SEC. 470. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States), as amended by this Act, is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO LARGE INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a large integrated oil company to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.

''(4) LARGE INTEGRATED OIL COMPANY.—For purposes of this subsection, the term 'large integrated oil company' means, with respect to any taxable year, an integrated oil company (as defined in section 291(b)(4)) which—

''(A) had gross receipts in excess of $1,000,000,000 for such taxable year, and

''(B) has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 471. DISABILITY PREFERENCE PROGRAM FOR TAX COLLECTION CONTRACTS.

(a) IN GENERAL.—The Secretary of the Treasury shall not enter into any qualified tax collection contract after April 1, 2006, until the Secretary implements a disability preference program that meets the requirements of subsection (b).

(b) DISABILITY PREFERENCE PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A disability preference program meets the requirements of this subsection if such program requires that not less than 10 percent of the accounts of each dollar value category are awarded to persons described in paragraph (2).

(2) PERSON DESCRIBED.—For purposes of paragraph (1), a person is described in this paragraph if—

(A) as of the date any qualified tax collection contract is awarded—

(i) such person employs not less than 50 severely disabled individuals within the United States; or

(ii) not less than 30 percent of the employees of such person within the United States are severely disabled individuals;

(B) such person agrees as a condition of the qualified tax collection contract that not more than 90 days after the date such contract is awarded, not less than 35 percent of the employees of such person employed in connection with providing services under such contract shall—

(i) be hired after the date such contract is awarded; and

(ii) be severely disabled individuals; and

(C) such person is otherwise qualified to perform the services required.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAX COLLECTION CONTRACT.—The term ''qualified tax collection contract'' shall have the meaning given such term under section 6306(b) of the Internal Revenue Code of 1986.

(2) DOLLAR VALUE CATEGORY.—The term ''dollar value category'' means the dollar ranges of accounts for collection as determined and assigned by the Secretary under section 6306(b)(1)(B) of the Internal Revenue Code of 1986 with respect to a qualified tax collection contract.

(3) SEVERELY DISABLED INDIVIDUAL.—The term ''severely disabled individual'' means—

(A) a veteran of the United States armed forces with a disability of 50 percent or greater—

(i) determined by the Secretary of Veterans Affairs to be service-connected; or

(ii) deemed by law to be service-connected; or

(B) any individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b–19(k)(2))) or who would be considered to be such a disabled beneficiary but for having income or resources in excess of the income or resources eligibility limits established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), respectively.

TITLE V—COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

SEC. 501. SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS.

The provisions of, and amendments made by, title I, subtitle A of title II, and title III shall not apply to taxable years beginning after September 30, 2010, and the Internal Revenue Code of 1986 shall be applied and administered to such years as if such provisions and amendments had never been enacted.

SA 2711. Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment add the following:

SEC. _____. PERMANENT EXTENSION OF EGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the amendments made by section 201 of such Act.

SA 2712. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE — ____MEDICARE REFORM

SECTION __01. SHORT TITLE.

This title may be cited as the ''Medicare Part D Reform Act of 2006''.

SEC. __02. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

''(i) LIMITATION ON REMOVAL OR CHANGE.—Beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than during the period beginning on September 1 and ending on October 31. Subject to clause (ii), such removal or change shall only be effective beginning on January 1 of the immediately succeeding calendar year.

''(ii) NOTICE.—Any removal or change under this subparagraph shall not take effect unless appropriate notice is made available (such as under subsection (a)(3)) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists. Such notice shall ensure that such information is made available prior to the annual, coordinated open election period described in section 1851(e)(3)(B)(iii), as applied under section 1860D–1(b)(1)(B)(iii).''.

SEC. __03. PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.

(a) PROVIDING A SAFE HARBOR FOR PHARMACEUTICAL PATIENT ASSISTANCE PROGRAMS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in subparagraph (G)—

(A) by inserting ''or under a patient assistance program (including a pharmaceutical manufacturer patient assistance program)'' after ''Indian organizations)''; and

(B) by striking ''and'' at the end;

(2) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(A) by moving such subparagraph 2 ems to the left; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I) and moving such subparagraph 2 ems to the left.

(b) EXCLUSION OF EXPENDITURES UNDER CERTAIN PHARMACY ASSISTANCE PROGRAMS FROM TROOP.—Section 1860D–2(b)(4)(C)(ii) of such Act (42 U.S.C. 1395w–102(b)(4)(C)(ii)) is amended by inserting ''under a pharmaceutical manufacturer patient assistance program,'' after ''a group health plan,''.

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

SEC. __04. PROTECTION AGAINST COST-SHARING FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Section 1860D–14(a)(1)(D)(ii) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(D)(ii)) is amended—

(1) in the heading, by striking ''LOWEST INCOME'';

(2) by striking ''and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved''; and

(3) by adding at the end the following new sentence: ''In the case of an individual who is unable to pay the copayment applicable under the preceding sentence, such copayment shall be waived.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after the date of enactment of this Act.

SEC. __05. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following new subsection:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.''.

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

SA 2713. Mrs. FEINSTEIN (for herself, Mr. KOHL, Mr. DORGAN, Mr. BINGAMAN, Mr. SCHUMER, Mrs. BOXER, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

(a) LIMITATION ON REMOVAL OR CHANGE OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.—Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING DRUG FROM FORMULARY OR CHANGING PREFERRED OR TIER STATUS OF DRUG.—

''(i) LIMITATION ON REMOVAL OR CHANGE.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (ii), beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug other than at the beginning of each plan year except as the Secretary may permit to take into account new therapeutic uses and newly covered part D drugs.

''(II) SPECIAL RULE FOR NEWLY ENROLLED INDIVIDUALS.—Subject to clause (ii), in the case of an individual who enrolls in a prescription drug plan on or after the date of enactment of this subparagraph, the PDP sponsor of such plan may not remove a covered part D drug from the plan formulary or change the preferred or tiered cost-sharing status of such a drug during the period beginning on the date of such enrollment and ending on December 31 of the immediately succeeding plan year except as the Secretary may permit to take into account new therapeutic uses and newly covered part D drugs.

''(ii) EXCEPTIONS TO LIMITATION ON REMOVAL.—Clause (i) shall not apply with respect to a covered part D drug that—

''(I) is a brand name drug for which there is a generic drug approved under section 505(j) of the Food and Drug Cosmetic Act (21 U.S.C. 355(j)) that is placed on the market during the period in which there are limitations on removal or change in the formulary under subclause (I) or (II) of clause (i);

''(II) is a brand name drug that goes off-patent during such period;

''(III) is a drug for which the Commissioner of Food and Drugs issues a clinical warning that imposes a restriction or limitation on the drug during such period; or

''(IV) has been determined to be ineffective during such period.

''(iii) NOTICE OF REMOVAL UNDER APPLICATION OF EXCEPTION TO LIMITATION.—The PDP sponsor of a prescription drug plan shall provide appropriate notice (such as under subsection (a)(3)) of any removal or change under clause (ii) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists.''.

(b) NOTICE FOR CHANGE IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—

(1) IN GENERAL.—Section 1860D–4(a) of such Act (42 U.S.C. 1395w-104(a)) is amended by adding at the end the following new paragraph:

''(5) ANNUAL NOTICE OF CHANGES IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—Each PDP sponsor offering a prescription drug plan shall furnish to each enrollee at the time of each annual coordinated election period (referred to in section 1860D–1(b)(1)(B)(iii)) for a plan year a notice of any changes in the formulary or other restrictions or limitations on coverage of a covered part D drug under the plan that will take effect for the plan year.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual coordinated election periods beginning after the date of the enactment of this Act.

SA 2714. Mr. DURBIN (for himself, Mrs. MURRAY, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19, strike lines 19 through 22 and insert the following:

SEC. 203. ELIGIBILITY OF ALL UNINSURED CHILDREN FOR SCHIP.

(a) IN GENERAL.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(2) in paragraph (2)—

(A) by striking ''include'' and all that follows through ''a child who is an'' and inserting ''include a child who is an''; and

(B) by striking the semicolon and all that follows through the period and inserting a period; and

(3) by striking paragraph (4).

(b) NO EXCLUSION OF CHILDREN WITH ACCESS TO HIGH-COST COVERAGE.—Section 2110(b)(3) of the Social Security Act (42 U.S.C. 1397jj(b)(3)) is amended—

(1) in the paragraph heading, by striking ''RULE'' and inserting ''RULES'';

(2) by striking ''A child shall not be considered to be described in paragraph (1)(C)'' and inserting the following:

''(A) CERTAIN NON FEDERALLY FUNDED COVERAGE.—A child shall not be considered to be described in paragraph (1)(C)''; and

(3) by adding at the end the following:

''(B) NO EXCLUSION OF CHILDREN WITH ACCESS TO HIGH-COST COVERAGE.—A State may include a child as a targeted vulnerable child if the child has access to coverage under a group health plan or health insurance coverage and the total annual aggregate cost for premiums, deductibles, cost sharing, and similar charges imposed under the group health plan or health insurance coverage with respect to all targeted vulnerable children in the child's family exceeds 5 percent of such family's income for the year involved.''.

(c) CONFORMING AMENDMENTS.—

(1) Titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 1397aa et. seq.) are amended by striking ''targeted low-income'' each place it appears and inserting ''targeted vulnerable''.

(2) Section 2101(a) of such Act (42 U.S.C. 1397aa(a)) is amended by striking ''uninsured, low-income'' and inserting ''low-income''.

(3) Section 2102(b)(3)(C) of such Act (42 U.S.C. 1397bb(b)(3)(C)) is amended by inserting '', particularly with respect to children whose family income exceeds 200 percent of the poverty line'' before the semicolon.

(4) Section 2102(b)(3)(E), section 2105(a)(1)(D)(ii), paragraphs (1)(C) and (2) of section 2107, and subsections (a)(1) and (d)(1)(B) of section 2108 of such Act (42 U.S.C. 1397bb(b)(3)(E); 1397ee(a)(1)(D)(ii); 1397gg; 1397hh) are amended by striking ''low-income'' each place it appears.

(5) Section 2110(a)(27) of such Act (42 U.S.C. 1397jj(a)(27)) is amended by striking ''eligible low-income individuals'' and inserting ''targeted vulnerable individuals''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

SEC. 203A. INCREASE IN FEDERAL FINANCIAL PARTICIPATION UNDER SCHIP AND MEDICAID FOR STATES WITH SIMPLIFIED ENROLLMENT AND RENEWAL PROCEDURES FOR CHILDREN.

(a) SCHIP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION OF LIMITATION AND INCREASE IN FEDERAL PAYMENT FOR STATES WITH SIMPLIFIED ENROLLMENT AND RENEWAL PROCEDURES.—

''(i) IN GENERAL.—Notwithstanding subsection (a)(1) and subparagraph (A)—

''(I) the limitation under subparagraph (A) on expenditures for items described in subsection (a)(1)(D) shall not apply with respect to expenditures incurred to carry out any of the outreach strategies described in clause (ii), but only if the State carries out the same outreach strategies for children under title XIX; and

''(II) the enhanced FMAP for a State for a fiscal year otherwise determined under subsection (b) shall be increased by 5 percentage points (without regard to the application of the 85 percent limitation under that subsection) with respect to such expenditures.

''(ii) OUTREACH STRATEGIES DESCRIBED.—For purposes of clause (i), the outreach strategies described in this clause are the following:

''(I) PRESUMPTIVE ELIGIBILITY.—The State provides for presumptive eligibility for children under this title and under title XIX.

''(II) ADOPTION OF 12-MONTH CONTINUOUS ELIGIBILITY.—The State provides that eligibility for children shall not be redetermined more often than once every year under this title or under title XIX.

''(III) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under this title or title XIX with respect to children.

''(IV) PASSIVE RENEWAL.—The State provides for the automatic renewal of the eligibility of children for assistance under this title and under title XIX if the family of which such a child is a member does not report any changes to family income or other relevant circumstances, subject to verification of information from State databases.''.

(b) MEDICAID.—

(1) IN GENERAL.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (3), by inserting ''subject to paragraph (5)'', after ''Notwithstanding subsection (a)(17),''; and

(B) by adding at the end the following:

''(5)(A) Notwithstanding the first sentence of section 1905(b), with respect to expenditures incurred to carry out any of the outreach strategies described in subparagraph (B) for individuals under 19 years of age who are eligible for medical assistance under subsection (a)(10)(A), the Federal medical assistance percentage is equal to the enhanced FMAP described in section 2105(b) and increased under section 2105(c)(2)(C)(i)(II), but only if the State carries out the same outreach strategies for children under title XXI.

''(B) For purposes of subparagraph (A), the outreach strategies described in this subparagraph are the following:

''(i) PRESUMPTIVE ELIGIBILITY.—The State provides for presumptive eligibility for such individuals under this title and title XXI.

''(ii) ADOPTION OF 12-MONTH CONTINUOUS ELIGIBILITY.—The State provides that eligibility for such individuals shall not be redetermined more often than once every year under this title or under title XXI.

''(iii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under this title or title XXI with respect to such individuals.

''(iv) PASSIVE RENEWAL.—The State provides for the automatic renewal of the eligibility of such individuals for assistance under this title and under title XXI if the family of which such an individual is a member does not report any changes to family income or other relevant circumstances, subject to verification of information from State databases.''.

(2) CONFORMING AMENDMENT.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by striking ''section 1933(d)'' and inserting ''sections 1902(l)(5) and 1933(d)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

SEC. 203B. LIMITATION ON PAYMENTS TO STATES THAT HAVE AN ENROLLMENT CAP BUT HAVE NOT EXHAUSTED THE STATE'S AVAILABLE ALLOTMENTS.

(a) IN GENERAL.—Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

''(h) LIMITATION ON PAYMENTS TO STATES THAT HAVE AN ENROLLMENT CAP BUT HAVE NOT EXHAUSTED THE STATE'S AVAILABLE ALLOTMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, payment shall not be made to a State under this section if the State has an enrollment freeze, enrollment cap, procedures to delay consideration of, or not to consider, submitted applications for child health assistance, or a waiting list for the submission or consideration of such applications or for such assistance, and the State has not fully expended the amount of all allotments available with respect to a fiscal year for expenditure by the State, including allotments for prior fiscal years that remain available for expenditure during the fiscal year under subsection (c) or (g) of section 2104 or that were redistributed to the State under subsection (f) or (g) of section 2104.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a State from establishing regular open enrollment periods for the submission of applications for child health assistance.''.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

SEC. 203C. ADDITIONAL ENHANCEMENT TO FMAP TO PROMOTE EXPANSION OF COVERAGE TO ALL UNINSURED CHILDREN UNDER MEDICAID AND SCHIP.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. ADDITIONAL ENHANCEMENT TO FMAP TO PROMOTE EXPANSION OF COVERAGE TO ALL UNINSURED CHILDREN UNDER MEDICAID AND SCHIP.

''(a) IN GENERAL.—Notwithstanding subsection (b) of section 2105 (and without regard to the application of the 85 percent limitation under that subsection), the enhanced FMAP with respect to expenditures in a quarter for providing child health assistance to uninsured children whose family income exceeds 200 percent of the poverty line, shall be increased by 5 percentage points.

''(b) UNINSURED CHILD DEFINED.—

''(1) IN GENERAL.—For purposes of subsection (a), subject to paragraph (2), the term 'uninsured child' means an uncovered child who has been without creditable coverage for a period determined by the Secretary, except that such period shall not be less than 6 months.

''(2) SPECIAL RULE FOR NEWBORN CHILDREN.—In the case of a child 12 months old or younger, the period determined under paragraph (1) shall be 0 months and such child shall be considered uninsured upon birth.

''(3) SPECIAL RULE FOR CHILDREN LOSING MEDICAID OR SCHIP COVERAGE DUE TO INCREASED FAMILY INCOME.—In the case of a child who, due to an increase in family income, becomes ineligible for coverage under title XIX or this title during the period beginning on the date that is 12 months prior to the date of enactment of the All Kids Health Insurance Coverage Act of 2005 and ending on the date of enactment of such Act, the period determined under paragraph (1) shall be 0 months and such child shall be considered uninsured upon the date of enactment of the All Kids Health Insurance Coverage Act of 2005.

''(4) MONITORING AND ADJUSTMENT OF PERIOD REQUIRED TO BE UNINSURED.—The Secretary shall—

''(A) monitor the availability and retention of employer-sponsored health insurance coverage of dependent children; and

''(B) adjust the period determined under paragraph (1) as needed for the purpose of promoting the retention of private or employer-sponsored health insurance coverage of dependent children and timely access to health care services for such children.''.

(b) COST-SHARING FOR CHILDREN IN FAMILIES WITH HIGH FAMILY INCOME.—Section 2103(e)(3) of the Social Security Act (42 U.S.C. 1397cc(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) CHILDREN IN FAMILIES WITH HIGH FAMILY INCOME.—

''(i) IN GENERAL.—For children not described in subparagraph (A) whose family income exceeds 400 percent of the poverty line for a family of the size involved, subject to paragraphs (1)(B) and (2), the State shall impose a premium that is not less than the cost of providing child health assistance to children in such families, and deductibles, cost sharing, or similar charges shall be imposed under the State child health plan (without regard to a sliding scale based on income), except that the total annual aggregate cost-sharing with respect to all such children in a family under this title may not exceed 5 percent of such family's income for the year involved.

''(ii) INFLATION ADJUSTMENT.—The dollar amount specified in clause (i) shall be increased, beginning with fiscal year 2008, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average). Any dollar amount established under this clause that is not a multiple of $100 shall be rounded to the nearest multiple of $100.''.

(c) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING COVERAGE TO ALL UNINSURED CHILDREN IN THE STATE.—

(1) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

''(d) ADDITIONAL ALLOTMENTS FOR STATES PROVIDING COVERAGE TO ALL UNINSURED CHILDREN IN THE STATE.—

''(1) APPROPRIATION; TOTAL ALLOTMENT.—For the purpose of providing additional allotments to States to provide coverage of all uninsured children (as defined in section 2111(b)) in the State under the State child health plan, there is appropriated, out of any money in the Treasury not otherwise appropriated—

''(A) for fiscal years 2007, 2008, and 2009, $3,000,000,000;

''(B) for fiscal year 2010, $5,000,000,000; and

''(C) for fiscal year 2011, $7,000,000,000.

''(2) STATE AND TERRITORIAL ALLOTMENTS.—

''(A) IN GENERAL.—In addition to the allotments provided under subsections (b) and (c), subject to subparagraph (B) and paragraphs (3) and (4), of the amount available for the additional allotments under paragraph (1) for a fiscal year, the Secretary shall allot to each State with a State child health plan that provides coverage of all uninsured children (as so defined) in the State approved under this title—

''(i) in the case of such a State other than a commonwealth or territory described in subsection (ii), the same proportion as the proportion of the State's allotment under subsection (b) (determined without regard to subsection (f)) to 98.95 percent of the total amount of the allotments under such section for such States eligible for an allotment under this subparagraph for such fiscal year; and

''(ii) in the case of a commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the total amount of the allotments under such section for commonwealths and territories eligible for an allotment under this subparagraph for such fiscal year.

''(B) MINIMUM ALLOTMENT.—

''(i) IN GENERAL.—No allotment to a State for a fiscal year under this subsection shall be less than 50 percent of the amount of the allotment to the State determined under subsections (b) and (c) for the preceding fiscal year.

''(ii) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the allotments determined under this subsection as are necessary to comply with the requirements of clause (i).

''(C) AVAILABILITY AND REDISTRIBUTION OF UNUSED ALLOTMENTS.—In applying subsections (e) and (f) with respect to additional allotments made available under this subsection, the procedures established under such subsections shall ensure such additional allotments are only made available to States which have elected to provide coverage under section 2111.

''(3) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are not available for amounts expended before October 1, 2005. Such amounts are available for amounts expended on or after such date for child health assistance for uninsured children (as defined in section 2111(b)).

''(4) REQUIRING ELECTION TO PROVIDE COVERAGE.—No payments may be made to a State under this title from an allotment provided under this subsection unless the State has made an election to provide child health assistance for all uninsured children (as so defined) in the State, including such children whose family income exceeds 200 percent of the poverty line.''.

(2) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(A) in subsection (a), by inserting ''subject to subsection (d),'' after ''under this section,'';

(B) in subsection (b)(1), by inserting ''and subsection (d)'' after ''Subject to paragraph (4)''; and

(C) in subsection (c)(1), by inserting ''subject to subsection (d),'' after ''for a fiscal year,''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2006.

SA 2715. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19, strike lines 19 through 22 and insert the following:

SEC. 203. REDUCED TAXES FOR PATRIOT EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 45N. REDUCTION IN TAX OF PATRIOT EMPLOYERS.

''(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 2005, and before January 1, 2011, with respect to which a taxpayer is certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

''(b) PATRIOT EMPLOYER.—For purposes of subsection (a), the term 'Patriot employer' means, with respect to any taxable year, any taxpayer which—

''(1) maintains its headquarters in the United States if the taxpayer has ever been headquartered in the United States,

''(2) pays at least 60 percent of each employee's health care premiums,

''(3) if such taxpayer employs at least 50 employees on average during the taxable year—

''(A) maintains or increases the number of full-time workers in the United States relative to the number of full-time workers outside of United States,

''(B) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of three for the calendar year in which the taxable year begins divided by 2,080,

''(C) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan, and

''(D) provides full differential salary and insurance benefits for all National Guard and Reserve employees who are called for active duty, and

''(4) if such taxpayer employs less than 50 employees on average during the taxable year, either—

''(A) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of 3 for the calendar year in which the taxable year begins divided by 2,080, or

''(B) provides either a defined benefit plan or a defined contribution plan which fully matches at least 5 percent of each employee's contributions to the plan.''.

(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following:

''(27) the Patriot employer credit determined under section 45N.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2716. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of the amendment, insert the following:

TITLE ____—KATRINA COMMISSION

SEC. _01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the ''Commission'').

SEC. _02. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. __03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. __04. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. __05. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same

manner and under the same conditions as departments and agencies of the United States.

SEC. __06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section __10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. __07. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. __08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. __09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. __10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 61 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. __11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2717. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 2, line 3, strike ''Tax Relief Extension Reconciliation Act of 2005'' and insert ''More Tax Breaks for the Rich and More Debt for Our Grandchildren Deficit Expansion Reconciliation Act of 2006''.

SA 2718. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare & Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted and, by contrast, such an action could exacerbate implementation issues under the program.

SA 2719. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTION; EXPANSION OF CHILD AND DEPENDANT CARE CREDIT.

(a) RESTORATION OF THE PHASEOUT OF PERSONAL EXEMPTIONS AND THE OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(1) RESTORATION OF PHASEOUT OF PERSONAL EXEMPTIONS.—

(A) IN GENERAL.—Paragraph (3) of section 151(d) (relating to exemption amount) is amended by striking subparagraphs (E) and (F).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(2) RESTORATION OF PHASEOUT OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—

(A) IN GENERAL.—Section 68 is amended by striking subsections (f) and (g).

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to taxable years beginning after December 31, 2005.

(b) EXPANSION OF CHILD AND DEPENDANT CARE CREDIT.—

(1) INCREASE IN CREDIT.—Paragraph (2) of section 21(a) (relating to credit for expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

''(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 35 percent reduced (but not below 20 percent) by 1 percentage point for each $3,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds $60,000.''.

(2) INCREASE IN MAXIMUM AMOUNT CREDITABLE.—

(A) IN GENERAL.—Section 21(c) (relating to dollar limit on amount creditable) is amended—

(i) in paragraph (1), by striking ''$3,000'' and inserting ''$5,000''; and

(ii) in paragraph (2), by striking ''$6,000 '' and inserting ''$10,000''.

(B) PHASE-OUT FOR TAXPAYERS WITH ADJUSTED GROSS INCOME IN EXCESS OF $50,000.—

(i) IN GENERAL.—Section 21(c) is amended by adding at the end the following new paragraph:

''(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—If the taxpayer's adjusted gross income for the taxable year exceeds $50,000, the dollar amounts under paragraph (1) shall be reduced as follows:

''(A) The $5,000 amount under paragraph (1)(A) shall be reduced (but not below $3,000) by $50 for each $1,000 (or fraction thereof) of such excess.

''(B) The $10,000 amount under paragraph (1)(B) shall be reduced (but not below $6,000) by $100 for each $1,000 (or fraction thereof) of such excess.''.

(3) CONFORMING AMENDMENTS.—Section 21(c), as amended by paragraph (2), is amended—

(A) by striking ''The amount'' and inserting:

''(1) IN GENERAL.—The amount'';

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking ''paragraph (1) or (2)'' and inserting ''subparagraph (A) or (B)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2006, and before January 1, 2010.

SA 2720. Mr. BURNS (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS SERVING HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. PRIMARY HEALTH SERVICES PROVIDERS SERVING HEALTH PROFESSIONAL SHORTAGE AREAS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a qualified primary health services provider for any month during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to $1,000 for each month during such taxable year—

''(1) which is part of the eligible service period of such individual, and

''(2) for which such individual is a qualified primary health services provider.

''(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any physician who is certified for such month by the Bureau to be a primary health services provider or a licensed mental health provider who—

''(1) is providing primary health services full time and substantially all of whose primary health services are provided in a health professional shortage area,

''(2) is not receiving during the calendar year which includes such month a scholarship under the National Health Service Corps Scholarship Program or the Indian health professions scholarship program or a loan repayment under the National Health Service Corps Loan Repayment Program or the Indian Health Service Loan Repayment Program,

''(3) is not fulfilling service obligations under such Programs, and

''(4) has not defaulted on such obligations.

Such term shall not include any individual who is described in paragraph (1) with respect to any of the 3 most recent months ending before the date of the enactment of this section.

''(c) ELIGIBLE SERVICE PERIOD.—For purposes of this section, the term 'eligible service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider.

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

''(1) BUREAU.—The term 'Bureau' means the Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration of the United States Public Health Service.

''(2) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

''(3) PRIMARY HEALTH SERVICES PROVIDER.—The term 'primary health services provider' means a provider of basic health services (as described in section 330(b)(1)(A)(i) of the Public Health Service Act).

''(4) HEALTH PROFESSIONAL SHORTAGE AREA.—

''(A) IN GENERAL.—The term 'health professional shortage area' means any area located in 1 or more qualifying counties which, as of the beginning of the eligible service period, is a health professional shortage area (as defined in section 332(a)(1) of the Public Health Service Act) taking into account only the category of health services provided by the qualified primary health services provider.

''(B) QUALIFYING COUNTY.—The term 'qualifying county' means any county which—

''(i) 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 enactment of this Act, 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.

''(5) ONLY 60 MONTHS TAKEN INTO ACCOUNT.—In no event shall more than 60 months be taken into account under subsection (a) by any individual for all taxable years.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Primary health services providers serving health professional shortage areas.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2721. Ms. LANDRIEU submitted an amendment to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATION OF HOUSING CREDIT FOR THE GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Section 1400N(c) is amended by redesignating paragraphs (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULE FOR DETERMINING LOW-INCOME UNIT.—For purposes of section 42—

''(A) IN GENERAL.—In the case of property place in service during 2006, 2007, or 2008 in the Gulf Opportunity Zone, the term 'low-income unit' means any unit in a building if—

''(i) such unit is rent restricted (as defined in section 42 (g)(2)), and

''(ii) the individuals occupying such unit have an income of 100 percent or less of—

''(I) in the case of a unit located in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV), the nonmetropolitan area median gross income (determined under rules similar to the rules of section 142(d)(2)(B)), and

''(II) in the case of any other unit, the area median gross income (determined under the rules of section 142(d)(2)(B)).

''(B) EXCEPTIONS AND SPECIAL RULES.—For purposes of subparagraph (A), the rules of subparagraphs (B), (C), (D), and (E) of section 42(i)(3) shall apply.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005.

SA 2722. Mr. DORGAN (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. DURBIN, Mr. LEVIN, Mr. FEINGOLD, Mr. KOHL, Mr. LEAHY, Mr. HARKIN, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) BEFORE 2007.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning before January 1, 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d), as so in effect, 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) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3), as so in effect, is amended by striking ''or (D)'' and inserting ''(D), or (I)''.

(2) AFTER 2006.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for taxable years beginning after December 31, 2006, is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(B) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d), as so in effect, is amended by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(C) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A), as so in effect, is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (1), the amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c)(1) shall apply to taxable years beginning after the date of the enactment of this Act and before January 1, 2007, and the amendments made by subsection (c)(2) shall apply to taxable years beginning after December 31, 2006.

SA 2723. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

TITLE IV—HOMELAND SECURITY

Subtitle A—Appropriations

SEC. 401. HOMELAND SECURITY APPROPRIATIONS.

There are appropriated—

(1) $140,000,000 for each of fiscal years 2006 through 2015, to the Federal Bureau of Investigation to hire additional agents to ensure that the Federal Bureau of Investigation can perform its dual capabilities of investigating crimes and preventing terrorism;

(2) $1,100,000,000 for fiscal year 2006, to the Secretary of Transportation for security upgrades for Amtrak passenger and freight rail and transit;

(3) $18,300,000 for each of fiscal years 2006 through 2015, to the Secretary of Transportation to provide a raise of 25 percent to Amtrak police officers and to hire 200 Amtrak police officers, including 40 canine officers;

(4) $1,100,000,000 for fiscal year 2006, to the Office of Community Oriented Policing Services to make grants for the hiring of officers to—

(A) provide security at high threat targets; and

(B) conduct joint operations with the Federal Bureau of Investigation on terrorism cases;

(5) $2,600,000,000 for each of fiscal years 2006 through 2015, to the Department of Homeland Security for—

(A) the Emergency Management Performance Grant program;

(B) the fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a);

(C) the Law Enforcement Terrorism Prevention program;

(D) State and local training programs through the Office of State and Local Government Coordination and Preparedness; and

(E) the Metropolitan Medical Response System;

(6) $5,000,000,000 for fiscal year 2006, to the Department of Homeland Security to ensure interoperable communications for emergency response providers (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) that allow emergency response providers to communicate in the event of an emergency;

(7) $70,000,000 for fiscal year 2006, to the Department of Homeland Security to enhance security at chemical plants;

(8) $80,000,000 for fiscal year 2006, to the Department of Homeland Security to conduct a threat assessment that shall address threats and vulnerabilities in the sectors of—

(A) telecommunications;

(B) energy;

(C) financial services;

(D) manufacturing;

(E) water;

(F) agriculture;

(G) transportation;

(H) health care; and

(I) emergency services;

(9) $50,000,000 for fiscal year 2006, to the Department of Homeland Security for the integration of terrorist watch lists;

(10) $175,000,000 for fiscal year 2006, to the Department of Justice to ensure the appropriate dissemination of information regarding threats to homeland security and investigations of terrorism;

(11) $55,000,000 for fiscal year 2006, to the Department of Homeland Security for screening of checked baggage and cargo on commercial airplanes;

(12) $5,000,000,000 for fiscal year 2006, to the Department of Homeland Security to enhance port security; and

(13) $10,800,000 for each of fiscal years 2006 through 2015, to the Department of Homeland Security for screening of shipping containers at ports.

Subtitle B—Provisions Relating to Tax Shelters

SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 412. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 414. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 415. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 416. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 417. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such

arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(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) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) 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. 418. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle C—Provisions to Close Corporate and Individual Loopholes

SEC. 421. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 422. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 423. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 424. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 425. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING 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 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 426. 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 427. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 428. 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 2005, 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 2004' 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:

''(49) 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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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. 429. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described

in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 430. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

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

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

SEC. 431. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Subtitle D—Oil and Gas Provisions

SEC. 441. EXTENSION OF SUPERFUND TAXES.

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SEC. 442. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 443. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, 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) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

SEC. 444. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 445. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

Subtitle E—Tax Administration Provisions

SEC. 451. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

SEC. 452. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 453. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

SEC. 454. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 455. 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. 456. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 457. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 458. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle F—Additional Provisions

SEC. 461. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	111
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 462. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 463. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SA 2724. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr.

SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2710 proposed by Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE ___—KATRINA COMMISSION

SEC. _01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the ''Commission'').

SEC. _02. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. _03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. _04. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. _05. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government,

information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. __06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section __10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. __07. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. __08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. __09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. __10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 61 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. __11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2725. Mr. SPECTER submitted an amendment intended to be proposed by her to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 28, after line 11, insert the following:

SEC. 307. SALE OF PROPERTY BY JUDICIAL OFFICERS AND EMPLOYEES.

Section 1043(b) of the Internal Revenue Code of 1986 (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ''or the judicial branch'' after ''an officer or employee of the executive branch''; and

(B) in subparagraph (B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,'';

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting ''judicial canon,'' after ''any Federal conflict of interest statute, regulation, rule,''; and

(B) in subparagraph (B), by inserting after ''the Director of the Office of Government Ethics,'' the following: ''in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial branch officers and employees,''; and

(3) in paragraph (5)(B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,''.

SA 2726. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19 of the bill, strike lines 19 through 22, and insert the following:

SEC. 203. REPEAL OF STATE OPTIONS FOR ALTERNATIVE PREMIUMS AND COST SHARING AND FLEXIBILITY IN BENEFIT PACKAGES UNDER THE MEDICAID PROGRAM.

(a) REPEAL OF STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING.—

(1) REPEAL.—Section 1916A of the Social Security Act, as added by sections 6041(a), 6042(a), and 6043(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (y) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6043(b) of the Deficit Reduction Act of 2005, is repealed.

(B) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(i) in subsection (f), by striking ''and section 1916A'' after ''(b)(3)''; and

(ii) by striking subsection (h).

(C) Section 1938(c) of the Social Security Act, as added by section 6082 of the Deficit Reduction Act of 2005, is amended—

(i) in paragraph (3), by striking ''and 1916A''; and

(ii) in paragraph (5), by striking ''sections 1916 and 1916A'' and inserting ''section 1916''.

(b) REPEAL OF STATE OPTION OF PROVIDING BENCHMARK BENEFIT PACKAGES.—

(1) REPEAL.—Section 1937 of the Social Security Act, as added by section 6044(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Sections 1938 and 1939 of the Social Security Act, as added and redesignated, respectively, by section 6082 of the Deficit Reduction Act of 2005, are redesignated as sections 1937 and 1938, respectively, of the Social Security Act.

(B) 1937(b)(3) of the Social Security Act, as redesignated by subparagraph (A), is amended by inserting ''(as added by section 6044(a) of S. 1932 of the 109th Congress, as passed by the Senate on December 21, 2005)''.

(c) EFFECTIVE DATE.—The repeals and amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

SEC. 203A. ADDITIONAL FUNDING FOR THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''$4,050,000,000'' and inserting ''$6,550,000,000''; and

(2) in paragraph (10), by striking ''$5,000,000,000'' and inserting ''$7,500,000,000''.

(b) FUNDS IN ADDITION TO FUNDS PROVIDED TO ELIMINATE FISCAL YEAR 2006 SHORTFALLS.—The Secretary of Health and Human Services shall carry out subsection (d) of section 2104 of the Social Security Act (42 U.S.C. 1397dd(d)), as added by section 6101(a) of the Deficit Reduction Act of 2005, (including the determination of a State's allotment for fiscal year 2006 under paragraph (2)(C) of that subsection), without regard to the amendment made by subsection (a)(1) providing increased funding for State allotments for fiscal year 2006.

SA 2727. Mr. FRIST (for Mr. TALENT) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE PERMANENT EXTENSION OF EGTRRA AND JGTRRA PROVISIONS RELATING TO CHILD TAX CREDIT.

It is the sense of the Senate that the conferees for the Tax Relief Act of 2006 should strive to permanently extend the amendments to the child tax credit under section 24 of the Internal Revenue Code of 1986 made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SA 2728. Mr. BAUCUS (for Mr. BYRD (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. KERRY, Mr. DURBIN, Mr. OBAMA, Mr. MCCONNELL, and Mr. BUNNING)) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place insert the following:

SEC. ___. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—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).

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after the date which is 3 years after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 179E(e)(2).''.

(4) Section 1245(a)(2)(C) is amended by inserting ''179E,'' after ''179D,''.

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

SEC. ___. MINE RESCUE TEAM TRAINING 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 new section:

''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to any eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following new paragraph:

''(27) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a

deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) 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. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2729. Mr. CONRAD (for himself and Mr. BINGAMAN) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

Strike all of Title V and insert the following:

TITLE V—REVENUE PROVISIONS

Subtitle A—Provisions Relating to Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 403. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 404. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 405. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 406. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 407. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(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) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) 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. 408. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle B—Provisions to Close Corporate and Individual Loopholes

SEC. 411. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 412. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 413. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 414. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 415. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING 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 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 416. 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 417. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 418. 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 2005, 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 2004' 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 18, 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:

''(49) 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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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. 419. TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS ESTABLISHED IN TAX HAVENS.

(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. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX HAVENS TREATED AS DOMESTIC CORPORATIONS.

''(a) GENERAL RULE.—If a controlled foreign corporation is a tax-haven CFC, then, notwithstanding section 7701(a)(4), such corporation shall be treated for purposes of this title as a domestic corporation.

''(b) TAX-HAVEN CFC.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven CFC' means, with respect to any taxable year, a foreign corporation which—

''(A) was created or organized under the laws of a tax-haven country, and

''(B) is a controlled foreign corporation (determined without regard to this section) for an uninterrupted period of 30 days or more during the taxable year.

''(2) EXCEPTION.—The term 'tax-haven CFC' does not include a foreign corporation for any taxable year if substantially all of its income for the taxable year is derived from the active conduct of trades or businesses within the country under the laws of which the corporation was created or organized.

''(c) TAX-HAVEN COUNTRY.—For purposes of this section—

''(1) IN GENERAL.—The term 'tax-haven country' means any of the following:

''Andorra
Anguilla
Antigua and Barbuda
Aruba
Commonwealth of the Bahamas
Bahrain
Barbados
Belize
Bermuda
British Virgin Islands
Cayman Islands
Cook Islands
Cyprus
Commonwealth of the Dominica
Gibraltar
Grenada
Guernsey
Isle of Man
Jersey
Liberia
Principality of Liechtenstein
Republic of the Maldives
Malta
Republic of the Marshall Islands
Mauritius
Principality of Monaco
Montserrat
Republic of Nauru
Netherlands Antilles
Niue
Panama
Samoa
San Marino
Federation of Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Republic of the Seychelles
Tonga
Turks and Caicos
Republic of Vanuatu

''(2) SECRETARIAL AUTHORITY.—The Secretary may remove or add a foreign jurisdiction from the list of tax-haven countries under paragraph (1) if the Secretary determines such removal or addition is consistent with the purposes of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

''Sec. 7875. Controlled foreign corporations in tax havens treated as domestic corporations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 420. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 421. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

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

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

SEC. 422. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Subtitle C—Oil and Gas Provisions

SEC. 431. EXTENSION OF SUPERFUND TAXES.

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SEC. 432. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 433. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, 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) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

SEC. 434. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 435. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

Subtitle D—Tax Administration Provisions

SEC. 441. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold form such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

SEC. 442. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 443. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

SEC. 444. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 445. 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. 446. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 447. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 448. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle E—Additional Provisions

SEC. 451. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	111
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 452. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95

percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 453. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

SA 2730. Mr. NELSON of Florida (for himself, Mr. BINGAMAN, Mrs. CLINTON, Mr. LIEBERMAN, Mr. SCHUMER, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. _____. TRANSITION REQUIREMENTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)) is amended by adding at the end the following new paragraph:

''(4) FORMULARY TRANSITION.—The sponsor of a prescription drug plan is required to provide at least a 30-day supply of any drug that a new enrollee in the plan was taking prior to enrolling in such plan. For individuals residing in a long-term care setting, the sponsor of a prescription drug plan is required to provide at least a 90-day supply of any drug such individual was taking prior to enrolling in such plan. A formulary transition supply provided under this section shall be made by the sponsor of a prescription drug plan without imposing any prior authorization requirements or other access restrictions for individuals stabilized on a course of treatment and at the dosage previously prescribed by a physician or recommended by a physician going forward.

''(5) CUSTOMER SERVICE.—The sponsor of a prescription drug plan is required to provide—

''(A) accessible and trained customer service representatives available for full business hours from coast to coast to provide knowledgeable assistance to individuals seeking help with Medicare Part D including, but not limited to, beneficiaries, caseworkers, SHIP counselors, pharmacists, doctors, and caregivers;

''(B) at least one dedicated phone line for pharmacists with sufficient staff to reduce wait times for pharmacists seeking Medicare Part D assistance to no more than 20 minutes; and

''(C) sufficient staff to reduce wait times for all Medicare Part D-related calls to plan phone lines to no more than 20 minutes.''.

(2) APPLICATION.—The requirements under paragraphs (4) and (5) of section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)), as added by subsection (a), shall apply to the plan serving as the national point of sale contractor under part D of title XVIII of such Act.

(b) EFFECTIVE DATE AND ENFORCEMENT.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) ENFORCEMENT.—The Secretary may impose a civil monetary penalty in an amount not to exceed $15,000 for conduct that a sponsor of a prescription drug plan or an organization offering an MA–PD plan knows or should know is a violation of the provisions of paragraph (4) or (5) of section 1860D–4(b) of the Social Security Act (42 U.S.C. 1395w–104(b)), as added by subsection (a). The provisions of section 1128A of the Social Security Act (42 U.S.C. a–7a), other than subsections (a) and (b) and the second sentence of subsection (f), shall apply to a civil monetary penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under subsection (a) of such section 1128A(a).

SEC. _____. FEDERAL FALLBACK FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS FOR 2006.

(a) IN GENERAL.—

(1) IN GENERAL.—If a full-benefit dual eligible individual (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))), or an individual who is presumed to be such an individual pursuant to subsection (b), presents a prescription for a covered part D drug (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e))) at a pharmacy in 2006 and the pharmacy is unable to locate or verify the individual's enrollment through a reasonable effort, including the use of the pharmacy billing system or by calling an official Medicare hotline, or to bill for the prescription through the plan serving as the national point of sale contractor, the pharmacy may provide a 30-day supply of the drug to the individual.

(2) REFILL.—The pharmacy may provide an additional 30-day supply of a drug if the pharmacy continues to be unable to locate the individual's enrollment through such reasonable efforts or to bill for the prescription through the plan serving as the national point of sale contractor when a prescription is presented on or after the date that a prescription refill is appropriate, but in no case after December 31, 2006.

(3) COST-SHARING.—The cost-sharing for a prescription filled pursuant to this subsection shall be cost-sharing provided for under section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)).

(b) PRESUMPTIVE ELIGIBILITY.—An individual shall be presumed to be a full-benefit dual eligible individual (as so defined) if the individual presents at the pharmacy with—

(1) a government issued picture identification card;

(2) reliable evidence of Medicaid enrollment, such as a Medicaid card, recent history of Medicaid billing in the pharmacy patient profile, or a copy of a current Medicaid award letter; and

(3) reliable evidence of Medicare enrollment, such as a Medicare identification card, a Medicare enrollment approval letter, a Medicare Summary Notice, or confirmation from an official Medicare hotline.

(c) PAYMENTS TO PHARMACISTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall reimburse pharmacists, to the extent that such pharmacists are not otherwise reimbursed by States or plans, for the costs incurred in complying with the requirements under subsection (a), including acquisition costs, dispensing costs, and other overhead costs. Such payments shall be made in a timely manner from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

(2) RETROACTIVE APPLICATION TO BEGINNING OF 2006.—The costs incurred by a pharmacy which may be reimbursed under paragraph (1) shall include costs incurred during the period beginning on January 1, 2006, and before the date of enactment of this Act.

(d) RECOVERY OF COSTS FROM PLANS BY SECRETARY NOT PHARMACIES.—The Secretary of Health and Human Services shall establish a process for recovering the costs described in subsection (c)(1) from prescription drug plans (as defined in section 1860D–1(a)(3)(C) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(C))) and MA–PD plans (as defined in section 1860D–41(a)(14) of such Act (42 U.S.C. 1395w–151(a)(14))) if the Secretary determines that such plans should have incurred such costs. Amounts recovered pursuant to the preceding sentence shall be deposited in the Medicare Prescription Drug Account described in subsection (c)(1).

SEC. _____. ENSURING THAT FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS ARE NOT OVERCHARGED.

(a) IN GENERAL.—Section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) ENSURING FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS ARE NOT OVERCHARGED.—

''(1) IN GENERAL.—The Secretary shall, as soon a possible after the date of enactment of this subsection, establish processes for the following:

''(A) TRACKING INAPPROPRIATE PAYMENTS.—The Secretary shall track full-benefit dual eligible individuals enrolled in a prescription drug plan or an MA–PD plan to determine whether such individuals were inappropriately subject under the plan to a deductible or cost-sharing that is greater than is required under section 1860D–14.

''(B) REDUCTION IN PAYMENTS TO PLANS AND REFUNDS TO INDIVIDUALS.—If the Secretary determines under subparagraph (A) that an individual was overcharged, the Secretary shall—

''(i) reduce payments to the sponsor of the prescription drug plan under section 1860D–15 or to the organization offering the MA–PD plan under section 1853 that inappropriately charged the individual by an amount equal to the inappropriate charges; and

''(ii) refund such amount to the individual within 60 days of the determination that the individual was inappropriately charged.

If the Secretary does not provide for the refund under clause (i) within the 60 days provided for under such clause, interest at the rate established under section 6621(a)(1) of the Internal Revenue Code of 1986 shall be payable from the end of such 60-day period until the date of the refund.

''(2) REQUIREMENT.—The processes established under paragraph (1) shall provide for the ability of an individual to notify the Secretary if the individual believes that they were inappropriately subject under the plan to a deductible or cost-sharing that is greater than is required under section 1860D–14.''.

(b) REPORT TO CONGRESS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall submit a report to Congress on the implementation of the processes established under subsection (d) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114), as added by subsection (a).

SEC. _____. REIMBURSEMENT OF STATES FOR 2006 TRANSITION COSTS.

(a) REIMBURSEMENT.—

(1) IN GENERAL.—Notwithstanding section 1935(d) of the Social Security Act (42 U.S.C. 1396u–5(d) or any other provision of law, the Secretary of Health and Human Services shall reimburse States for 100 percent of the costs incurred by the State during 2006 for covered part D drugs (as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102(e))) for part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(A))) which the State reasonably expected would have been covered under such part but were not because the individual was unable to access on a timely basis prescription drug benefits to which they were entitled under such part. Such payments shall be made from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

(2) RETROACTIVE APPLICATION TO BEGINNING OF 2006.—The costs incurred by a State which may be reimbursed under paragraph (1) shall include costs incurred during the period beginning on January 1, 2006, and before the date of enactment of this Act.

(b) RECOVERY OF COSTS FROM PLANS BY SECRETARY NOT STATES.—The Secretary of Health and Human Services shall establish a process for recovering the costs described in subsection (a)(1) from prescription drug plans (as defined in section 1860D–1(a)(3)(C) of the Social Security Act (42 U.S.C. 1394w–101(a)(3)(C))) and MA–PD plans (as defined in section 1860D–41(a)(14) of such Act (42 U.S.C. 1395w–151(a)(14))) if the Secretary determines that such plans should have incurred such costs. Amounts recovered pursuant to the preceding sentence shall be deposited in the Medicare Prescription Drug Account described in subsection (a)(1).

(c) STATE.—For purposes of this section, the term ''State'' includes the District of Columbia.

SEC. _____. FACILITATION OF IDENTIFICATION AND ENROLLMENT THROUGH PHARMACIES OF FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS IN THE MEDICARE PART D DRUG PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for outreach and education to every pharmacy that has participated in the Medicaid program under title XIV of the Social Security Act, particularly independent pharmacies, on the following:

(1) The needs of full-benefit dual eligible individuals and the challenges of meeting those needs.

(2) The processes for the transition from Medicaid prescription drug coverage to coverage under such part D for such individuals.

(3) The processes established by the Secretary to facilitate, at point of sale, identification of drug plan assignment of such population or enrollment of previously unidentified or new full-benefit dual eligible individuals into Medicare part D prescription drug coverage, including how pharmacies can use such processes to help ensure that such population makes a successful transition to Medicare part D without a lapse in prescription drug coverage.

(b) HOLDING PHARMACIES HARMLESS FOR CERTAIN COSTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for such payments to pharmacies as may be necessary to reimburse pharmacies fully for—

(A) transaction fees associated with the point-of-sale facilitated identification and enrollment processes referred to in subsection (a)(3); and

(B) costs associated with technology or software upgrades necessary to make any identification and enrollment inquiries as part of the processes under subsection (a)(3).

(2) TIME.—Payments under paragraph (1) shall be made with respect to fees and costs incurred during the period beginning on December 1, 2005, and ending on June 1, 2006.

(3) PAYMENTS FROM ACCOUNT.—Payments under paragraph (1) shall be made from the Medicare Prescription Drug Account under section 1860D–16 of the Social Security Act (42 U.S.C. 1395w–116) and shall be deemed to be payments from such Account under subsection (b) of such section.

SEC. _____. STATE COVERAGE OF NON-FORMULARY PRESCRIPTION DRUGS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS DURING 2006.

(a) STATE COVERAGE OF NON-FORMULARY PRESCRIPTION DRUGS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS DURING 2006.—For prescriptions filled during 2006, notwithstanding section 1935(d) of the Social Security Act (42 U.S.C. 1396v(d)), a State (as defined for purposes of title XIX of such Act) may provide (and receive Federal financial participation for) medical assistance under such title with respect to prescription drugs provided to a full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396v(c)(6)) that are not on the formulary of the prescription drug plan under part D or the MA–PD plan under part C of title XVIII of such Act in which such individual is enrolled.

(b) APPLICATION.—

(1) MEDICARE AS PRIMARY PAYER.—Nothing in subsection (a) shall be construed as changing or affecting the primary payer status of a prescription drug plan under part D or an MA–PD plan under part C of title XVIII of the Social Security Act with respect to prescription drugs furnished to any full-benefit dual eligible individual (as defined in section 1935(c)(6) of such Act (42 U.S.C. 1396v(c)(6)) during 2006.

(2) THIRD PARTY LIABILITY.—Nothing in subsection (a) shall be construed as limiting the authority or responsibility of a State under section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) to seek reimbursement from a prescription drug plan, an MA–PD plan, or any other third party, of the costs incurred by the State in providing prescription drug coverage during 2006.

SEC. ___. PROTECTION FOR MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.

(a) EXTENDED PERIOD OF OPEN ENROLLMENT DURING ALL OF 2006 WITHOUT LATE ENROLLMENT PENALTY.—Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking ''May 15, 2006'' and inserting ''December 31, 2006''; and

(2) by adding at the end the following new sentence:

''An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).''.

(b) ONE-TIME CHANGE OF PLAN ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING ALL OF 2006.—

(1) IN GENERAL.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (2)(B)—

(i) in the heading, by striking ''FOR FIRST 6 MONTHS'';

(ii) in clause (i), by striking ''the first 6 months of 2006,'' and all that follows through ''is a Medicare+Choice eligible individual,'' and inserting ''2006,''; and

(iii) in clause (ii), by inserting ''(other than during 2006)'' after ''paragraph (3)''; and

(B) in paragraph (4), by striking ''2006'' and inserting ''2007'' each place it appears.

(2) CONFORMING AMENDMENT.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking ''subparagraphs (B) and (C) of paragraph (2)'' and inserting ''paragraph (2)(C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

SA 2731. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) It is not acceptable that startup issues under the new Medicare prescription drug program have resulted in some of our Nation's most vulnerable citizens having difficulties getting their prescription drugs covered under the program, and these issues must be addressed and resolved.

(2) The Department of Health and Human Services and the Centers for Medicare &

Medicaid Services are working tirelessly to address these startup issues and have taken numerous steps to smooth the transition process.

(3) All prescription drug plans under part D of title XVIII of the Social Security Act and MA–PD plans under part C of such title (in this section referred to as ''Medicare prescription drug plans'') already have a ''first fill'' policy in place that provides a new enrollee with coverage for prescription drugs during at least the first 30 days of enrollment regardless of whether the particular prescription drug is on the plan's formulary, and the Centers for Medicare & Medicaid Services is enforcing this requirement.

(4) Under current law, full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1395u–5(c)(6)) are already automatically enrolled into Medicare prescription drug coverage so no change in law is necessary.

(5) Medicare prescription drug plans are already responsible for covering the cost of covered prescriptions filled for enrollees, including short term transition prescriptions.

(6) Medicare prescription drug plans are already responsible for reimbursing any enrollee, including full-benefit dual eligible individuals, for any out-of-pocket costs incurred by the enrollee that should have been covered by the plan.

(7) The Centers for Medicare & Medicaid Services is already reimbursing States for the reasonable administrative costs incurred by States that have temporarily covered some claims for prescription drug coverage during the transition period.

(8) Enrollment is exceeding projections, with at least 24,000,000 Medicare beneficiaries who now have drug coverage and another 90,000 are enrolling each day in the Medicare prescription drug program;

(9) In addition, the Secretary of Health and Human Services has taken many other actions to smooth the implementation of the Medicare prescription drug program, including the following:

(A) Establishing processes to ensure that full-benefit dual eligible individuals are not overcharged for their prescriptions and to require Medicare prescription drug plans to refund overcharges to such individuals.

(B) Establishing a reconciliation process to ensure that Medicare prescription drug plans reimburse pharmacies for costs incurred by pharmacies that are payable by such plans.

(C) Conducting extensive and continuing outreach to pharmacies and pharmacy associations on the implementation of the Medicare prescription drug benefit, particularly with respect to full-benefit dual eligible individuals, as well as establishing a special pharmacy telephone help line.

(D) Requiring Medicare prescription drug plans to have comprehensive formularies and procedures for enrollees to rapidly secure an exception to the limitation of coverage of a prescription drug when medical necessity is demonstrated.

(E) Permitting full-benefit dual eligible individuals to switch Medicare prescription drug plan under the Medicare prescription drug benefit at any time, for any reason, and improving data flows and communication with plans to ensure that plan switches by such individuals become fully effective as quickly as possible.

(F) Partnering with national, State, and local groups that work with full-benefit dual eligible individuals to educate such individuals about the Medicare prescription drug program, and assisting in their transition to, and enrollment under, such program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services is making significant progress in smoothing the implementation of the new Medicare prescription drug program, legislation changing the program is not needed at this time, and legislation at this time would also likely complicate implementation of the program and confuse beneficiaries;

(2) each of the implementation problems identified under the Medicare prescription drug program will be resolved more quickly through administrative actions, which the Secretary of Health and Human Services already has the authority to take under current law, rather than through Congressional action followed by administrative action;

(3) the Senate fully supports the efforts of the Secretary of Health and Human Services, Medicare prescription drug plans, pharmacists, and others to implement the Medicare prescription drug program and to resolve problems that have occurred during the implementation of the program; and

(4) the pace of enrollment in the Medicare prescription drug benefit indicates that extending the six-month enrollment period is not warranted at this time, and, by contrast, such an action could exacerbate implementation issues under the program.

SA 2732. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

SA 2733. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 19 of the bill, strike lines 19 through 22, and insert the following:

SEC. 203. REPEAL OF STATE OPTIONS FOR ALTERNATIVE PREMIUMS AND COST SHARING AND FLEXIBILITY IN BENEFIT PACKAGES UNDER THE MEDICAID PROGRAM.

(a) REPEAL OF STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING.—

(1) REPEAL.—Section 1916A of the Social Security Act, as added by sections 6041(a), 6042(a), and 6043(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (y) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6043(b) of the Deficit Reduction Act of 2005, is repealed.

(B) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(i) in subsection (f), by striking ''and section 1916A'' after ''(b)(3)''; and

(ii) by striking subsection (h).

(C) Section 1938(c) of the Social Security Act, as added by section 6082 of the Deficit Reduction Act of 2005, is amended—

(i) in paragraph (3), by striking ''and 1916A''; and

(ii) in paragraph (5), by striking ''sections 1916 and 1916A'' and inserting ''section 1916''.

(b) REPEAL OF STATE OPTION OF PROVIDING BENCHMARK BENEFIT PACKAGES.—

(1) REPEAL.—Section 1937 of the Social Security Act, as added by section 6044(a) of the Deficit Reduction Act of 2005, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Sections 1938 and 1939 of the Social Security Act, as added and redesignated, respectively, by section 6082 of the Deficit Reduction Act of 2005, are redesignated as sections 1937 and 1938, respectively, of the Social Security Act.

(B) 1937(b)(3) of the Social Security Act, as redesignated by subparagraph (A), is amended by inserting ''(as added by section 6044(a) of S. 1932 of the 109th Congress, as passed by the Senate on December 21, 2005)''.

(c) EFFECTIVE DATE.—The repeals and amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

SEC. 203A. ADDITIONAL FUNDING FOR THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''$4,050,000,000'' and inserting ''$6,550,000,000''; and

(2) in paragraph (10), by striking ''$5,000,000,000'' and inserting ''$7,500,000,000''.

(b) FUNDS IN ADDITION TO FUNDS PROVIDED TO ELIMINATE FISCAL YEAR 2006 SHORTFALLS.—The Secretary of Health and Human Services shall carry out subsection (d) of section 2104 of the Social Security Act (42 U.S.C. 1397dd(d)), as added by section 6101(a) of the Deficit Reduction Act of 2005, (including the determination of a State's allotment for fiscal year 2006 under paragraph (2)(C) of that subsection), without regard to the amendment made by subsection (a)(1) providing increased funding for State allotments for fiscal year 2006.

SA 2734. Mr. MENENDEZ (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HOPE SCHOLARSHIP CREDIT EXPANDED TO COVER EXPENSES FOR OTHER EDUCATIONAL EXPENSES.

(a) EXPANSION OF CREDIT.—

(1) IN GENERAL.—Sections 25A(b) is amended by striking ''qualified tuition and related expenses'' each place it appears and inserting ''qualified higher education expenses''.

(2) CONFORMING AMENDMENTS.—

(A) Subsections (e) and (g)(1) of section 25A are each amended by inserting ''or the qualified higher education expenses'' after ''the qualified tuition and related expenses'' each place it appears.

(B) Paragraphs (2) and (3)(B) of section 25A(g) are each amended by inserting ''and qualified higher education expenses'' after ''qualified tuition and related expenses'' each place it appears.

(C) Subsection (g)(4) of section 25A is amended by inserting ''or qualified higher education expenses'' after ''qualified tuition and related expenses''.

(D) Section 6050S is amended by inserting ''and qualified higher education expenses'' after ''qualified tuition and related expenses'' each place it appears.

(b) QUALIFIED HIGHER EDUCATION EXPENSES.—Section 25A(f) is amended by adding at the end the following new paragraph:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means the tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution for courses of instruction of such individual at such institution.

''(B) SPECIAL NEEDS SERVICES.—In the case of an individual described in subparagraph (A) with special needs, such term includes expenses for special needs services which are incurred in connection with such enrollment or attendance.

''(C) ROOM AND BOARD.—

''(i) IN GENERAL.—Such term shall also include reasonable costs for such period incurred by an individual described in subparagraph (A) for room and board while attending such institution.

''(ii) LIMITATION.—The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed—

''(I) the allowance (applicable to the individual) for room and board included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001) as determined by the eligible educational institution for such period, or

''(II) if greater, the actual invoice amount the student residing in housing owned or operated by the eligible educational institution is charged by such institution for room and board costs for such period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 2005, (in taxable years ending after such date) for education furnished in academic periods beginning after such date.

SEC. ___. MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004 FOR FOREIGN ENTITITES .

(a) IN GENERAL.—Section 849(b)(3) of the American Jobs Creation Act of 2004, as amended by this Act, is amended by striking ''December 31, 2005'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 2735. Mr. DODD (for himself, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mrs. BOXER, Ms. MIKULSKI, Mr. AKAKA, Mr. REED, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS.

(a) FUNDING FOR MEDICAL SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care amounts as follows:

(A) $900,000,000 for fiscal year 2006.

(B) $1,300,000,000 for fiscal year 2007.

(C) $1,500,000,000 for fiscal year 2008.

(D) $1,600,000,000 for fiscal year 2009.

(E) $1,600,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Health Administration for Medical Care under any other provisions of law.

(b) FUNDING FOR DISABILITY COMPENSATION BENEFITS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the Veterans Benefits Administration for Compensation and Pensions amounts as follows:

(A) $2,300,000,000 for fiscal year 2006.

(B) $2,700,000,000 for fiscal year 2007.

(C) $3,000,000,000 for fiscal year 2008.

(D) $3,000,000,000 for fiscal year 2009.

(E) $3,000,000,000 for fiscal year 2010.

(2) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by this subsection are in addition to any other amounts authorized to be appropriated for the Veterans Benefits Administration for Compensation and Pensions under any other provisions of law.

(c) FUNDING FOR INFRASTRUCTURE IMPROVEMENTS FOR HOSPITALS PROVIDING HEALTH CARE AND SERVICES TO VETERANS.—

(1) ESTABLISHMENT OF FUND.—There is hereby established on the books of the Treasury an account to be known as the ''Veterans Hospital Improvement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of the following:

(A) $1,000,000,000, which shall be deposited in the Fund upon the enactment of this subsection.

(B) Any other amounts authorized for transfer to or deposit in the Fund by law.

(3) ADMINISTRATION.—The Funds shall be administered by the Secretary of Veterans Affairs.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Fund shall be available expenditures for improvements of health facilities treating veterans, including military medical treatment facilities, medical centers and other facilities administered by the Secretary of Veterans Affairs for the provision of medical care and services to veterans, and other State, local, and private facilities providing medical care and services to veterans.

(B) APPLICATION FOR FUNDS.—A non-Federal health facility seeking amounts from the Fund shall submit to the Secretary of Veterans Affairs an application therefor setting forth such information as the Secretary shall require.

(C) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

(d) OFFSET THROUGH MODIFICATION OF TAX RATES ON CAPITAL GAINS AND DIVIDENDS FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—

(1) IN GENERAL.—Section 1(h) is amended by adding at the end the following new paragraph:

''(12) MODIFIED RATES FOR INDIVIDUALS WITH $1,000,000 OR MORE OF TAXABLE INCOME.—If a taxpayer has taxable income of $1,000,000 or more for any taxable year—

''(A) paragraph (11) (relating to dividends taxed as capital gain) shall not apply to any qualified dividend income of the taxpayer for the taxable year, and

''(B) paragraph (1)(C) shall be applied by substituting '20 percent' for '15 percent' with respect to the adjusted net capital gain of the taxpayer for the taxable year, determined by only taking into account gain or loss properly allocable to the portion of the taxable year after December 31, 2006.''

(2) APPLICATION TO MINIMUM TAX.—Section 55(b)(3) is amended by adding at the end the following new sentence: ''In the case of a taxpayer with alternative minimum taxable income of $1,000,000 or more for any taxable year, the rules of section 1(h)(12) shall apply for purposes of this paragraph.''

(3) EFFECTIVE DATES.—

(A) CAPITAL GAINS.—Section 1(h)(12)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after December 31, 2006.

(B) DIVIDEND RATES.—Section 1(h)(12)(A) of such Code (as added by paragraph (1)) shall

apply to dividends received after December 31, 2006.

(4) APPLICATION OF JGTRRA SUNSET.—The amendments made by this subsection shall be subject to section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2736. Mr. GRASSLEY proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the appropriate place:

TITLE IV—STRENGTHENING AMERICA'S MILITARY

SEC. 401. SHORT TITLE.

This title may be cited as the ''Strengthening America's Military Act''.

Subtitle A—Military Funding

SEC. 402. FUNDING FOR MILITARY OPERATIONS.

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

SA 2737. Mr. REED (for himself, Ms. STABENOW, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KERRY, and Mr. SALAZAR) proposed an amendment to amendment SA 2707 proposed by Mr. FRIST (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) to the bill H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

On page 28, after line 11, insert the following:

TITLE IV—STRENGTHENING AMERICA'S MILITARY

SEC. 401. SHORT TITLE.

This title may be cited as the ''Strengthening America's Military Act''.

Subtitle A—Military Funding

SEC. 411. FUNDING FOR MILITARY OPERATIONS.

There is appropriated, out of any money in the Treasury which is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations:

(1) $16,900,000,000 for operations and maintenance of the Army.

(2) $1,800,000,000 for aircraft for the Army.

(3) $6,300,000,000 for other Army procurement.

(4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army.

(5) $467,000,000 for the Army working capital fund.

(6) $6,000,000 for missiles for the Department of Defense.

(7) $100,000,000 for defense wide procurement for the Department of Defense.

(8) $4,500,000,000 for Marine Corps procurement.

(9) $4,500,000,000 for operations and maintenance of the Marine Corps.

(10) $2,700,000,000 for Navy aircraft procurement.

Subtitle B—Repeal of Extension of Tax Rate for Capital Gains and Dividends

SEC. 421. REPEAL OF EXTENSION OF TAX RATE FOR CAPITAL GAINS AND DIVIDENDS.

The amendment made by section 203 of this Act is repealed.

Subtitle C—Provisions Relating to Tax Shelters

SEC. 431. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) 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. 432. 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(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(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) and (3) 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) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

(G) by adding at the end the following new paragraph:

''(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).''.

(3) Subsection (e) of section 6707A is amended—

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

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) 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''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 433. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''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)).'', and

(2) by inserting ''AND NONECONOMIC SUBSTANCE TRANSACTIONS'' in the heading thereof after ''TRANSACTIONS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 434. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) IN GENERAL.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2), by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively, and by adding at the end the following new paragraph:

''(3) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2004, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 435. REVALUATION OF LIFO INVENTORIES OF LARGE INTEGRATED OIL COMPANIES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, if a taxpayer is an applicable integrated oil company for its last taxable year ending in calendar year 2005, the taxpayer shall—

(1) increase, effective as of the close of such taxable year, the value of each historic LIFO layer of inventories of crude oil, natural gas, or any other petroleum product (within the meaning of section 4611) by the layer adjustment amount, and

(2) decrease its cost of goods sold for such taxable year by the aggregate amount of the increases under paragraph (1).

If the aggregate amount of the increases under paragraph (1) exceed the taxpayer's cost of goods sold for such taxable year, the taxpayer's gross income for such taxable year shall be increased by the amount of such excess.

(b) LAYER ADJUSTMENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term ''layer adjustment amount'' means, with respect to any historic LIFO layer, the product of—

(A) $18.75, and

(B) the number of barrels of crude oil (or in the case of natural gas or other petroleum products, the number of barrel-of-oil equivalents) represented by the layer.

(2) BARREL-OF-OIL EQUIVALENT.—The term ''barrel-of-oil equivalent'' has the meaning given such term by section 29(d)(5) (as in effect before its redesignation by the Energy Tax Incentives Act of 2005).

(c) APPLICATION OF REQUIREMENT.—

(1) NO CHANGE IN METHOD OF ACCOUNTING.—Any adjustment required by this section shall not be treated as a change in method of accounting.

(2) UNDERPAYMENTS OF ESTIMATED TAX.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1986 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid with respect to the taxable year described in subsection (a) to the extent such underpayment was created or increased by this section.

(d) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term ''applicable integrated oil company'' means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

(2) uses the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person and, in the case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.

SEC. 436. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

''(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

''(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

''(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

''(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

''(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005-80 with respect to such transaction, or

''(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative.

''(iii) TERMINATION OF EXCEPTION.—Clause (ii)(I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 437. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(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 described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of 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—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(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) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) 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. 438. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

Subtitle D—Provisions to Close Corporate and Individual Loopholes

SEC. 441. TAX TREATMENT OF INVERTED ENTITIES.

(a) IN GENERAL.—Section 7874 is amended—

(1) by striking ''March 4, 2003'' in subsection (a)(2)(B)(i) and in the matter following subsection (a)(2)(B)(iii) and inserting ''March 20, 2002'',

(2) by striking ''at least 60 percent'' in subsection (a)(2)(B)(ii) and inserting ''more than 50 percent'',

(3) by striking ''80 percent'' in subsection (b) and inserting ''at least 80 percent'',

(4) by striking ''60 percent'' in subsection (b) and inserting ''more than 50 percent'',

(5) by adding at the end of subsection (a)(2) the following new sentence: ''Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (B) 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.'', and

(6) by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) SPECIAL RULES APPLICABLE TO EXPATRIATED ENTITIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an expatriated entity—

''(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 expatriated entity, 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after March 20, 2002.

SEC. 442. GRANT OF TREASURY REGULATORY AUTHORITY TO ADDRESS FOREIGN TAX CREDIT TRANSACTIONS INVOLVING INAPPROPRIATE SEPARATION OF FOREIGN TAXES FROM RELATED FOREIGN INCOME.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) 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.''.

(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. 443. 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, into 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 if the regulations require 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 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 444. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) IN GENERAL.—Section 163(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) TREATMENT OF CORPORATE PARTNERS.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

''(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

''(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

''(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.''.

(b) ADDITIONAL REGULATORY AUTHORITY.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of this subsection.''.

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

SEC. 445. 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 OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) 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, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). 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) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified by the Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING 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 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 446. 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—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(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. 447. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

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

SEC. 448. 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 2005, 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 2004' 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:

''(49) 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:

''(21) 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.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—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.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) 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 the date of the enactment of this subsection.''.

(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:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(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 the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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. 449. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking ''2007'' and inserting ''2005'', and

(2) by striking ''2006'' in subclause (II) and inserting ''2004''.

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MINIMUM AMOUNT.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

''(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by''.

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting ''to the extent such expenses do not exceed the amount determined under paragraph (2)'' after ''the taxable year''.

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) LIMITATION.—The amount determined under this paragraph is an amount equal to the product of—

''(A) 30 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

''(B) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).''.

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking ''and (c)(1)(B)(ii)'' and inserting '', (c)(1)(B)(ii), and (c)(2)(B)''

(ii) Section 911(d)(7) is amended by striking ''subsection (c)(3)'' and inserting ''subsection (c)(4)''.

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—If any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

''(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

''(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the sum of—

''(i) the taxpayer's taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

''(2) the tax imposed by section 55 for such taxable year shall be equal to the excess (if any) of—

''(A) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the sum of—

''(i) the taxpayer's alternative minimum taxable income for the taxable year (determined without regard to this subsection), plus

''(ii) the amount excluded under subsection (a) for the taxable year, over

''(B) the sum of—

''(i) the amount which would be the tentative minimum tax under section 55 for the taxable year if the taxpayer's alternative minimum taxable income were equal to the amount excluded under subsection (a) for the taxable year, plus

''(ii) the amount which would be the regular tax for the taxable year if the tax imposed by section 1 were the tax computed under paragraph (1).

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 450. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(1) LIMITATION.—If the aggregate amount of compensation which—

''(A) is deferred for any taxable year with respect to a participant under 1 or more nonqualified deferred compensation plans maintained by the same employer, and

''(B) is not otherwise includible in gross income of the participant for the taxable year, exceeds the applicable dollar amount for the taxable year, then such excess shall be included in the participant's gross income for the taxable year.

''(2) INCLUSION OF EARNINGS.—If—

''(A) an amount is includible under paragraph (1) in the gross income of a participant for any taxable year, and

''(B) any portion of any assets set aside in a trust or other arrangement under a nonqualified deferred compensation plan are properly allocable to such amount,

then any increase in value in, or earnings with respect to, such portion for the taxable year or any succeeding taxable year shall be included in gross income of the participant for such taxable year or succeeding taxable year.

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

''(A) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(i) the average annual compensation which—

''(I) was payable during the base period to the participant by the employer described in paragraph (1)(A), and

''(II) was includible in the participant's gross income for taxable years in the base period, or

''(ii) $1,000,000.

''(B) BASE PERIOD.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the taxable year in which the election described in subsection (a)(4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, except that if the election is made after the beginning of the computation year, such period shall be the 5-taxable year period ending with the taxable year preceding the computation year. For purposes of this subparagraph, the term 'computation year' means any taxable year of the participant for which the limitation under paragraph (1) is being determined.''.

(b) CONFORMING AMENDMENTS.—Sections 6041(g)(1) and 6051(a)(13) are each amended by striking ''409A(d)'' and inserting ''409A(e)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that taxable years beginning on or before such date shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(c)(2) of the Internal Revenue Code of 1986 (as added by such amendments).

SEC. 451. 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) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Subtitle E—Oil and Gas Provisions

SEC. 461. EXTENSION OF SUPERFUND TAXES.

(a) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2005, and before January 1, 2015.''

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2005, and before January 1, 2015.''

(c) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2005.

SEC. 462. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period shall not be considered a tax—

''(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

''(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

''(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

''(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'generally applicable income tax' means an income tax (or a series of income taxes) which is generally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

''(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

''(i) persons who are not dual capacity taxpayers, and

''(ii) persons who are citizens or residents of the foreign country or possession.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

(2) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

SEC. 463. RULES RELATING TO FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(1) SEPARATE BASKET.—

(A) YEARS BEFORE 2007.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income), as in effect for years beginning before 2007, is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) 2007 AND AFTER.—Paragraph (1) of section 904(d), as in effect for years beginning after 2006, is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) foreign oil and gas income.''

(2) DEFINITION.—

(A) YEARS BEFORE 2007.—Paragraph (2) of section 904(d), as in effect for years beginning before 2007, 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) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(B) 2007 AND AFTER.—Section 904(d)(2), as in effect for years after 2006, is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) FOREIGN OIL AND GAS INCOME.—For purposes of this section—

''(i) IN GENERAL.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).

''(ii) COORDINATION.—Passive category income and general category income shall not include foreign oil and gas income (as so defined).''

(3) CONFORMING AMENDMENTS.—

(A) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(B) Section 907(a) is hereby repealed.

(C) Section 907(c)(4) is hereby repealed.

(D) Section 907(f) is hereby repealed.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(B) YEARS AFTER 2006.—The amendments made by paragraphs (1)(B) and (2)(B) shall apply to taxable years beginning after December 31, 2006.

(C) TRANSITIONAL RULES.—

(i) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(ii) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(iii) LOSSES.—The amendment made by paragraph (3)(C) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(1) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(5), (b)(5), and (b)(6) of section 954, and section 952(c)(1)(B)(ii)(I), are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(B) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(C) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(D) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

SEC. 464. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TAXABLE YEARS ENDING BEFORE 2006.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 29(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 29(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005.—Section 29(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar year 2005 and the amount in effect under subsection (a) for sales in such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(b) TAXABLE YEARS ENDING AFTER 2005.—

(1) MODIFICATION OF PHASEOUT.—

(A) IN GENERAL.—Section 45K(b)(1)(A) is amended by inserting ''the calendar year preceding'' before ''the calendar year''.

(B) CONFORMING AMENDMENTS.—Section 45K(b)((2) is amended—

(i) by striking ''The'' and inserting ''With respect to any calendar year, the'', and

(ii) by striking ''for the calendar year in which the sale occurs'' and inserting ''for such calendar year''.

(2) NO INFLATION ADJUSTMENT FOR THE CREDIT AMOUNT IN 2005, 2006, AND 2007.—Section 45K(b)(2), as amended by paragraph (1), is amended by adding at the end the following new sentence: ''This paragraph shall not apply with respect to the $3 amount in subsection (a) for calendar years 2005, 2006, and 2007 and the amount in effect under subsection (a) for sales in each such calendar year shall be the amount which was in effect for sales in calendar year 2004.''.

(3) TREATMENT OF COKE AND COKE GAS.—

(A) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(B) APPLICATION OF INFLATION ADJUSTMENT .—Section 45K(g)(2)(B) is amended by inserting ''and the last sentence of subsection (b)(2) shall not apply.''.

(C) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold after December 31, 2004.

SEC. 465. ELIMINATION OF AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Section 167(h) is amended by adding at the end the following new paragraph:

''(5) NONAPPLICATION TO MAJOR INTEGRATED OIL COMPANIES.—This subsection shall not apply with respect to any expenses paid or incurred for any taxable year by any integrated oil company (as defined in section 291(b)(4)) which has an average daily worldwide production of crude oil of at least 500,000 barrels for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 1329(a) of the Energy Policy Act of 2005.

Subtitle F—Tax Administration Provisions

SEC. 471. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

''(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

''(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment for goods and services which is subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 3 percent of such payment.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any payment—

''(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

''(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

''(C) of interest,

''(D) for real property,

''(E) to any tax-exempt entity, foreign government, or other entity subject to the requirements of paragraph (1),

''(F) made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)), and

''(G) made by a political subdivision of a State (or any instrumentality thereof) which makes less than $100,000,000 of such payments annually.

''(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of any payment for goods and services which is subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2005.

SEC. 472. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(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 ''$500,000'',

(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 ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(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 actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 473. REPEAL OF SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns of tax filed after December 31, 2005.

SEC. 474. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 475. 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. 476. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

''(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

''(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

''(A) LUMP-SUM OFFERS.—

''(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

''(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

''(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

''(2) RULES OF APPLICATION.—

''(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

''(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.

''(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).''.

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking ''; and'' at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.''.

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 477. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

''(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 478. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

''(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

''(D) to file a return of tax imposed under this title by its due date (including extensions), or''.

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking ''FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

Subtitle G—Additional Provisions

SEC. 481. MODIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in section 6654(d)(1)(C) is amended by striking ''2002 or thereafter'' and inserting ''2002, 2003, 2004, or 2005'' and by adding at the end the following new items:

''2006	111
2007 or thereafter	110''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 2005.

SEC. 482. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

''(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 50 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

''(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.''.

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

''(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

''(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 50 percent of the net proceeds of such issue.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State or to State-created entities providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

''(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

''(A) the amount required to be used under such clause, over

''(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.''.

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking

subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2), (3), (4), and (5)''.

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking ''paragraph (4)(A)'' and inserting ''paragraph (6)(A)''.

(3) Section 54(l)(2) is amended by striking ''section 149(f)(4)(A)'' and inserting ''section 149(f)(6)(A)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 483. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) IN GENERAL.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENT.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest earned after December 31, 2005.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, February 8, 2006, at 2 p.m., to conduct a hearing to examine procedures to bring greater transparency to the legislative process.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs will hold a field hearing in St. Paul, MN, entitled ''Volatility in the Natural Gas Market: The Impact of High Natural Gas Prices on American Consumers,'' regarding the subcommittee's investigations into the natural gas market and allegations that price and supply manipulation have caused increasingly high and volatile natural gas prices. The subcommittee intends to hold a hearing to examine the impact higher prices have on the economy, business, and families, and the government's role in ensuring that natural gas prices are determined in a competitive and informed marketplace.

The subcommittee hearing is scheduled for Friday, February 10, 2006, at 10 a.m., at the James J. Hill Reference Library at 80 West 4th Street in St. Paul, MN. For further information, please contact Raymond V. Shepherd, III, staff director and chief counsel to the Permanent Subcommittee on Investigations, at 224–3721.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 2, 2006, at 10 a.m., to conduct a hearing on ''Proposals to Reform the National Flood Insurance Program.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 2006, at 9:30 a.m., to hold a hearing on tax treaties.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 2006, at 2:30 p.m., to hold a hearing on nominations.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental affairs be authorized to meet on Thursday, February 2, 2006, at 10 a.m. for a hearing titled, ''Hurricane Katrina: The Role of the Governors in Managing the Catastrophe.''

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Executive Nominations'' on Thursday, February 2, 2006 at 10 a.m. in Hart Senate Office Building, Room 226.

Panel I: Members of Congress TBA

Panel II: Paul J. McNulty to be Deputy Attorney General

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, February 2, 2006, for a committee hearing titled ''The Jobs for Veterans Act Three Years Later: Are VETS' Employment Programs Working for Veterans?''

The hearing will take place in room 418 of the Russell Senate Office Building at 10:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 2, 2006 at 10 a.m. to hold an open hearing on the World Threat.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 2, 2006 at 2:30 p.m. to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet tomorrow, February 2, 2006 from 10 a.m.–12 p.m. in Hart 216 for the purpose of conducting a hearing.

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

PRIVILEGES OF THE FLOOR

Mr. DORGAN. Mr. President, on behalf of Senator SCHUMER, I ask unanimous consent that Tovah Calderon, a detailee from the Department of Justice, be granted the privilege of the floor during today's session.

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

NATIONAL WEEK OF PRAYER FOR UGANDA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 366, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 366) affirming the importance of increased international action and a national week of prayer for the Ugandan victims of Joseph Kony's Lord's Resistance Army, and expressing the sense of the Senate that Sudan, Uganda, and the international community bring justice and humanitarian assistance to Northern Uganda and that February 2 through 9, 2006 should be designated as a national week of prayer and reflection for the people of Uganda.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INHOFE. Mr. President, I want to speak about a matter of urgency and extreme concern to me that is going on right now in Uganda.

As my colleagues may know, I have spent much time in Africa, particularly in Uganda, talking with President Museveni.

The major issue that he and I discussed is the ongoing terrorist tragedy in his country. The Lord's Resistance Army, LRA, is a rebel paramilitary group formed in 1987 operating mainly in northern Uganda and southern Sudan. The group is engaged in an armed rebellion against the Ugandan

Government in what is now one of Africa's longest-running conflicts.

It is led by a man named Joseph Kony who claims to be a spiritual medium and uses his influence to kidnap and murder thousands of innocent civilians, most of them children. Because of this twisted man and his army, the region has become one of the darkest spots of human atrocities worldwide.

Between 20,000 and 50,000 children have been kidnapped by the LRA for use as soldiers and sex slaves.

More than 1.6 million people have been forced to flee their homes, living in Internally Displaced People, IDP, camps. Every week 1,000 people die in the camps from the appalling conditions.

Though the Internally Displaced People camps were meant to provide security against the LRA attacks, they are now where most abductions take place.

It is estimated 40,000 children flee every night to bigger towns, seeking the safety in numbers, sleeping on street corners and in other public spaces. I recently saw a documentary on this titled ''Invisible Children.''

Up to 200,000 people have been killed in the violence, with many more dying from disease and malnutrition as a direct result of the conflict.

The conflict continues to retard Uganda's development efforts, costing the poor country's economy a cumulative total of at least $1.33 billion, which is equivalent to 3 percent of Uganda's GDP.

Last night, in his State of the Union address, President Bush declared we must, ''take the offensive by encouraging economic progress, and fighting disease, and spreading hope in hopeless lands.'' He is absolutely right. We can no longer allow these atrocities in Uganda to go unnoticed and unaddressed; we must become more involved.

To that end I am supporting a resolution, S. Res. 366.

Further, I will include for the RECORD a letter to Secretary of State Rice signed by 34 organizations. This letter urges high-level attention to the situation in northern Uganda.

I will also include the text of United Nations Security Council, UNSC, Resolution 1653 dated January 27, 2006. This resolution ''strongly condemns'' the activities of the Lord's Resistance Army. The Resolution also reiterates the Security Council's demand ''that all such armed groups lay down their arms and engage voluntarily and without any delay or preconditions in their disarmament and in their repatriation and resettlement.''

UNSC Resolution 1653 ''[r]equests the Secretary-General to make recommendations to the Council, as appropriate, on how best to support efforts by States in the region to put an end to the activities of illegal armed groups, and to recommend how United Nations agencies and missions—the United Nations Mission in the Sudan (UNMIS), MONUC and ONUB—can help, including through further support for the efforts of the governments concerned to ensure protection of, and humanitarian assistance to, civilians in need.''

These words are long overdue, and are only the beginning. Thus far the action of the United Nations has been woefully inadequate. Words are not nearly enough. We need more action from the UN. If the United Nations is to be useful for the peoples of the world, this sort of problem is its highest and best use.

As for the role of the United States, I suggest that Secretary Rice and Permanent Representative Bolton actively engage in drafting the aforementioned recommendations to the Security Council.

I also strongly suggest to President Bush and our administration that they examine every aspect of his executive authority to relieve this suffering, including the new authorities Congress provided under Section 1206 of Public Law 109–163, the train-and-equip legislation.

I believe these will be significant steps toward shedding light into the darkness that has cloaked the ongoing Ugandan tragedy, ending the conflict, and drawing the region into a positive future. I ask members for their support and thank the dozens of Senators who have joined me as cosponsors of this bipartisan resolution.

Let us pray for a cessation of the horrors and evils in Uganda and the Sudan.

I ask unanimous consent to print the above-referenced documents in the RECORD.

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

JANUARY 30, 2006.

Re Crisis in Northern Uganda

Dr. CONDOLEEZZA RICE,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY RICE: We, the undersigned organizations call on the U.S. government to dedicate high-level attention to the situation in northern Uganda in order to help bring an end to the intractable conflict and catastrophic humanitarian conditions.

As you know, for the past 20 years, the people of northern Ugandan have endured a conflict involving the rebel Lord's Resistance Army (LRA) and the Government of Uganda. More than 1.7 million people—eighty percent of the population—are displaced and forced to live in squalid internally displaced persons (IDP) camps. These camps remain largely unprotected and vulnerable to LRA attacks and abductions. The LRA has kidnapped more than 30,000 children from their homes—holding them hostage as soldiers, sex slaves, and bondservants. An estimated 35,000 children commute nightly to sleep in town centers in order to avoid violence and abduction. Nonetheless, these children, known as ''night commuters'', remain vulnerable to exploitation and sexual and physical abuse.

This deplorable humanitarian and human rights situation is the result of an ongoing conflict that continues to be a cause of instability in southern Sudan and, now, the broader Great Lakes. Threats to regional security are growing: the LRA has expanded its area of operation deeper into southern Sudan and, for the first time, into the Democratic Republic of the Congo (DRC). LRA attacks against southern Sudanese civilians threaten implementation of the Comprehensive Peace Agreement (CPA), and recent LRA incursions into the DRC have heightened existing tensions between the Ugandan and Congolese governments. Within this context of increasing regional instability, multiple actors regrettably continue to provide covert support to the LRA.

Establishing a secure environment requires urgent leadership from the U.S. Government to put in place a comprehensive regional approach that addresses LRA cross-border movements and prioritizes a resolution to the conflict, while simultaneously ensuring civilian protection, humanitarian access, and the reintegration of former combatants. To reduce civilian suffering, help consolidate peace in Sudan, and prevent further destabilization of the region, our organizations recommend the following actions:

UNITED NATIONS SECURITY COUNCIL ACTION

The continued presence of the Lord's Resistance Army in southern Sudan and its recent expansion into the DRC underscores the urgency for United Nations Security Council (UNSC) engagement. Under Secretary-General Jan Egeland's December 19, 2005 briefing on the humanitarian situation and the passage of UNSC Res. 1653 are welcome first steps towards engaging the Security Council on this issue, but greater action is required. We urge the US to take a leadership role at the United Nations to place northern Uganda on the UNSC agenda. The February 2006 US presidency of the UNSC would be an opportune time to galvanize action on this important issue. Specifically, the UN should do the following:

Continued encouragement and support for a regional solution to disarming groups within eastern DRC, Uganda, and southern Sudan. With the UNMIS mandate up for renewal in March, the United States should call on all relevant actors to accelerate the deployment of UNMIS and ensure that threats to civilians and disruption of humanitarian aid addresses the destabilizing presence of the LRA. Continued consideration should be given to the recommendations of the regional Tripartite Commission on Disarming groups in eastern DRC.

Appoint a Special UN Envoy for Northern Uganda who will work collaboratively with all local, regional, and international stakeholders to help mediate between all parties to end the conflict.

Create a panel of experts to investigate and monitor the activities of the LRA, as well as the networks supporting the LRA, and its impact on regional peace and security.

Call on all parties to declare an immediate ceasefire; encourage greater international diplomatic and financial support for ongoing mediation efforts, while ensuring a coordinated response to LRA activity in the area.

Call on the government of Uganda, in accordance with its national IDP policy, to adopt a security strategy that focuses on protection rather than confrontation, prioritizes civilian and aid convoy protection, and holds protection personnel accountable for crimes they commit.

DIRECT U.S. SUPPORT FOR MEDIATION

After 20 years of conflict, military victory is unlikely. Recent overtures made by the LRA leadership to negotiate are promising and greater international political pressure on all parties is needed to explore a peaceful solution. Approximately ninety percent of the LRA is comprised of children; further military aggression against the LRA only serves to inflict more violence upon these

children. Former Ugandan Government Minister Betty Bigombe's mediation efforts deserve greater U.S. support. Accordingly, we strongly recommend that the State Department appoint a senior level advisor to coordinate efforts within the U.S. government, among the donors, and ensure that greater resources and material support are available for Bigombe as a negotiation strategy is developed.

PROTECTION FOR CIVILIANS AND HUMANITARIAN WORKERS

Efforts to protect civilians have languished and high-level involvement by the international community is needed. Eighty percent of the population is displaced and primarily dependent on limited international food assistance and services. The delegation of civilian protection and humanitarian worker security to local defense units (LDUs) both hinders humanitarian access and leaves IDPs vulnerable to LRA attacks. For example, at times LDU personnel have been inebriated while escorting humanitarian agencies, or sometimes have refused to provide escort unless provided with food. This gap in protection significantly hinders relief efforts and the population's ability to access employment, basic healthcare and education. Through US leadership, donor governments must work with the Ugandan government to devise a security strategy that prioritizes civilian protection instead of confrontational operations. This strategy must expand the area of protection around IDP camps to allow for greater civilian movement, so that the displaced can gain access to basic services and income generating opportunities.

DISARMAMENT, DEMOBILIZATION & REINTEGRATION (DDR) ENHANCEMENT

In coordination with the government of Uganda, donors must develop and enact a comprehensive plan to draw LRA fighters out of this conflict and back into the community. Donors must provide adequate funding for DDR, including support for communities and children abducted by the LRA.

To conclude, we firmly believe that high-level engagement and sustained leadership by the United States will help bring an end to this conflict, which traps millions of children and families in despair and threatens ongoing peaceful transitions in Sudan and the DRC. We look forward to hearing from you about the Administration's plans to address this conflict.

Sincerely,

Africa Action, Africa Faith and Justice Network, Africare, Air Serv International, American Refugee Committee, CARE USA, Christian Children's Fund, Comboni Missionaries, Concern Worldwide US, Credo International, Evangelical Lutheran Church of America, Washington Office, Franciscans International, Friends Committee on National Legislation (Quakers), Gulu Walk International, Human Rights Watch, International Medical Corps, International Rescue Committee, Joan B. Kroc Institute for Peace and Justice, University of San Diego, Lutheran WorId Relief, MAP International, Maryknoll Office for Global Concerns, Mercy Corps, Missionary Oblates, The NAME Campaign, National Association of Evangelicals, National Jesuit Conference, Oxfam America, Refugees International, Save the Children, Today's Urban Renewal Network, Uganda Cpnflict Action Network, US Catholic Mission Association, Women's Commission for Refugee Women and Children, World Vision.

RESOLUTION 1653 (2006)—ADOPTED BY THE UNITED NATIONS SECURITY COUNCIL AT ITS 5359TH MEETING, ON 27 JANUARY 2006

The Security Council, Recalling its resolutions and the statements by its President on the Great Lakes region of Africa and concerning the situation in the Democratic Republic of the Congo and in Burundi, and in particular resolutions 1649 and 1650 of 21 December 2005,

Recalling its resolution 1625 (2005) on strengthening the effectiveness of the Security Council and the role of civil society in the prevention and resolution of armed conflict, particularly in Africa,

Further recalling its resolution 1631 (2005) on cooperation between the United Nations and regional organizations and General Assembly resolution 59/213 (2004) on cooperation between the United Nations and the African Union,

Reaffirming its respect for the sovereignty, territorial integrity, unity and political independence of all States in the region, and recalling the importance of the principles of good-neighbourliness, non-interference and cooperation in the relations among States in the region,

Reiterating its condemnation of the genocide in Rwanda of 1994 and the armed conflicts which have plagued the Great Lakes region of Africa in the past decade and expressing its profound concern at the violations of human rights and international humanitarian law resulting in wide scale loss of life, human suffering and destruction of property,

Aware that the link between the illegal exploitation of natural resources, the illicit trade in those resources and the proliferation and trafficking of arms is one of the factors fuelling and exacerbating conflicts in the Great Lakes region of Africa, and especially in the Democratic Republic of the Congo,

Expressing its deep concern at the devastating impact of conflict and insecurity on the humanitarian situation throughout the Great Lakes region and their implications for regional peace and security, especially where arms and armed groups move across borders, such as the long-running and brutal insurgency by the Lord's Resistance Army (LRA) in northern Uganda which has caused the death, abduction and displacement of thousands of innocent civilians in Uganda, the Sudan and the Democratic Republic of the Congo,

Welcoming the efforts undertaken by the Tripartite Plus Joint Commission comprising Burundi, the Democratic Republic of the Congo, Rwanda and Uganda as a significant contribution to heightened dialogue between the countries of the Great Lakes,

Recalling its previous resolutions that reaffirmed the importance of holding an international conference on peace, security and stability in the Great Lakes region and recognizing the continued ownership of the process by the countries of the region with the facilitation of the United Nations, the African Union, the Group of Friends and all others concerned,

Taking note with satisfaction of the holding of the First International Conference on Peace, Security, Democracy and Development in the Great Lakes Region, in Dar es Salaam, on 19 and 20 November 2004,

Recognizing the ''Good Neighbourly Declaration'' of September 2003 by the representatives of Burundi, the Democratic Republic of the Congo, Rwanda and Uganda and the Dar es Salaam Declaration of 2004 adopted by the first Summit of the International Conference on the Great Lakes Region,

Recognizing the significant achievements and progress in the peace processes in the Great Lakes region, the recent installation of a democratically elected government in Burundi and progress in the transition to democratic institutions in the Democratic Republic of the Congo,

Expressing its gratitude to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and to the United Nations Operation in Burundi (ONUB) for their significant contribution to peace in the region,

Paying tribute to the donor community for the assistance it is providing to the countries in the region, and encouraging it to maintain that assistance,

Welcoming General Assembly resolution 60/1 on the 2005 World Summit Outcome and in particular the commitment to address the special needs of Africa,

1. Commends the positive role played by the Secretary-General, the African Union, the Group of Friends of the Great Lakes region and other stakeholders in organizing and participating in the First Summit of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region of Africa;

2. Urges the countries of the Great Lakes region to continue in their collective efforts to develop a subregional approach for promoting good relations, peaceful coexistence, peaceful resolution of disputes as envisaged in the Dar es Salaam Declaration and encourages them, in partnership with the Special Representative of the Secretary-General and other stakeholders, to finalize the preparations for the second Summit to be held in Nairobi, including a clear focus on peace and security issues, with a view to adopting a Security, Stability and Development Pact for the countries of the Great Lakes region;

3. Calls upon the countries of the region to agree on confidence-building measures based on effective and concrete actions;

4. Encourages and supports the countries of the Great Lakes region, individually and collectively, to strengthen and institutionalize respect for human rights and humanitarian law, including respect for women's rights and protection of children affected by armed conflict, good governance, rule of law, democratic practices as well as development cooperation;

5. Encourages the development of the prevailing goodwill and relations among the countries of the region which have positively influenced the successful transition in Burundi and the course of the ongoing democratic transition in the Democratic Republic of the Congo;

6. Urges all States concerned to take action to bring to justice perpetrators of grave violations of human rights and international humanitarian law and to take appropriate measures of international cooperation and judicial assistance in this regard;

7. Expresses its support for the efforts by States in the region to build independent and reliable national judicial institutions in order to put an end to impunity;

8. Strongly condemns the activities of militias and armed groups operating in the Great Lakes region such as the Forces Démocratiques de Libération du Rwanda (FDLR), the Palipehutu-Forces Nationales de Liberation (FNL) and the Lord's Resistance Army (LRA) which continue to attack civilians and United Nations and humanitarian personnel and commit human rights abuses against local populations and threaten the stability of individual States and the region as a whole and reiterates its demand that all such armed groups lay down their arms and engage voluntarily and without any delay or preconditions in their disarmament and in their repatriation and resettlement;

9. Stresses the need for the States in the region, within their respective territories, to

disarm, demobilize and cooperate in the repatriation or resettlement, as appropriate, of foreign armed groups and local militias, and commends in this regard the robust action of MONUC, acting in accordance with its mandate, in support of the Forces Armées de la République Démocratique du Congo (FARDC) in the eastern part of the Democratic Republic of the Congo;

10. Underscores that the governments in the region have a primary responsibility to protect their populations, including from attacks by militias and armed groups and stresses the importance of ensuring the full, safe and unhindered access of humanitarian workers to people in need in accordance with international law;

11. Calls upon all States in the region to deepen their cooperation with a view to putting an end to the activities of illegal armed groups, and underlines that these States must abide by their obligations under the Charter of the United Nations to refrain from the threat or use of force against the territorial integrity or political independence of their neighbours;

12. Urges the international community, non-governmental organizations and civil society to increase humanitarian assistance to civilians affected by displacements and violence from years of protracted conflicts in the Great Lakes region;

13. Commends the efforts of the United Nations Organization Missions in the region in accordance with their respective mandates, to protect civilians, including humanitarian personnel, to enable delivery of humanitarian aid and to create the necessary conditions for the voluntary return of refugees and internally displaced persons;

14. Requests the Secretary-General to make recommendations to the Council, as appropriate, on how best to support efforts by States in the region to put an end to the activities of illegal armed groups, and to recommend how United Nations agencies and missions—the United Nations Mission in the Sudan (UNMIS), MONUC and ONUB—can help, including through further support for the efforts of the governments concerned to ensure protection of, and humanitarian assistance to, civilians in need;

15. Calls upon the countries of the region to continue in their efforts to create conducive conditions for voluntary repatriation, safe and durable integration of refugees and former combatants in their respective countries of origin. In this regard, calls for commensurate international support for refugees and reintegration and reinsertion of returnees, internally displaced persons and former combatants;

16. Calls upon the countries of the region to reinforce their cooperation with the Security Council's Committee and with the Group of Experts established by resolution 1533 (2004) in enforcing the arms embargo in the Democratic Republic of the Congo and to combat cross-border trafficking of illicit small arms, light weapons and illicit natural resources as well as the movement of combatants, and reiterates its demand that the Governments of Uganda, Rwanda, the Democratic Republic of the Congo and Burundi take measures to prevent the use of their respective territories in support of the activities of armed groups present in the region;

17. Urges the governments concerned in the region to enhance their cooperation to promote lawful and transparent exploitation of natural resources among themselves and in the region;

18. Welcomes the establishment of the Peacebuilding Commission and underlines its potential importance to the work of the Security Council in this region;

19. Invites the international community, including regional organizations, international financial institutions and relevant bodies of the United Nations system, to support and complement the peacebuilding and development initiatives required to sustain peace, security and stability in the countries of the Great Lakes region;

20. Decides to remain seized of the matter.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 366) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 366

Whereas, Joseph Kony has led the Lord's Resistance Army (LRA) since 1987, terrorizing the region of Northern Uganda;

Whereas, up to 200,000 people have been killed in violent conflict and from disease and malnutrition;

Whereas, 80 to 90 percent of Kony's fighters are enslaved children—brutalized and brainwashed to kill;

Whereas, sources estimate that between 20,000 and 50,000 children have been abducted by the LRA since 1987;

Whereas, these children are sexually abused, raped, beaten, taunted and traumatized by older soldiers in the LRA;

Whereas, these children are maliciously coerced to mutilate, rape, and murder others, even their own family members and friends;

Whereas, LRA leaders often force the friends and siblings of unsuccessful escapees to carry out vicious punishments to further the LRA's culture of fear, intimidation and guilt;

Whereas, even those children who do manage to escape are unspeakably traumatized, often infected with sexually transmitted diseases, and stigmatized by society;

Whereas, approximately 40,000 children in rural Uganda trek miles into towns each night to sleep under the protection of soldiers and attempt to avoid capture;

Whereas, more than 1.6 million people have been forced to flee their homes;

Whereas, the conflict has slowed Uganda's development efforts, costing the country at least $1.33 billion, or 3 percent of its GDP;

Whereas, starting in October 2005, the Sudan government gave Joseph Kony a three month grace period to surrender;

Resolved, That it is the sense of the Senate—

(1) That the government of Sudan continue to prosecute LRA terrorists within its borders and aid Uganda in ending the conflict;

(2) That Uganda use every available resource to end the atrocities of the LRA and bring its members to justice;

(3) That the United States and international community recognize the atrocities occurring daily in Uganda and provide necessary humanitarian assistance;

(4) That the week of February 2 through 9, 2006 should be designated as a National Week of Prayer and Reflection for the people of Northern Uganda.

ORDER FOR SIGNING AUTHORITY

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the majority whip be authorized to sign duly enrolled bills or joint resolutions.

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

GEORGE WASHINGTON'S FAREWELL ADDRESS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, the traditional reading of Washington's Farewell Address take place on February 17 at a time to be determined by the majority leader in consultation with the Democratic leader.

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

ORDERS FOR MONDAY, FEBRUARY 6, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m. on Monday, February 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for the transaction of morning business, with Senators allowed to speak for up to 10 minutes each. I further ask that if a cloture motion is filed during Monday's session on the motion to proceed to S. 852, the asbestos bill, and notwithstanding the provisions of rule XXII, that vote occur at 6 p.m. on Tuesday, February 7, with the mandatory live quorum waived.

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

PROGRAM

Mr. FRIST. Mr. President, it has been a very long day, but a very productive day with the ultimate passage of the Tax Relief Act by a vote of 66 to 31. In addition, just a short time ago, we passed the temporary extension of a very important bill, the PATRIOT Act. We will start debate on the motion to proceed to the asbestos legislation on Monday. A cloture vote on the motion to proceed will occur on Tuesday at 6 p.m. We do have Members who will be attending the funeral of Coretta Scott King on Tuesday; therefore, we are postponing that vote until 6 p.m.

ADDITIONAL COSPONSOR

Mr. FRIST. Mr. President, I ask unanimous consent that Senator BUNNING be added as a cosponsor to the Rockefeller amendment adopted earlier.

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

ADJOURNMENT UNTIL MONDAY, FEBRUARY 6, 2006, AT 2 P.M.

Mr. FRIST. 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.

There being no objection, the Senate, at 10:28 p.m., adjourned until Monday, February 6, 2006, at 2 p.m.